

FILE COPY

FINANCING AGREEMENT

This Agreement ("Agreement") is made and entered into as of May 12, 2009 (the "Effective Date"), by and among the City of Corpus Christi, Texas, a home-rule municipal corporation (the "City") and Parkdale Shopping Center (the "Developer"), comprised of **R-SB STAPLES/SPID, LLC**, a Texas limited liability company, **JJQ-PARKDALE, LLC**, a Texas limited liability company, **H&JQ PD, LLC**, a Texas limited liability company, and **W-SB STAPLES/SPID DE, LLC**, a Texas limited liability company, as tenants in common.

RECITALS

WHEREAS, the Developer desires to redevelop the retail center generally known as Parkdale Plaza as more particularly described in the conceptual plan for the project attached hereto as Exhibit A (the "Project" being comprised of at least 50,000 square feet, with an ultimate goal of approximately 58,000 square feet of retail center improvements, exclusive of the tract being conveyed for a large discount center, 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 the elimination of blight and substandard building conditions, 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, eliminate blight and substandard building conditions, improve traffic circulation, and enhance the aesthetic value of the development; and

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

WHEREAS, in consideration of the redevelopment of the retail center site into the Project as described above and the generation of new Sales Tax Revenues and Property Tax Revenues (as defined herein) for the City, the City agrees to use such funds in order to provide

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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 eliminating blight, 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 approximately \$1,926,583, based on 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, 2008, subject to the City's confirmation.

"Base Sales Tax" shall mean \$51,242, based on taxable sales from the Project during 2008, subject to the City's confirmation.

"City Commitment" is defined in Article IV.

"Commencement Date" is defined as on or before December 31, 2009.

“Completion” shall mean the completion of a minimum of 50,000 square feet of commercial space comprising the Project and the Improvements generally as described in Exhibit B.

“Completion Deadline” shall mean no later than December 31, 2012.

“Completion Threshold” shall mean achieving the Project’s Completion in order to obtain a maximum City Commitment of \$1,600,000 for a portion of the Improvement Costs as described in Exhibit 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 improvements associated with the Project as described in the Exhibit B, the costs of which are described on Exhibit C 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, which is \$1,600,000 for a portion of the redevelopment Improvement Costs as described in Exhibit C.

“Parkdale Plaza” shall mean the Project location South Staples and Gollihar Streets in Corpus Christi, Texas.

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

“Project” shall mean a minimum of 50,000 square feet of commercial space and the Improvements as described herein.

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

“Property Tax Revenues” shall mean 70% of the City ad valorem taxes generated from the land and improvements comprising 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 the maximum City Commitment of \$1,600,000 to defray a portion of the Improvement Costs as described in Exhibit C to be paid through the Property Tax Revenues and Sales Tax Revenues. The Reimbursement Amount shall not be payable out of 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 Account” 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 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 Completion Threshold. The City and the Developer agree to seek an agreement with the

State Comptroller concerning the categorization of Sales Tax Revenues for compliance with these provisions. Alternatively, the Developer will require 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.

(D) The Developer shall furnish to the City an annual report each year identifying any new tenants at the Project and whether or not any tenants at the Project are Relocations as described herein. For any tenants which are Relocations, the Developer shall set out the number of square feet occupied by such tenant in the Project, the number of square feet occupied by such tenant at its prior facility, the sales tax identification number for the tenant, and whether any factors exist warranting the City Council's determination that such tenant should be excluded from being considered as a Relocation under this provision.

"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:

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.

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.

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.

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:

The Developer is comprised of entities that are duly authorized and existing and in good standing under the laws of the State of Texas and are qualified to do business in the State of Texas.

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.

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

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) The Developer agrees to commence the development of the Project by the Commencement Date and reach Completion of the development and construction the Project by the Completion Deadline. 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, financing fees and other costs and expenses incurred in connection with the construction of such improvements as set forth in Exhibit C attached hereto. 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 the 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.

