



City of San Antonio

Agenda Memorandum

File Number:13-1083

Agenda Item Number: 23.

Agenda Date: 12/5/2013

In Control: City Council A Session

DEPARTMENT: Economic Development Department

DEPARTMENT HEAD: Rene Dominguez

COUNCIL DISTRICTS IMPACTED: Council District 6

SUBJECT:

First Amendment to the Tax Phase-In Agreement and Economic Development Grant Agreement dated June 29, 2006 between the City and Lowe's Home Center, LLC.

SUMMARY:

This Ordinance authorizes the City to amend a Tax Phase-In Agreement and an Economic Development Grant Agreement with Lowe's Home Center, LLC. ("Lowe's"), dated June 29, 2006. The Ordinance amends the Tax Phase-In Agreement to include for the redefinition of Full-Time Job to include positions filled by contract workers provided that such positions meet the wage and benefits requirements. The Tax Phase-In Agreement is also being amended to provide for the reduction of non-temporary, Full-Time Positions from twenty-two (22) to fifteen (15); as well as for a reduction in the abatement percentage from 100% to a maximum of 68%. Lastly, this Ordinance amends the Economic Development Grant Agreement to indicate that no further grant payments or fee waivers will be payable to Lowe's for the remainder of the agreement term.

BACKGROUND INFORMATION:

Founded in 1946, Lowe's Companies, Inc. is a publicly traded Fortune 500 company with over 245,000 employees nationwide and more than 1,825 superstores in the U.S., Canada and Mexico. Lowe's shares trade on the New York Stock Exchange (NYSE) under the ticker symbol LOW. With fiscal year 2012 sales of \$50.5 billion and net earnings of \$2.0 billion, Lowe's has recorded profits every year since becoming public.

The company's stores sell about 40,000 products for home improvement projects, gardening projects, home fashion items, lumber, millwork, plumbing and electrical supplies, and tools, as well as appliances and

furniture.

On June 29, 2006, City Council approved a 10 year, 100% Tax Abatement and an Economic Development Grant in the amount of \$300,000 for Lowe's provided that Lowe's create 22 high paying jobs and invest \$60 million in real and personal property. Since the agreement, Lowe's has invested \$90 million in a new facility in District 6 and currently employs 20 full time employees as well as numerous contractors.

In order to remain compliant to the Agreement, Lowe's is requesting an amendment to the Tax Phase-In Agreement to maintain an employment level for the company at 15 from the 22 requirement of the Agreement. Lowe's leadership has realized due to the efficiencies in the data center market, the agreed upon employment levels are no longer achievable, and it makes fiscal sense for the company to change course with the market and allow the 15 full time employees to become contract workers provided that such positions meet the wage and benefits requirements. Also the City changed its Tax Abatement guidelines indicating that data centers are exempt from the minimum job creation. Furthermore, contract workers in the data center industry have become an important aspect of the industry, and are sourced out by the data center operators.

In response to Lowe's request, staff is recommending, per the Tax Phase-In Agreement that the abatement percentage changes from 100% to a maximum of 68% for real and personal property. Due to the employment level change request, staff is also recommending no further grant payments or fee waivers will be payable to Lowe's for the remainder of the agreement term.

ISSUE:

Sections 7 and 13 of the Tax Phase-In and the Economic Development Grant Agreements give the City the authority to amend these agreements with consensus from both parties. Any changes to an executed contract must obtain Council approval.

ALTERNATIVES:

The City Council could choose to not approve this Ordinance to amend the contract with Lowe's. Lowe's has elected to retain its data center business activities and has expanded since its initial agreement with the City. Therefore, staff recommends approval of these amendments to help retain Lowe's in San Antonio.

FISCAL IMPACT:

There is no fiscal impact to amending the Tax Phase-In and the Economic Development Grant Agreements. The City is gaining additional tax revenue from property taxes, and is keeping the additional grant funding.

RECOMMENDATION:

Staff recommends approval of this Ordinance amending the City's Tax Phase-In and Economic Development Grant Agreements with Lowe's.