



Padgett Stratemann & Co. LLP
CERTIFIED PUBLIC ACCOUNTANTS & BUSINESS ADVISORS

**Independent Auditors' Report
On Applying Agreed-Upon Procedures**

Mr. Rodney Gonzales, Acting Director
City of Austin
Economic Growth and Redevelopment Services Office
301 West 2nd Street, Suite 2030
Austin, Texas 78701

We have performed the procedures enumerated below, which were agreed to by the City of Austin ("City") solely to assist the specified user in evaluating the City's assertion that Simon Property Group, Inc. ("Simon Property Group") on behalf of its affiliate, The Domain Shopping Center, L.P. ("the Domain") has complied with certain provisions, as described below, of the Chapter 380 Economic Development Agreement ("Agreement"), approved by the City Council on May 15, 2003 and executed by the City Manager on June 13, 2003. The City is the specified user of this report. The City's management is responsible for the determination of compliance by Simon Property Group with the Agreement. This engagement to apply agreed-upon procedures was performed in accordance with attestation standards established by the American Institute of Certified Public Accountants. The sufficiency of these procedures is solely the responsibility of the specified user of this report. Consequently, we make no representation regarding the sufficiency of the procedures described below either for the purpose for which this report has been requested or for any other purpose.

Our procedures and findings are as follows:

1. With reference to Section 4(b)vii of the Agreement, we obtained from the City and inspected the spreadsheet titled Domain Fund Allocation, Second Annual Report and related supporting documentation and confirmed that the Domain Fund Allocation, Second Annual Report includes the following information:
 - a. The date each local business opened at the Domain,
 - b. A description of the distribution of the funds,
 - c. The balance of the funds, and

- d. Analysis of performance results in terms of continued presence of local small businesses at the Domain.

No exceptions were found as a result of the foregoing procedures.

2. With reference to Section 4(c) and Exhibit C of the Agreement, we obtained from the City and inspected documents described below in order to show that the Project's 416 residential units comply with S.M.A.R.T. Housing guidelines as follows:
 - a. Inspected the September 14, 2007 revised S.M.A.R.T. Housing certification letter, which requires the applicant to demonstrate compliance with the reasonably-priced standard after completion of the homes before a Certificate of Occupancy is granted and confirmed:
 - i City of Austin Neighborhood Housing and Community Development Department ("NHCD") certified the proposed construction meets S.M.A.R.T. Housing standards at the pre-submittal stage,
 - ii The development is required to obtain final approvals from Austin Energy's Green Building Program, and
 - iii The development is required to pass a final inspection by NHCD to certify that accessibility standards have been met.
 - b. Inspected the Green Building certificate, dated May 27, 2009 and awarded to Villages at the Domain, Building P. Confirmed that Austin Energy awarded Villages at the Domain a three-star Green Building rating, and
 - c. Inspected correspondence dated October 9, 2009 to Javier Delgado, City of Austin NHCD from Robert V. Buck, AIA and confirmed that the Villages at the Domain is compliant with the accessibility requirements of the City's S.M.A.R.T. Housing program.

No exceptions were found as a result of the foregoing procedures.

3. With reference to Section 4(c) of the Agreement we performed the following:
 - a. We obtained from the City and inspected a letter dated February 9, 2009 from Gina Copic of the NHCD to Residences at the Domain. We confirmed that, according to the letter, Residences at the Domain is in compliance with applicable affordability requirements,
 - b. We obtained from the City and inspected an email dated August 11, 2009 from Maneesh Chaku of the NHCD to Terry Franz of City of Austin Economic Growth and Redevelopment Services Office ("EGRSO"). We confirmed that NHCD confirmed that the 39 Residences at the Domain units "were occupied by income eligible (65% or below MFI) persons".

No exceptions were found as a result of the foregoing procedures.