(B) 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 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 no later than twelve (12) months after Completion that at least the following retained and new jobs will be created by Retail establishments located or to be located within the Project, which jobs will be made available principally to local residents residing within the City: 30 retained jobs and 120 newly-created jobs, for a total of 150 jobs. The demonstration of satisfaction of the total Jobs Requirement also shall be examined each year thereafter on the anniversary date of the initial report until the City Commitment has been paid in full or the termination of this Agreement, if sooner. The Developer shall obtain certification from its tenants or occupants as to the number of jobs created or maintained 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. The Developer shall submit on or before the required anniversary 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 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 20% 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 the Project by the Completion Deadline shall be a default hereunder and the Developer shall forfeit the right to receive reimbursement.

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 50% 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 50% 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 30% 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%

(B) 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 30% of their construction costs, but the City acknowledges that Developer has no legal authority in connection with such third-party contracting.

(C) The Developer agrees to enter into a Fair Share Agreement with the City pertaining to the achievement of the DBE Requirement in the form attached as Exhibit E. 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.

(D) The Developer agrees to sponsor or otherwise assist in the presentation of a small business initiative of the City each year during the term of this Agreement as provided by City policies.

(E) 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.

(B) If the Developer does not satisfy the Jobs Requirement in any fiscal year, the City may reduce the annual Reimbursement Amount by 1% of the Sales Tax Revenues portion of the City Commitment collected during the fiscal year for each required job that was not created or maintained. Any amounts reduced under this provision also reduce the Reimbursement Amount and City Commitment.

(C) The percentage of any Reimbursement Amount reduction shall not exceed the percentage by which the Developer does not satisfy the Local Requirement or the DBE Requirement, with equal weight given to each requirement and to the degree of non-compliance with each requirement.

(D) The City agrees not to reduce the Reimbursement Amount, as long as the Developer has exercised reasonable efforts to comply with 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 Account") for the benefit of the Developer for the purpose of paying the Reimbursement Amount. The City shall fund the Reimbursement Account 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 Account 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 Account in an amount equal to the Sales Tax Revenues from the Sales Tax Revenues. The Reimbursement Account 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 Account 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) Except as provided below, 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 Account 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). Payment of 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 (but solely from the Reimbursement Account), 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 shall be as stated in the definition of Completion Threshold for a portion of the costs constituting the Improvements associated with the Project, and such obligation on behalf of the City will be limited solely to the funds deposited into the Reimbursement Account 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 Completion as defined above and has met the Jobs Requirement, the Local Requirement and the DBE Requirement, the Developer shall be entitled to payment of the City Commitment.

(C) The City shall determine not less often than quarterly the amount of the Sales Tax Revenues received 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 State 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 Account, 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 Account 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.

(E) The City shall maintain complete books and records showing deposits to and disbursements from the Reimbursement Account, 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.

(F) In addition to the City Commitment provided above, the City agrees to waive all platting, building and technical permit fees incurred by Developer or by parties acting on Developer's behalf in connection with the replatting of the Property and the construction of the Project as described herein prior to the Completion Date.

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 Effective 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 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.

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.

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.

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.

Should Developer fail to redevelop the Project by the Completion Deadline, 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: Richard Runde
President
R-SB Staples/SPID, LLC
c/o Capital Area Retail Development II, Inc.
606 W. 12 Street
Austin, Texas 78701

w/ a copy to: John D. Bell
Wood, Boykin & Wolter, P.C.
615 N. Upper Broadway, Suite 1100
Corpus Christi, Texas 78477

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 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.

Section 8.12 Liability. The liability of the tenants in common executing this Agreement is joint and several.

[EXECUTION PAGES FOLLOW]

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be duly executed as of the 12th day of May, 2009.

