

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

Mr. Rodney Gonzales, Deputy 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 Domain Fund Allocation, Third Annual Report provided by the Simon Property Group and related supporting documentation and confirmed that the Domain Fund Allocation, Third Annual Report includes the following information:
  - a. The date each local business opened at the Domain, and
  - b. Analysis of performance results in terms of continued presence of local small businesses at the Domain.

No exceptions were noted as a result of the foregoing procedure.

2. With reference to Section 4(c) and Exhibit C of the Agreement, we obtained from the City and inspected documents described below and confirmed that the Project's 416 residential units comply with S.M.A.R.T. Housing guidelines as follows:

### **SAN ANTONIO**

100 N.E. LOOP 410, SUITE 1100  
SAN ANTONIO, TEXAS 78216  
210 828 6281

### **AUSTIN**

811 BARTON SPRINGS ROAD, SUITE 550  
AUSTIN, TEXAS 78704  
512 476 0717

TOLL FREE: 800 879 4966  
WEB: PADGETT-CPA.COM

- a. Inspected a letter dated February 11, 2011 from the City to Residences at the Domain. Confirmed that, according to the letter, Residences at the Domain is in compliance with applicable affordability requirements and that Neighborhood Housing and Community Development ("NHCD") confirmed that the 39 Residences at the Domain units "were occupied by income eligible (65% or below MFI) persons".
- b. Inspected a letter dated February 11, 2011 from the City to Villages at the Domain. Confirmed that, according to the letter, Villages at the Domain is in compliance with applicable affordability requirements and that NHCD confirmed that the 3 Villages at the Domain units "were occupied by income eligible (65% or below MFI) persons".

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

3. With reference to Section 4(d) of the Agreement, we performed the following:

- a. Obtained 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 3. 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 is based. We compared the number of employees in each of the following categories to those reported:

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 in the sample selected by the City, we calculated the number of FTE employees found in 3a above 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 employees to be mathematically correct.

- c. Calculated the average number of Year 3 retail and restaurant FTE employees by calculating the average over the four reporting periods of the sum of:

The number of FTE employees verified in 3b, and

The number of FTE employees reported and not sampled multiplied by the ratio (FTE employees verified) / (FTE employees reported on the TER's sampled).

We confirmed that the number of Year 3 retail and restaurant average FTE employees is 1,188.

4. 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 and 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 noted as a result of the foregoing procedure.

5. With reference to Section 9 of the Agreement, we obtained from the City and inspected an email dated February 28, 2011 from Amelie Flores, City of Austin Small and Minority Business Resources ("SMBR") – Compliance Division, to Terry Franz of the EGRSO. We confirmed that, according to the email noted above, Simon Property Group has complied with the spirit and intent of the City's MBE/WBE Procurement Program for the Westin Domain Project.

No exceptions were noted as a result of the foregoing procedure.

6. 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 noted as a result of the foregoing procedure.

7. 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 2009 through April 2010 amounted to \$1,657,429.46. We confirmed that 82% of \$1,657,429.46 is \$1,359,092.16 and that 2% of \$1,657,429.46 is \$33,148.59.

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

8. With reference to Section 5(b)ii of the Agreement, we confirmed the following:
  - a. We obtained from the City and inspected the page from the City of Austin EGRSO check sign form and confirmed that according to the document, Kathleen Shields signed and accepted for the Domain the City check #3220890 in the amount of \$1,432,420.00 on November 19, 2009.

No exceptions were noted as a result of the foregoing procedure.

- b. We obtained from the City and inspected the December 2, 2009 letter and copy of the enclosed check #47351397 in the amount of \$34,937.06 from Domain to the City. We confirmed that the Domain remitted the check mentioned above to the City within 15 days of November 19, 2009.

No exceptions were noted as a result of the foregoing procedure.

- c. We obtained from the City and inspected the City's December 7, 2009 correspondence to Ms. Shields and confirmed that the City returned check #47351397 in the amount of \$34,937.06 from Domain to the City because it exceeded the amount of the Additional Sales Tax Payment due for Year 2.

No exceptions were noted as a result of the foregoing procedure.

- d. We obtained from the City and inspected the December 11, 2009 letter and copy of the enclosed check #47351399 in the amount of \$31,042.91 from Domain to the City, received by the City on December 14, 2009.

No exceptions were noted as a result of the foregoing procedure.

- e. We obtained from the City and inspected the memorandum from the City to the NHCD Director dated December 14, 2009 and confirmed that the Domain returned \$31,042.91 to the City in accordance with the Agreement.

No exceptions were noted as a result of the foregoing procedure.

9. With reference to Section 5(c) of the Agreement, we performed the following:

- a. We obtained from the City and inspected the Property Tax Calculation for determining October 30, 2010 Chapter 380 Payment; the Travis Central Appraisal District's 2009 Certified Valuations for parcels 0256060203, 0256060204, 0256060302, 0256060303, and 0256060304; and the 2009 Travis County Tax Statements for parcels 0256060203, 0256060204, 0256060302, 0256060303, and 0256060304.

No exceptions were noted as a result of the foregoing procedure.

- b. We obtained telephone confirmation from Maggie Lundberg of the Travis County Tax Office at 512.854.9473 regarding the 2009 certified valuations and the City of Austin property tax amounts based on the valuations for parcels with Property ID's 767637, 774411 and 774412.

No exceptions were noted as a result of the foregoing procedure.

- c. We confirmed that 25% of the property taxes for the 53.16 acres comprised by parcels 0256060203, 0256060204, 0256060205, 0256060302, 0256060303, 0256060304, 0256060305 and 0256060306 is \$ 176,109.15.

No exceptions were noted as a result of the foregoing procedure.

- d. We obtained telephone confirmation from Maggie Lundberg of the Travis County Tax Office at 512.854.9473 that the property taxes were paid for parcels with Property ID's 767637, 774411 and 774412.

No exceptions were noted as a result of the foregoing procedure.

10. With reference to Section 5(c) of the Agreement, we obtained from the City and inspected the Travis County Tax Statements printed February 8, 2010 for parcels 0256060203, 0256060204, 0256060302, 0256060303, and 0256060304. We confirmed that no taxes are owed for the parcels comprising the 53.16 acres.

No exceptions were noted as a result of the foregoing procedure.

11. With reference to Section 5(c) of the Agreement,

- a. We obtained and inspected the printed report provided by the City from <http://www.ci.austin.tx.us/redevelopment/edagreements.htm> and confirmed that as shown in such report the total payments from the City to the Domain as of July 13, 2010 totaled \$2,310,489.98.

No exceptions were noted as a result of the foregoing procedure.

- b. We obtained from the City and inspected email correspondence dated December 7, 2010 from Katie Petersen at Travis County to Terry Franz of the EGRSO and confirmed that Travis County had paid Simon Property Group \$368,248.54 as of December 7, 2010.

No exceptions were noted as a result of the foregoing procedure.

- c. We confirmed that Travis County's \$368,248.54 payment to Simon Property Group is less than \$1,373,096 which is the cost agreed upon by the Simon Property Group and the City as a result of reducing the affordability level from 80% MFI to 65% MFI.

No exceptions were noted as a result of the foregoing procedure.

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  
March 31, 2011