4. With reference to Section 4(c) of the Agreement, we obtained from the City and inspected an email dated October 9, 2009 from Javier Delgado of the NHCD to the Villages at the Domain. We confirmed that according to the email, two units at Villages at the Domain are occupied by tenants that were earning up to 65% MFI. We obtained from the City and inspected an email dated October 9, 2009 from Villages at the Domain to Javier Delgado and confirmed that according to the email, one additional unit is reserved for S.M.A.R.T housing. No exceptions were found as a result of the foregoing procedures.
5. With reference to Section 4(d) of the Agreement, we obtained from the City and inspected the Lease Plan for the Domain that was last modified April 14, 2009. We confirmed that the aggregate retail and/or restaurant areas for Buildings A, B, C, D, E, F, G, H, K and L total 552,159 square feet. No exceptions were found as a result of the foregoing procedures.
6. With reference to Section 4(d) of the Agreement, we confirmed that the 883 Full-Time Equivalent ("FTE") jobs that are reported as required for the phased development is calculated as the product of .0016 jobs per square foot constructed times the number of square feet (.0016 * 552,159 = 883). No exceptions were found as a result of the foregoing procedure.
7. With reference to Section 4(d) of the Agreement, we obtained from the City The Domain Tenant Employment Reports, provided by the Simon Property Group, and the Domain Year 2: City of Austin Summary of Tenant Employment Reports Provided and Leased Area Calculation and selected a sample of 40 of The Domain Tenant Employment Reports. We inspected the sample of 40 of The Domain Tenant Employment Reports, provided by Simon Property Group, and the Domain Year 2: City of Austin Summary of Tenant Employment Reports Provided and Leased Area Calculation. We confirmed that the Domain Year 2: City of Austin Summary of Tenant Employment Reports Provided and Leased Area Calculation reflects the same information for the number of employees as is contained in the Domain Tenant Employment Reports for the selected sample. No exceptions were found as a result of the foregoing procedures.
8. With reference to Section 4(d) of the Agreement we performed the following:
 - a. We obtained from the City its schedule titled Domain Year 2: City of Austin Sample of Tenant Employment Reports which summarizes the sample selected by the City of retail and/or restaurant tenants whose reported employees are at least 10% of the average retail and restaurant FTE's reported for Year 2. For each business in the sample selected by the City, we inspected that business' payroll or schedule on which one or more Tenant Employment Reports was based. We compared the number of FTE's in each of the following categories reported on each business' payroll or schedule to the Domain Year 2: City of Austin Sample of Tenant Employment Reports and confirmed the number of employees shown on the site review line were in agreement for the following categories:

- Employees who worked at least 40 hours per week,
- Employees who worked between 25 and 39 hours per week,
- Employees who worked between 15 and 24 hours per week and
- Employees who worked between 1 and 14 hours per week.

No exceptions were found as a result of the foregoing procedures.

- b. For each business shown on the schedule titled Domain Year 2: City of Austin Sample of Tenant Employment Reports, we confirmed the City's calculation of the number of FTE employees using the date described in 9a above for both the Tenant Employment Report and site review categories by adding:

- All employees who worked at least 40 hours per week, plus
- 75% of the employees who worked between 25 and 39 hours per week, plus
- 50% of the employees who worked between 15 and 24 hours per week, plus
- 33% of the employees who worked between 1 and 14 hours per week.

We found the City's calculation of FTE's to be mathematically correct.

- c. We calculated the average number of Year 2 retail and restaurant FTE employees by calculating the average number of FTE employees over the four reporting periods as the product of:

The number of FTE employees reported on the schedule titled Domain Year 2: City of Austin Summary of Tenant Employment Reports Provided and Leased Area Calculation, and

The ratio of the number of FTE employees verified by site visit to the number of FTE employees reported on the Tenant Employment Reports.

We confirmed that the number of Year 2 retail and restaurant average FTE employees is 930.

- 9. With reference to Sections 6 and 7 of the Agreement, we obtained from the City and inspected the July 23, 2008 memorandum from Fred Evins, EGRSO Redevelopment Project Manager. We confirmed that the document described how the City obtained information about sales taxes collected by the Domain retailers and waived Simon Property Group's requirement to provide quarterly sales tax reports to the City. No exceptions were found as a result of the foregoing procedure.