PARKDALE SHOPPING CENTER
By: **R-SB STAPLES/SPID, LLC**
A Texas limited liability company

By: _____
Richard R. Runde, President

By: **JJQ-PARKDALE, LLC**
A Texas limited liability company

By: _____
Name: _____
Title: _____

By: **H&JQ PD, LLC**
A Texas limited liability company

By: _____
Name: _____
Title: _____

By: **W-SB STAPLES/SPID DE, LLC**
A Texas limited liability company

By: _____
Name: _____
Title: _____

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

By: *Angel R Escobar*
Angel Escobar, City Manager

ATTEST:

By: *Armando Chapa*
Armando Chapa, City Secretary

APPROVED AS TO LEGAL FORM:
May 11, 2009
Mary Kay Fischer, City Attorney

By: *Mary Kay Fischer*
~~Assistant~~ City Attorney

M2009-127 AUTHORIZED
BY COUNCIL 05/12/09
A.C.
SECRETARY *pk*

Project Conceptual Plan



Exhibit B

Improvements

Improvement of Carmel Parkway Extension

The Project includes the improvement of Carmel Parkway through new asphalt, curb and gutter, and drainage improvements. Additional traffic improvements are included at the intersection with South Staples Street. The improved roadway will provide better access to the public library and improve circulation in the area.

Landscaping and Lighting Improvements

Mature palms on the site will be preserved and relocated, and xeriscape landscaping improvements will be utilized in order to reduce water consumption. Enhanced site lighting will increase the visual appeal of the center and provide increased security. Roadway improvements will include upgrades for ADA (American Disability Act) compliance.

Utilities Improvements

Various utilities improvements required in connection with the replatting of the Parkdale Plaza site and upgrade and modernization of the improvements are included.

Elimination of Blighted Improvements

Project costs include the demolition of the blighted improvements comprising Parkdale Plaza and clearing the land for redevelopment purposes. Asbestos removal is included as part of the necessary costs, in order to assure compliance with all applicable regulatory requirements.

Civil Engineering

Civil engineering fees in connection with the roadway improvements, replatting, utilities improvements and elimination of blighted improvements are included as part of the Project costs.

Exhibit C

Improvement Costs

<u>Item:</u>	<u>Estimated Cost:</u>
2. Re-pave and curb Carmel Parkway	\$ 250,000.00
3. Improvements to intersection of Staples & Carmel Parkway	\$ 50,000.00
4. Lighting and re-location of mature palms to Library parking area & along Carmel Parkway	\$ 100,000.00
5. Utility Improvements	\$ 100,000.00
6. Asbestos Removal	\$ 300,000.00
7. Demolition	\$ 1,000,000.00
8. Civil Engineering, fees permits	\$ 100,000.00
Total:	\$ 1,900,000.00

Exhibit D

Property Description

Lots Three (3), Five (5), Six (6), Seven(7), Eight (8), Nine (9) and Ten (10), Block AR, PARKDALE SHOPPING CENTER, as shown by the proposed plat attached as Exhibit D-1 attached.

