

**THIS IS A DRAFT AND WILL BE REPLACED BY THE FINAL, SIGNED
ORDINANCE OR RESOLUTION ADOPTED BY CITY COUNCIL.**

ORDINANCE

AUTHORIZING THE CITY MANAGER TO NEGOTIATE AND EXECUTE A DEVELOPMENT AGREEMENT WITH 803 N. CHERRY, LLC TO INCLUDE THE APPROPRIATION OF \$600,000 AND DECLARING AS SURPLUS AND AUTHORIZING THE EXCHANGE OF CITY-OWNED REAL PROPERTY CONSISTING OF APPROXIMATELY 2.00 ACRES OR AN 87,120 SQUARE FEET OUT OF LOT 24, NCB 602 LOCATED AT 223 S. CHERRY STREET IN EXCHANGE FOR THE ACQUISITION OF TWO TRACTS OF LAND OUT OF NCB 527, BLOCK 1, LOTS 1 & 2 COMMONLY KNOWN AS 803 N. CHERRY STREET AND 815 N. CHERRY STREET TOTALING APPROXIMATELY 1.69 ACRES OR 73,616 SQUARE FEET FROM 803 N. CHERRY, LLC IN COUNCIL DISTRICT 2.

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WHEREAS, on August 2, 2012, City Council authorized a Master Economic Development Incentive Agreement with Alamo Beer Company, LLC and the Inner City Tax Increment Reinvestment Zone for the development of the Alamo Beer Micro Brewery; and

WHEREAS, the City also agreed to sell 1.69 acres of unimproved land located at 803 N Cherry Street (“North Cherry Property”) to Alamo Beer Company, LLC; and

WHEREAS, due to litigation, the conveyance of 803 and 815 N Cherry Street was delayed and Alamo Beer Company, LLC then decided to build the microbrewery on adjacent property it owned located at 415 Burnet; and

WHEREAS, Alamo Beer Company, LLC subsequently sold the 1.69 acres of unimproved land located at 803 N Cherry Street to 803 N. Cherry, LLC for the purpose of developing a housing project on the site (“Project”); and

WHEREAS, the City of San Antonio (“City”) currently owns Lot 24, NCB 602, commonly known as 223 S. Cherry Street (South Cherry Property”); and

WHEREAS, City staff and 803 N. Cherry, LLC met and developed a framework for a development agreement (the “Development Agreement”) that includes a property exchange of 2.00 acres of 223 S. Cherry Street for 803 N. Cherry Street and the allocation of \$600,000 for demolition of structures, the environmental cleanup necessary to meet residential standards, and the survey and replatting of the 223 S. Cherry Street site; and

WHEREAS, City staff has requested the South Cherry Property, depicted and attached hereto in **Attachment I**, be declared surplus to the needs of the City so that they City can sell or convey the property; and

WHEREAS, the South Cherry Property with the five-story deed restriction is appraised at \$2,615,000; and

WHEREAS, 803 N. Cherry, LLC currently owns the North Cherry Property, depicted and attached hereto in **Attachment II**; and

WHEREAS, the North Cherry Property is appraised at \$2,580,000; and

WHEREAS, 803 N. Cherry, LLC desires to convey the North Cherry Property to the City in exchange for acquiring the City-owned South Cherry Property; **NOW THEREFORE:**

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

SECTION 1. The City Council authorizes the City Manager or designee, in conjunction with the City Attorney, to negotiate and execute a development agreement with 803 N. Cherry, LLC or its affiliate having proper authority to facilitate the following real property exchange pursuant to Section 272.001 of the Texas Local Government Code at no cost:

- A. Declare approximately 2.00 acres or 87,120 square feet of Lot 24, NCB 602, depicted and attached hereto in **Attachment I**, as surplus and authorizing its disposition to 803 N. Cherry, LLC.
- B. Acquire Lot 1 and Lot 2 out of NCB 527, Block 1, depicted and attached hereto in **Attachment II**, from 803 N. Cherry, LLC.

SECTION 2. The City Council authorizes the City Manager or designee, in conjunction with the City Attorney, to negotiate and execute a Development Agreement with 803 N. Cherry, LLC or its affiliate having proper authority, in accordance with the Memorandum of Understanding attached hereto in Attachment III and the following conditions:

- A. The City will provide the same incentives to the project on 223 S Cherry Street that was provided through the previously executed Center City Housing & Infill Policy (CCHIP) Agreement for the North Cherry Property. This includes a 10-year property tax rebate of City ad valorem taxes and a waiver of City and SAWS fees;
- B. Applicable City processes to convey and develop the property shall apply to the conveyance of 223 S Cherry. The development will be subject to HDRC review consistent with the terms of this MOU, for example, the right to build a 5 story building and nothing less;

- C. The City shall deliver 223 S Cherry in an environmentally clean condition that meets all federal, state and local requirements for a residential development of a five-story building in its completed state and the City will fund and oversee the remediation of the site;
- D. The City shall demolish existing buildings and structures on 223 S Cherry Street and work with 803 to retain, recycle and reuse utilities coming into the site without impeding the demolition process;
- E. The future use of 803 and 815 N Cherry will be for public or recreational use or for a use that meets a community need based on community input. City staff and the District 2 Council Office will seek input from community partners to include the residents of Dignowity Neighborhood, Hays Street Bridge Restoration Group, and other stakeholders and surrounding neighborhoods to develop a plan for its future use. The process will be done in accordance with the City's public participation principles. The process will consider at minimum conceptual design, viewshed protection, and cultural and historical interpretation opportunities to include consideration of interpretation related to the train depot or individuals employed by the railroad;
- F. City staff will terminate two license agreements with Alamo Beer LLC for the use of an area of the Hays Street Bridge for restaurant tables and chairs and to construct a skywalk connecting the microbrewery to the Hays Street Bridge. The License agreement to improve and activate the land under the bridge shall remain in place.

SECTION 3. Funding in the amount of \$600,000 is available in Fund 29104000, Cost Center 1909010001 and General Ledger 5201040 as part of the FY2019 Budget.

SECTION 4. The disposition of surplus property must be coordinated through the city's Finance Department to assure the removal of these assets into the City's financial records and to record the proper accounting transactions.

SECTION 5. 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 City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

SECTION 6. This ordinance becomes effective immediately upon its passage by eight (8) votes or more and 10 days after passage upon its approval by less than eight (8) votes.

PASSED AND APPROVED this _____ day of _____, 2019.

M A Y O R
Ron Nirenberg

ATTEST:

APPROVED AS TO FORM:

Leticia M. Vacek, City Clerk

Andrew Segovia, City Attorney

Attachment I

Attachment II

Attachment III