

**FIRST AMENDMENT TO THE AMENDED AND RESTATED ECONOMIC
DEVELOPMENT GRANT AGREEMENT OF THE CITY OF SAN ANTONIO AND
TAX INCREMENT REINVESTMENT ZONE #30**

This First Amendment (this “***Amendment***”) to the “Amended and Restated Economic Development Agreement of the City of San Antonio and Tax Increment Reinvestment Zone #30” is made and entered into by and among the CITY OF SAN ANTONIO (the “***City***”), a municipal corporation of the State of Texas, acting by and through its City Manager or her designee, TAX INCREMENT REINVESTMENT ZONE NUMBER 30 (the “***TIRZ***”), a tax increment reinvestment zone created by the City pursuant to Chapter 311 of the Texas Tax Code and acting by and through its Board of Directors; and IRON & STEEL LOFTS, L.L.C., a Texas limited liability company (hereinafter referred to as “***GRANTEE***”) and whom together may sometimes be referred to herein as the “***Parties***.”

W I T N E S E T H:

WHEREAS, GRANTEE developed a mixed-use project located within the city limits of San Antonio that consists of 67 residential units and at least 2,500 square-feet of commercial space located at 1401 South Flores Street (the “***Project***”); and

WHEREAS, the Project includes the former site and building of the Penden Iron and Steel Company, and the Project included the preservation of a significant historic structure; and

WHEREAS, GRANTEE’s redevelopment of the Project received a Historic Tax Certification and Certificate of Appropriateness for Final Approval for its design from the City’s Historic and Design Review Commission (the “***HDRC***”) on November 3, 2010 (HDRC Case No. 2007-266), and therefore is eligible to receive an exemption of City property taxes levied on the Project for a period of time specified in existing City ordinances as per the Historic Tax Exemption Program through the Office of Historic Preservation; and

WHEREAS, the City entered into that certain Economic Development Program Grant Agreement (the “***Original Economic Development Agreement***”) to encourage development of the Project by authorizing a cash grant of \$109,000 and, in accordance with the City’s Inner-City Reinvestment Infill Policy, a waiver of certain impact fees otherwise charged by the San Antonio Water System to the Project; and

WHEREAS, the Original Economic Development Agreement was amended by City Ordinance. 2010-12-09-1028 (the “***First Amendment***”) to modify and extend the deadlines for commencement and completion of construction of the Project; and

WHEREAS, the Original Economic Development Agreement, as amended by the First Amendment, was replaced by that certain “Amended and Restated Economic Development Agreement of the City of San Antonio and Tax Increment Reinvestment Zone #30” (the “***Restated Agreement***”), pursuant to City Ordinance No.2011-05-19-0147 (passed and approved on May 19, 2011) and resolution of the Board of Directors of the TIRZ;

WHEREAS, GRANTEE has undertaken and completed the Project in compliance with the requirements of the Restated Agreement, and now seeks to amend the Restated Agreement to reflect a change in ownership due to the conversion of the Project into a condominium regime pursuant to Texas law, **NOW, THEREFORE**, in consideration of the mutual covenants contained herein, the Parties hereby agree as follows:

1.

The "*Effective Date*" of this Amendment as said term is used herein, shall be the date it is executed by all parties hereto.

2.

The second recital of the Restated Agreement shall be amended, as follows:

“WHEREAS, GRANTEE is engaged in an economic development project that will be located within the city limits of San Antonio that will consist of a mixed-use development structure consisting of 67 residential rental units and 2,500 square-feet of commercial space to be located at 1401 South Flores Street (the “Project”);”

3.

The first sentence of Section 1 of the Restated Agreement shall be amended, as follows:

“GRANTEE shall undertake the development of a mixed-use development structure consisting of no less than 67 residential living rental units and 2500 square-feet of commercial space.”

4.

Section 3 (B.)(ii) of the Restated Agreement shall be amended and restated, as follows:

“(ii) Property Tax Increment Reimbursement (\$719,962). Subject to the terms and conditions of this Agreement and the Payment Conditions (defined herein), for each tax year commencing with the 2012 tax year (begins on January 1, 2012) and then annually throughout the remainder of the term, the TIRZ shall pay to GRANTEE no later than forty-five (45) business days following submission by GRANTEE of satisfactory evidence from the Bexar County Tax Assessor indicating taxes paid on the Project, an amount equal to: (a) the actual amount of real property taxes paid to City with respect to the Property (including land and improvements) for the immediately preceding tax year, *less* (b) \$9,223.58, which represents the amount of real property taxes payable by GRANTEE to City with respect to the Property for the 2010 tax year based on City's then-adopted tax rate of .565690% (the

difference between (a) and (b) being referred to herein as "Annual Property Tax Increment Reimbursement"). Payment of the Annual Property Tax Increment Reimbursement to GRANTEE shall occur in accordance with the following conditions (collectively, the "*Payment Conditions*"):