EXHIBIT D-1

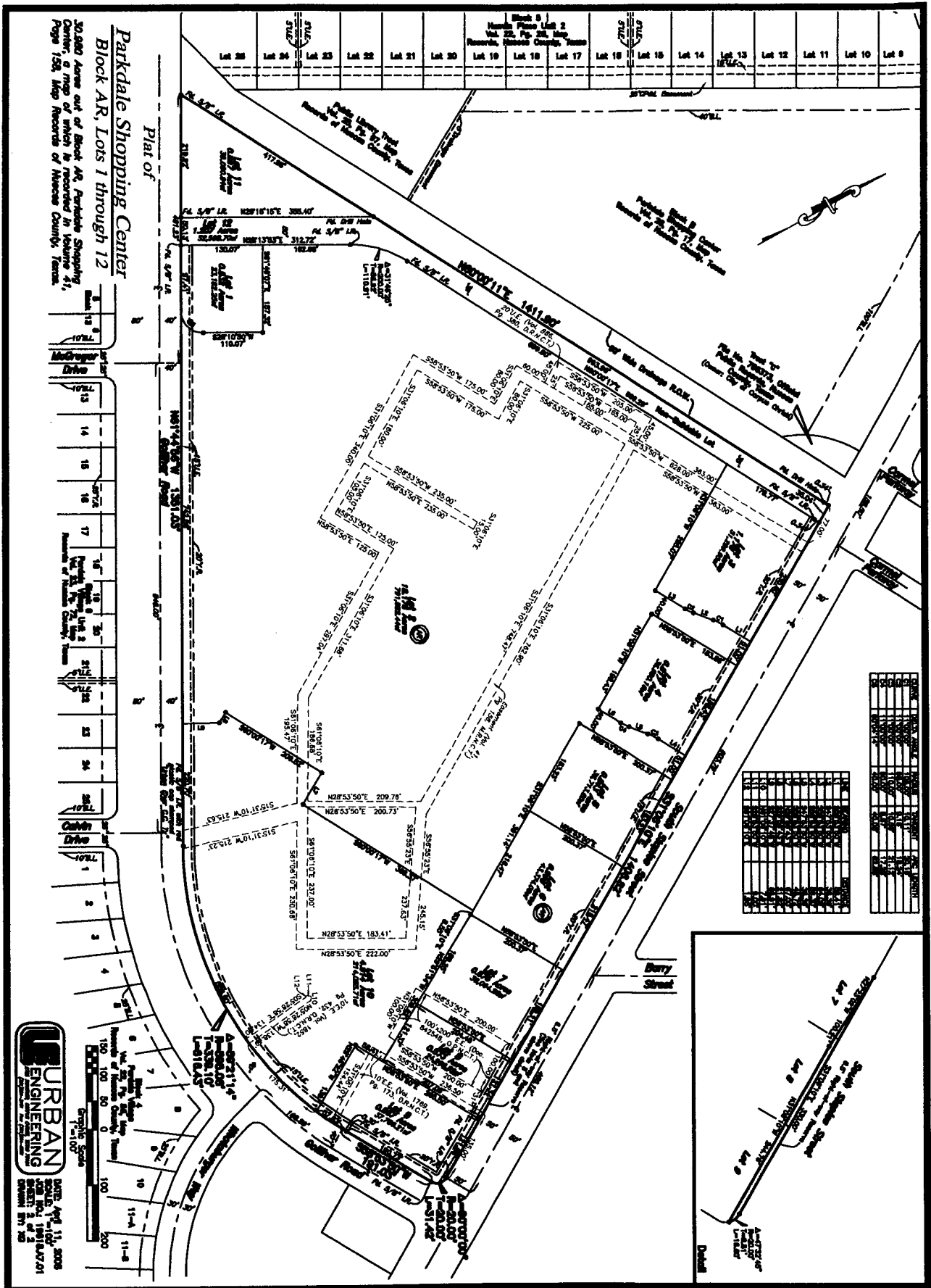


Exhibit D
Fair Share Agreement

This **FAIR SHARE AGREEMENT** ("**Agreement**") is entered into by and between the **CITY OF CORPUS CHRISTI, TEXAS** (the "**City**"), a home rule municipal corporation organized under the laws of the State of Texas, and **PARKDALE PLAZA**, (the "**Developer**") comprised of **R-SB STAPLES/SPID, LLC**, a Texas limited liability company, **JJQ-PARKDALE, LLC**, a Texas limited liability company, **H&JQ PD, LLC**, a Texas limited liability company, and **W-SB STAPLES/SPID DE, LLC**, a Texas limited liability company, as tenants in common.