10. With reference to Section 9 of the Agreement, we obtained from the City and inspected an email dated October 13, 2009 from Veronica Lara, City of Austin Department of Small and Minority Business Resources (“DSMBR”), to Rodney Gonzales of the EGRSO. We confirmed that, according to the email dated October 13, 2009, Simon Property Group has complied with the spirit and intent of the City's MBE/WBE procurement ordinance as outlined in the economic development agreement. No exceptions were found as a result of the foregoing procedure.
11. With reference to Section 9 of the Agreement, we obtained from the City and inspected a letter of transmittal dated September 25, 2009 from Kent Collins of Centro Partners to Fred Evins, EGRSO Redevelopment Project Manager. We confirmed that the following documents were included with the letter of transmittal:
 - a. A contract between Cloteal Davis Haynes of Haynes-Eaglin-Waters and Domain PT 1 Building P Multi-Family Associates Limited Partnership to manage M/WBE Program for Domain PT 1 Building Pl,
 - b. A copy of an invitation to a Bid Outreach Meeting held September 23, 2008,
 - c. A listing of firms on the availability list provided by the DSMBR,
 - d. A copy of the Construction and Professional Services Subcontract (“Subk”) Supplier Awards Expenditure Report by Amicus Construction, Inc., and
 - e. A copy of the Domain PT 1 Multi-Family Project MBE/WBE Report by Cloteal Davis Haynes.

No exceptions were found as a result of the foregoing procedures.

12. With reference to Section 9 of the Agreement, we obtained from the City and inspected a letter dated August 24, 2009 from Kathy Shields of Simon Property Group to Terry Franz of the EGRSO. We confirmed that the following documents were included as an attachment to the letter:
 - a. An Invitation to Bid Status Report dated December 6, 2007,
 - b. A City of Austin Subcontract Vendor List - VDRCVS dated September 4, 2007,
 - c. Combined Trade Summary Sheets (Highway Heavy, Utility, & Building Projects) Revised 06/27/01 for Domain Building P, and
 - d. A listing of vendors entitled Attachment 3, Mailing Labels.
 - e. No exceptions were found as a result of the foregoing procedures.

13. With reference to Section 9 of the Agreement, we obtained from the City and inspected the August 28, 2008 letter from Kathleen Shields of Simon Property Group to Fred Evins of the EGRSO and confirmed that attached to the letter is an executed contract between White Lodging Services Corporation and Adalante Solutions, Inc. to develop an outreach plan with the goal of maximizing the use of certified MBE and WBE contractors for the Westin Hotel. No exceptions were found as a result of the foregoing procedures.
14. With reference to Sections 5(b)i and 6 of the Agreement, we obtained from the City and inspected the City of Austin Address Point GIS Layer Map showing the Domain Phase I, and the Sales Tax Area Reports received from the Texas Comptroller of Public Accounts and confirmed that every Taxpayer listed in the Area Report has an address in the Domain Phase 1. No exceptions were found as a result of the foregoing procedures.
15. With reference to Sections 5(b)ii and 6 of the Agreement, we obtained from the City and inspected the Sales Tax Area Report received from the Texas Comptroller of Public Accounts. We confirmed that the sum of the tax payments to the City of Austin for the filing period May 2008 through April 2009 amounted to \$1,552,145.43. We confirmed that 82% of \$1,552,145.43 is \$1,272,759.25 and that 2% of \$1,552,145.43 is \$31,042.91. No exceptions were found as a result of the foregoing procedures.
16. With reference to Section 5(b)ii of the Agreement, we obtained from the City and inspected the November 5, 2008 letter and a copy of the check for \$23,674.09 from the Domain Shopping Center, L.P to the City of Austin. We confirmed that Domain Shopping Center, L.P. returned \$23,674.09 to the City within 15 days of October 30, 2008. No exceptions were found as a result of the foregoing procedures.
17. With reference to Section 5(c) of the Agreement, we obtained from the City and inspected the Property Tax Calculation for determining October 30, 2009 Chapter 380 Payment and the Travis Central Appraisal District's 2008 Certified Valuations, the Travis County Tax Statements for parcels 0256060201, 0256060302, 0256060303, 0256060304, 0254060105. We confirmed that 25% of the property taxes for the 53.16 acres is \$159,661.36. No exceptions were found as a result of the foregoing procedures.

We were not engaged to and did not conduct an examination, the objective of which would be the expression of an opinion on compliance. Accordingly, we do not express such an opinion. Had we performed additional procedures, other matters might have come to our attention that would have been reported to you.

This report is intended solely for the information and use of the City and is not intended to be and should not be used by anyone other than this specified party.

Padgett, Stratemann & Co., LLP

Certified Public Accountants
October 30, 2009