- (a) For each tax year during the Term of this Agreement, TIRZ shall pay the Annual Property Tax Increment Reimbursement to GRANTEE provided that the City or other participating taxing entities have deposited funds into the Tax Increment Fund for that particular tax year, pursuant to Section 311.013 of the Texas Tax Code. For purposes of this Agreement, "*Tax Increment Fund*" means that certain fund established by the City for the TIRZ, pursuant to Section 311.004, Texas Tax Code.
- (b) For any particular tax year during the Term of this Agreement, if no tax increment is realized within Reinvestment Zone #30, the TIRZ shall defer payment of any Annual Property Tax Increment Reimbursement due to GRANTEE under this Section, during that tax year.
- (c) For any particular tax year during the Term of this Agreement, if insufficient tax increment is realized within Reinvestment Zone #30 to permit the full payment of the Annual Property Tax Increment Reimbursement due to GRANTEE under this Section, the TIRZ shall pay as much of the Annual Property Tax Increment Reimbursement to GRANTEE, as possible, and the TIRZ shall defer payment of any unpaid balance of the Property Tax Increment Reimbursement due to GRANTEE under this Section during that tax year.
- (d) It is expressly agreed that all deferred Property Tax Increment Reimbursements (the "*Deferred Amounts Due*") shall accrue without interest and be payable at the earliest reasonable opportunity to GRANTEE by TIRZ upon the availability of tax increment in the Tax Increment Fund.
- (e) At any time during the Term of this Agreement and provided that GRANTEE has no Deferred Amounts Due and there exist unallocated amounts in the Tax Increment Fund, the TIRZ shall consider any reasonable request made by GRANTEE to pay amounts in addition to the Annual Property Tax Increment Reimbursement up to the Maximum Disbursement Amount. It is expressly understood that the TIRZ has no obligation to pay additional amounts."

Section 3.B.(iv) of the Restated Agreement shall be amended, as follows:

“(iv) Obligation to Pay Taxes. It is understood that the GRANTEE shall continue to pay all taxes owed on any portion of the Property owned by GRANTEE, as required by law. However, the Parties acknowledge that the Property has been divided under a condominium regime and that owners of individual condominium units (both commercial and residential) shall be responsible for their respective payment of property taxes owed. Taxes owed or paid shall be determined by the Bexar County Appraisal District. Prior to TIRZ disbursing funds under Section 3.B.(ii), GRANTEE must provide to City evidence indicating that all taxes owed by GRANTEE on the portion of the Property owned by GRANTEE have been paid in full for the tax year for which payment of the Annual Property Tax Increment Reimbursement is sought, subject to GRANTEE’s right to protest taxes as permitted by law. If, during the Term of this Agreement, GRANTEE allows its ad valorem taxes due on the portion of the Property owned by GRANTEE to become delinquent and fails to timely and properly follow the legal procedures for the protest and/or contest of the taxing value, then the City and TIRZ’s remedies under this Agreement shall apply.”

5.

Except as specifically provided to the contrary herein, all remaining terms and conditions of the Restated Agreement are hereby ratified and affirmed and shall remain in full force and effect. All defined terms used herein shall have the same meaning ascribed thereto in the Agreement unless another meaning is clearly indicated herein.

City and TIRZ acknowledge and agree that GRANTEE has completed the Project in accordance with the Restated Agreement, and is not in default under the terms of the Restated Agreement as of the Effective Date.

[SIGNATURE PAGES FOLLOW]

EXECUTED to be effective as of the ____ day of February, 2017.

GRANTEE:

IRON & STEEL LOFTS, L.L.C.
a Texas limited liability company

By: _____

Name: Dennis McDaniel, Managing Member

Date: _____

CITY:

The City of San Antonio, Texas
a Home-Rule Municipal Corporation

TIRZ

**Westside Tax Increment Reinvestment Zone
#30**

By: _____

Name: _____

Title: _____

Date: _____

By: _____

Name: _____

Title: _____

Date: _____

ATTEST:

City Clerk

APPROVED AS TO FORM:

City Attorney