WHEREAS, the City and Developer entered into a Financing Agreement (the "**Financing Agreement**"), dated as of May __, 2009, for the redevelopment of the retail center known as Parkdale Plaza in Corpus Christi, Texas (the "**Project**");

WHEREAS, as part of the Financing Agreement, the Developer has agreed in connection with the redevelopment of the Project to (a) exercise reasonable efforts to utilize (i) contractors and suppliers that are determined to be disadvantaged business enterprises ("**DBE**"), including minority business enterprises, women-owned business enterprises and historically-underutilized business enterprises, as provided in Section 3.05 of the Financing Agreement (the "**DBE Goal**") and (ii) local contractors and suppliers ("**Local Firm**") as provided in Section 3.04 of the Financing Agreement (the "**Local Goal**"); (b) comply with the reporting requirements under Sections 3.04 and 3.05 of the Financing Agreement; and (c) encourage third-party contractors, consultants, or suppliers to adopt comparable DBE and Local Firm goals;

WHEREAS, the total amount of all construction contracts and supply agreements made by the Developer in connection with the construction of the Project shall include, without limitation, redevelopment costs, hard construction costs, contractor fees, costs of supplies and materials, new fixtures, furniture, equipment, and taxable personal property purchased for use at the Project, engineering fees, architectural fees, and other professional and development fees, excluding for purposes of the DBE Goal and the Local Goal any costs incurred for services, supplies or property not available through a DBE firm or Local Firm ("**Construction Costs**");

WHEREAS, all DBE firms must have been 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 a DBE;

WHEREAS, in order to provide independent verification of the Developer's efforts with respect to the DBE Goal and the Local Goal, the City and the Developer have agreed that the Developer shall provide to the City the review of an independent auditor ("**Project Auditor**") with each annual report submitted in connection with this Agreement;

WHEREAS, all capitalized terms used herein which are not otherwise defined have the same definitions as set forth in the Financing Agreement; and

NOW, THEREFORE, BE IT RESOLVED, that the Developer does hereby agree to exercise reasonable efforts to meet the DBE Goal and the Local Goal; it is further:

RESOLVED, that the Developer agrees, during the period of construction of the Project and for four years after Completion, to maintain written records documenting the efforts of the Developer to meet the DBE Goal and the Local Goal. On an annual basis, commencing with the year ending December 31, 2010, and terminating upon Completion, the Developer shall provide to the City within ninety (90) days of the end of such reporting period, the Developer shall provide the City written reports in the form attached hereto as Schedule A documenting the involvement of DBE's and Local Firms.

RESOLVED, that the Project Auditor shall perform the services described on Schedule B in connection with each such report.

RESOLVED, that notwithstanding any provisions herein to the contrary, the Developer, as a show of its commitment to inclusion, commits to keep in place throughout the construction period of the Project (but in no event does this commitment bind any successor owners, assigns, or tenants) a program which will provide for Local Firm and DBE participation goals as described in Sections 3.04 and 3.05, respectively, of the Financing Agreement. The Developer agrees to exercise reasonable efforts to utilize DBE firms in the construction of the Project with a goal of at least thirty percent (30%) of the Construction Costs being paid to DBE firms, with a priority made for DBE firms which are local as contemplated in Section 3.05 of the Financing Agreement. The following table shall establish the portion of a contract with a DBE which shall count towards the DBE Goal:

DBE Firms in Corpus Christi MSA	100%
DBE Firms elsewhere in Texas	80%
DBE Firms outside Texas	60%

The Developer agrees to exercise reasonable efforts to utilize Local Firms in the construction of the Project with a goal of at least fifty percent (50%) of the Construction Costs being paid to Local Firms. If a contractor is both a DBE and a Local Firm, one hundred percent (100%) of the contract shall count towards each of the DBE Goal and the Local Goal. 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 Construction Costs paid by the Developer in connection with the construction of the Project.

RESOLVED, 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 paying thirty percent (30%) and fifty percent (50%) of their construction costs to DBE firms and Local Firms, respectively, but the City acknowledges that Developer has no legal authority in connection with such third-party contracting.

