

AN ORDINANCE 2016-12-01-0915

**AUTHORIZING AN AMENDMENT TO THE CHAPTER 380 ECONOMIC DEVELOPMENT LOAN AGREEMENT WITH SOUTH FRIO DEVELOPMENT LLC TO REDUCE THE LOAN AMOUNT BY \$150,000.00 AND REDEFINE THE TERM "STUDENT HOUSING" FOR PURPOSES OF THE AGREEMENT.**

\* \* \* \* \*

**WHEREAS**, the City and South Frio Development LLC ("Developer") entered into a Chapter 380 Economic Development Loan Agreement (the "Agreement") to incentivize Developer to undertake an economic development project comprised of the construction of a 102 unit rental complex with 2868 sq. ft. of commercial/retail space at 905 S. Frio Street in City Council District 5 (the "Project"); and

**WHEREAS**, the Project was completed in the Fall of 2015 and resulted in the investment of approximately \$13 million in investment; and

**WHEREAS**, the Agreement provided a \$400,000.00 loan from the City to the Developer in accordance with the City's Chapter 380 Economic Development Grant and Loan Program and required the Developer to set aside 10% of the rental units for student housing; and

**WHEREAS**, the Developer is seeking to redefine the term "student" for purposes of the Agreement to include non-degree seeking students and vocational school students; and

**WHEREAS**, City staff recommends approval of an amendment based upon the City's current student housing market; **NOW THEREFORE:**

**BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF SAN ANTONIO:**

**SECTION 1.** The City Council approves the terms and conditions of an Amendment to the Economic Development Program Loan Agreement with South Frio Development LLC. to provide for a repayment to the City of \$150,000.00 and to redefine the term "student" in accordance with this Ordinance.

**SECTION 2.** The City Manager or her designee is authorized to execute an Amendment to the Economic Development Loan Agreement in accordance with the terms and conditions of this Ordinance. A copy of the Agreement, in substantially final form, is attached to this Ordinance as **Exhibit A**. The final agreement shall be filed with this Ordinance upon execution.

**SECTION 3.** Funds generated by this Ordinance will be deposited into Fund 2910400 Internal Order 219000000022 and General Ledger 4503200.

**SECTION 4.** The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director of Finance, may, subject to concurrence by the

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Item No. 17

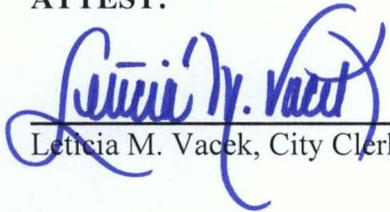
City Manager or the City Manager's designee, correct allocations to specific SAP Fund Numbers, SAP Project Definitions, SAP WBS Elements, SAP Internal Orders, SAP Fund Centers, SAP Cost Centers, SAP Functional Areas, SAP Funds Reservation Document Numbers and SAP GL Accounts as necessary to carry out the purpose of this Ordinance.

**SECTION 5.** This Ordinance shall become effective immediately upon its passage by eight (8) votes or more and upon ten (10) days following its passage if approved by fewer than eight (8) votes.

PASSED AND APPROVED this 1<sup>st</sup> day of December, 2016.

  
M A Y O R  
Ivy R. Taylor

ATTEST:

  
\_\_\_\_\_  
Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:

  
\_\_\_\_\_  
City Attorney

# **EXHIBIT A**

<b>Agenda Item:</b>	17						
<b>Date:</b>	12/01/2016						
<b>Time:</b>	02:43:25 PM						
<b>Vote Type:</b>	Motion to Approve						
<b>Description:</b>	An Ordinance authorizing an amendment to the Chapter 380 Economic Development Loan Agreement with South Frio Development LLC to reduce the loan amount by \$150,000.00 and redefine the term "Student Housing"; and authorizing an assignment of the Agreement to 939 S. Frio Street LLC. [Lori Houston, Assistant City Manager; John Jacks, Interim Director, Center City Development and Operations]						
<b>Result:</b>	Passed						
<b>Voter</b>	<b>Group</b>	<b>Not Present</b>	<b>Yea</b>	<b>Nay</b>	<b>Abstain</b>	<b>Motion</b>	<b>Second</b>
Ivy R. Taylor	Mayor		x				
Roberto C. Treviño	District 1		x				
Alan Warrick	District 2		x				x
Rebecca Viagran	District 3	x					
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x			x	
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				
Michael Gallagher	District 10		x				

## **FIRST AMENDMENT TO THE ECONOMIC DEVELOPMENT LOAN AGREEMENT OF THE CITY OF SAN ANTONIO**

This First Amendment to the Economic Development Loan Agreement (this "First Amendment") is entered into by and between the CITY OF SAN ANTONIO ("City") and SOUTH FRIO DEVELOPMENT LLC ("Developer") together referred to as "the Parties".

