

AN ORDINANCE

2013-12-05-0853

AUTHORIZING AN AMENDMENT TO THE TAX PHASE-IN AND CHAPTER 380 ECONOMIC DEVELOPMENT PROGRAM GRANT AGREEMENT WITH LOWE'S HOME CENTER, LLC. ("LOWE'S") TO PROVIDE FOR THE USE OF CONTRACT EMPLOYEES, A REDUCTION IN FULL-TIME POSITIONS AND A REDUCTION IN THE PERCENTAGE OF TAXES TO BE ABATED.

* * * * *

WHEREAS, on June 29, 2006, the City Council authorized a Tax Phase-In Agreement and Chapter 380 Economic Development Program Grant Agreement (the "Agreements") with Lowe's to: (i) establish a data center at 10045 Rogers Run, San Antonio, TX 78251 (the "Project Site"), (ii) invest \$60 million in real and personal property improvements, (iii) and create 22 Full-Time jobs at the Project Site (the "Project"); and

WHEREAS, due to workforce efficiencies and technological advances, Lowe's is seeking to amend the Agreements to provide for the use of contract employees, reduce the required number of full-time employees from 22 to 15, and reduce the amount of abated taxes from 100% to 63%; and

WHEREAS, the City finds that the goals of Chapter 380 continue to be met by assisting Lowe's in undertaking the Project; **NOW THEREFORE**:

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

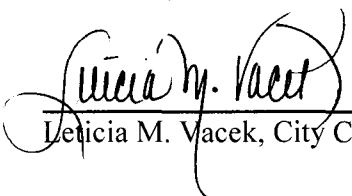
SECTION 1. The terms and conditions of the First Amendment to the Tax Phase-In and Chapter 380 Economic Development Program Grant Agreement (the "Amendment") are hereby approved. The City Manager, or her designee, is authorized to execute said Amendment, a copy of which, in substantially final form, is set out in **Attachment I** and is made a part of this Ordinance. The final copy of the Amendment shall be attached when fully executed.

SECTION 2. 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 5th day of December, 2013.

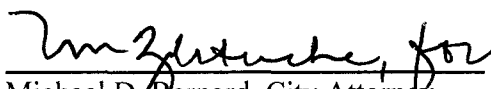

M A Y O R
for Julián Castro

ATTEST:



Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:



Michael D. Bernard, City Attorney

Agenda Item:	23 (in consent vote: 7, 8, 9, 10, 11, 12A, 12B, 13, 15, 16, 17, 18, 19, 20, 21, 22, 23, 24, 26, 27, 28, 29, 31, 32, 34, 36, 37, 38, 39, 40, 41, 42, 43A, 43B, 43C, 43D)						
Date:	12/05/2013						
Time:	10:02:38 AM						
Vote Type:	Motion to Approve						
Description:	An Ordinance authorizing the First Amendment to the Tax Phase-In Agreement and Economic Development Grant Agreement between the City and Lowe's Home Centers, LLC. [Carlos J. Contreras, Assistant City Manager, Rene Dominguez, Director, Economic Development]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor	x					
Diego Bernal	District 1		x				x
Ivy R. Taylor	District 2		x				
Rebecca Viagran	District 3		x				
Rey Saldaña	District 4		x				
Shirley Gonzales	District 5		x				
Ray Lopez	District 6		x				
Cris Medina	District 7		x				
Ron Nirenberg	District 8		x			x	
Joe Krier	District 9		x				
Carlton Soules	District 10		x				

ATTACHMENT I

**FIRST AMENDMENT TO THE TAX PHASE-IN AGREEMENT AND ECONOMIC
DEVELOPMENT GRANT AGREEMENT**

BETWEEN THE CITY OF SAN ANTONIO AND LOWE'S HOME CENTERS LLC

This First Amendment to the Tax Phase-In Agreement and Economic Development Grant Agreement (this "FIRST AMENDMENT") is entered into by and between the City of San Antonio ("CITY"), a municipal corporation governed by the laws of the State of Texas and Lowe's Home Centers, LLC, a North Carolina limited liability company, as successor to Lowe's Home Centers, Inc., a North Carolina corporation ("Lowe's"). Together, CITY and Lowe's may be referred to, herein, as "the Parties."

RECITALS

- A. CITY and Lowe's entered into that certain Tax Phase-In Agreement and Economic Development Grant Agreement (the "Agreements") authorized by City of San Antonio Ordinances Nos. 2006-06-29-0739 and 2006-06-29-0740, passed and approved on June 29, 2006.
- B. Prior to this First Amendment, the Agreements were in full effect and, subject to the terms of this First Amendment, Lowe's was in compliance with all terms and conditions of the Agreements.
- C. The Parties, now seek to amend the terms and conditions of the Agreements as stated in this First Amendment and affirm that all other provisions of the Agreements remain in full force and effect.

AMENDMENT

NOW THEREFORE, the Parties hereby agree and amend as follows:

- 1. Definitions. All capitalized terms used in this First Amendment without definition herein shall have the meanings assigned to such terms in the Agreements.
- 2. Amendment. The Parties hereby mutually agree to amend the Agreements as follows:
 - (A) Section 5(C) of the Tax Phase-In Agreement shall be amended to provide for the definition of Full-Time Job to include positions filled by contract workers provided that such positions meet the wage and benefits requirements of Sections 5(B) and 5(D).
 - (B) Section 5(A)(2) of the Tax Phase-In Agreement shall be amended to provide for the reduction of non-temporary, Full-Time Positions from twenty-two (22) to fifteen (15).
 - (C) Section 6(C) of the Tax Phase-In Agreement shall be amended to provide for a reduction in the abatement percentage from 100% to a maximum of 68%.
 - (D) Section 2(C) of the Economic Development Grant Agreement shall be amended that no further grant payments or fee waivers will be payable to Lowe's for the remainder of the agreement term.

3. Effective Date. This First Amendment shall be effective upon passage of a duly authorized ordinance of the City Council of the City of San Antonio which shall be attached hereto and made a part of this First Amendment.
4. No Other Changes. Except as specifically set forth in this First Amendment, all of the terms and conditions of the Agreements shall remain the same and are hereby ratified and confirmed. The Agreements shall continue in full force and effect and with this First Amendment shall be read and construed as one instrument.
5. Choice of Law. This First Amendment shall be construed in accordance with and governed by the laws of the State of Texas.
6. Counterparts. This First Amendment may be executed in any number of counterparts, but all such counterparts shall together constitute but one instrument. In making proof of this First 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.

WITNESS HEREOF, the parties hereto have executed in triplicate originals this First Amendment on the ____ day of _____ 2013.

CITY OF SAN ANTONIO

LOWE'S HOME CENTERS, LLC, a North Carolina limited liability company, as successor to Lowe's Home Centers, Inc., a North Carolina corporation

a municipal corporation

Sheryl L. Sculley
City Manager

Name:
Title:

ATTEST:

ATTEST:

Leticia Vacek
City Clerk

Name:
Title:

APPROVED AS TO FORM:

Michael D. Bernard
City Attorney