RESOLVED, if the Developer fails to meet its reasonable efforts goal to expend at least thirty percent (30%) and fifty percent (50%) of all Construction Costs with DBE firms and Local Firms, respectively, Developer shall not be in default under this Agreement or the Financing Agreement and no reduction in the Reimbursement Amount payable to Developer under the Financing Agreement shall be assessed so as long as developer has exercised reasonable efforts to comply with the DBE Goal and the Local Goal.

RESOLVED, the Developer shall be deemed to have exercised reasonable efforts to comply with the DBE Goal and the Local Goal as long as the Developer provides the City with the reports required to be delivered hereunder, as reviewed by the Project Auditor, and maintains the records supporting the information in such reports as provided herein, even if the Developer does not actually meet the compliance goals.

RESOLVED, that the undertaking and commitments set forth in these resolutions do not constitute a part of, and shall not be deemed to modify, amend or abrogate, any provision of, the Financing Agreement or any related agreement between the City and the Developer.

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be duly executed as of the 12th day of May, 2009.

PARKDALE SHOPPING CENTER
By: **R-SB STAPLES/SPID, LLC**
A Texas limited liability company

By: _____
Richard R. Runde, President

By: **JJQ-PARKDALE, LLC**
A Texas limited liability company

By: _____
Name: _____
Title: _____

By: **H&JQ PD, LLC**
A Texas limited liability company

By: _____
Name: _____
Title: _____

By: **W-SB STAPLES/SPID DE, LLC**
A Texas limited liability company

By: _____
Name: _____
Title: _____

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

By: Angel Escobar
Angel Escobar, City Manager

ATTEST:

By: Armando Chapa
Armando Chapa, City Secretary

APPROVED AS TO LEGAL FORM:
May 11, 2009
Mary Kay Fischer, City Attorney

By: Mary Kay Fischer
~~Assistant~~ City Attorney

M2009-127 AUTHORIZED
BY COUNCIL 05/12/09
A.C.
SECRETARY AK


See next page
for Parkdale signatures.

IN WITNESS WHEREOF, the Parties hereto have caused this instrument to be duly executed as of the 12th day of May, 2009.

PARKDALE SHOPPING CENTER

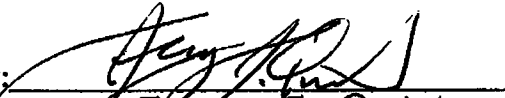
By: **R-SB STAPLES/SPID, LLC**

A Texas limited liability company

By: 
Richard R. Runde, President

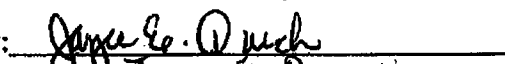
By: **JJO PARKDALE, LLC**

A Texas limited liability company

By: 
Name: Jerry B. Quick
Title: President


By: **H&JQ PD, LLC**

A Texas limited liability company

By: 
Name: Joyne B. Quirk
Title: Pres.

By: **W-SB STAPLES/SPID DE, LLC**

A Texas limited liability company

By: 
Name: JACK WEISS
Title: PRES

CITY OF CORPUS CHRISTI, TEXAS

A home-rule municipal corporation

By: _____
'Angel Escobar, City Manager

ATTEST:

By: _____
Armando Chapa, City Secretary

APPROVED AS TO LEGAL FORM:

May __, 2009

Mary Kay Fischer, City Attorney

By: _____
Assistant City Attorney

Schedule A

Form of Report

[To Be Added]

Schedule B

Duties of Project Auditor

1. The Project Auditor shall review the written reports provided to it by the Developer.
2. To the extent the Project Auditor deems it necessary or appropriate, review the records maintained by the Developer which contain information supporting the Developer's reports.
3. Verify the eligibility of the firms identified as meeting the requirements for status as a DBE or Local Firm. Notwithstanding any independent investigation by the Project Auditor, the Project Auditor may rely upon the determination made by the City or another governmental entity as to the qualification of a contractor or supplier as a DBE.
4. Provide its review with the annual reports to the City summarizing the information provided in the Developer's reports and any other records relating thereto reviewed by the Project Auditor.