### **RECITALS**

- A. City and Developer are parties to that certain Economic Development Loan Agreement approved by the City Council of San Antonio on December 13, 2012 by Ordinance No. 2012-12-13-1005 and executed by the parties on January 3, 2013 ("the Agreement").
- B. City and Developer desire to amend the Agreement to reduce the student housing minimum requirement as a condition for loan forgiveness.
- C. In accordance with the terms of the Agreement, City Council must approve of any amendments to the Agreement.
- D. All other provisions of the Agreement shall remain in full force and effect.

### **AMENDMENT**

**NOW THEREFORE**, City and Developer hereby agree and amend as follows:

- 1. Definitions. All capitalized terms used in this Amendment without definition herein shall have the meanings assigned to such terms in the Agreement.
- 2. Amendment. The Parties hereby agree to amend the Agreement as follows:

- a. Section 3.A. Economic Development Program Loan

Reduce the cumulative loan amount to be repaid or forgiven as per the terms of the Agreement from FOUR HUNDRED THOUSAND DOLLARS AND 0 CENTS (\$400,000.00) to TWO HUNDRED FIFTY THOUSAND DOLLARS AND 0 CENTS (\$250,000.00) - the difference being repaid by Developer in consideration of this Amendment (\$150,000).

- b. Section 3.A.3. Repayment of Loan

Revise the repayment schedule as follows:

January 1, 2018      TWENTY-FIVE THOUSAND DOLLARS (\$25,000)

January 1, 2019	TWENTY-FIVE THOUSAND DOLLARS (\$25,000)
January 1, 2020	TWENTY-FIVE THOUSAND DOLLARS (\$25,000)
January 1, 2021	TWENTY-FIVE THOUSAND DOLLARS (\$25,000)
January 1, 2022	TWENTY-FIVE THOUSAND DOLLARS (\$25,000)
January 1, 2023	TWENTY-FIVE THOUSAND DOLLARS (\$25,000)
January 1, 2024	TWENTY-FIVE THOUSAND DOLLARS (\$25,000)
January 1, 2025	TWENTY-FIVE THOUSAND DOLLARS (\$25,000)
January 1, 2026	TWENTY-FIVE THOUSAND DOLLARS (\$25,000)
January 1, 2027	TWENTY-FIVE THOUSAND DOLLARS (\$25,000)

c. Section 3.A.7. Loan Forgiveness

Replace this section in its entirety with the following:

*Annually, commencing upon the date the first repayment is due in accordance with Section 3(A)(3), the City shall forgive up to TWENTY-FIVE THOUSAND DOLLARS AND 0 CENTS (\$25,000.00) upon the determination by City that at least FIFTEEN (15) of the housing units at the Project site are leased for Student Housing. The determination by City shall be made from information submitted by Developer of the leasing activity for the preceding year.*

*Any Loan Funds not forgiven shall be immediately due in accordance with Section 3(A)(3).*

*(a) For the purposes of this Agreement, "Student Housing" shall mean a housing unit leased by at least one individual who is currently and actively enrolled in an accredited institution of higher learning, including, but not limited to, a college or university.*

*(b) As a further condition of forgiveness each year, Developer must provide evidence deemed acceptable by the City that at least \$5,000 of the annual marketing budget is being expended to target traditional college/university students.*

d. Section 4. Agreement Period

Replace "February 1, 2024" with "February 1, 2027".

3. Effective Date. This Amendment shall be effective upon the Effective Date listed on the signature page.
4. No Other Changes. Except as specifically set forth in this Amendment, all of the terms and conditions of the Agreement shall remain the same and are hereby ratified and confirmed. The Agreement shall continue in full force and effect and with this Amendment shall be read and construed as one instrument.

5. Choice of Law. This Amendment shall be construed in accordance with and governed by the laws of the State of Texas.
6. Counterparts. This Amendment may be executed in any number of counterparts, but all such counterparts shall together constitute but one instrument. In making proof of this Amendment it shall not be necessary to produce or account for more than one counterpart signed by each party hereto by and against which enforcement hereof is sought.

**IN WITNESS HEREOF**, the parties hereto have executed in duplicate originals this Amendment on the \_\_\_\_\_ day of December 2016 (the "Effective Date").

**CITY OF SAN ANTONIO**  
a municipal corporation

**SOUTH FRIO DEVELOPMENT, LLC**

\_\_\_\_\_  
Lori Houston  
Assistant City Manager

\_\_\_\_\_  
Michael Wibracht  
Managing Member

**ATTEST:**

\_\_\_\_\_  
City Clerk

**APPROVED AS TO FORM:**

\_\_\_\_\_  
Orlando Rodriguez  
Assistant City Attorney