

AN ORDINANCE 2010-06-24-0630

APPROVING A SAN ANTONIO WATER SYSTEM IMPACT FEE WAIVER NOT TO EXCEED \$462,759.00; AND APPROVING NEGOTIATION AND EXECUTION OF A DEVELOPMENT AGREEMENT IN THE AMOUNT OF \$962,759.00 FROM THE ECONOMIC DEVELOPMENT INCENTIVE FUND AND \$1,937,691.00 TO BE DISBURSED FROM THE GENERAL FUND OVER A TEN-YEAR PERIOD WITH BROADWAY LOFTS, L.P.

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WHEREAS, Broadway Lofts L.P. is proposing a \$46,275,914.00 mixed use development located at 1221 Broadway in Council District 1, to consist of 268 units of market-rate apartments with 12,161 in rentable square feet of retail (ground floor), 64,296 in rentable square feet of office space (floors 2-5), and 514 parking spaces; and

WHEREAS, construction will begin this summer on the housing units and parking garage, with the retail and office space component to follow; and

WHEREAS, the 1221 Broadway project is located within the Inner City Reinvestment / Infill Policy Target Area (ICRIP) and under the applicable Guidelines, is eligible for City fee waivers and San Antonio Water System (SAWS) fee waivers; and

WHEREAS, pursuant to the Guidelines, a project is eligible for a SAWS Fee Waiver of \$100,000.00 per \$10,000,000.00 investment and thus, 1221 Broadway is eligible for a fee waiver in an amount not to exceed \$462,759.00; and

WHEREAS, under the current Economic Development Incentive Fund (EDIF) Guidelines, 1221 Broadway qualifies for a grant in the amount of \$962,759.00, based on 1% of the \$46,275,914.00 investment (\$462,759.00) plus an additional \$500,000.00 based on a planned investment of over \$40,000,000.00 in the Downtown area; and

WHEREAS, subject to annual appropriation, the remaining grant funds in an amount not to exceed \$1,937,691.00 will be disbursed from the general fund over a 10-year period in an annual amount of \$193,769.10; and

WHEREAS, the development agreement is contingent upon dissolution of the River North Tax Increment Reinvestment Zone (TIRZ) or, in the event the River North TIRZ is not dissolved, the approval of the River North TIRZ Board and City Council to remove the 1221 Broadway project from the River North TIRZ project plan and adjustment of the Zone boundaries; **NOW THEREFORE:**

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

SECTION 1. City Council approves a SAWS fee waiver in an amount not to exceed 462,759.00 for the benefit of Broadway Lofts L.P. for the project located at 1221 Broadway.

SECTION 2. City Council authorizes and approves the negotiation and execution of a Development Agreement that conforms to the terms reflected in the Term Sheet attached hereto and incorporated herein as Attachment I.

SECTION 3. The amount of \$962,759.00 is appropriated for this Ordinance in Fund 29059000, Cost Center 1604010001, General Ledger 5201040 and the Fiscal Year 2010 budget is amended to reflect this change.

SECTION 4. Payment not to exceed the budgeted amount is authorized and should be encumbered with a purchase order.

SECTION 5. Future funding for this Ordinance in the amount of \$193,769.10 per year for the next ten fiscal years is contingent upon City Council approval of the Fiscal Year 2011 and future year Budgets.

SECTION 6. If approved by City Council, payment not to exceed the budgeted amount is authorized and should be encumbered with a purchase order.

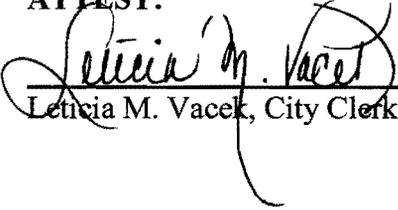
SECTION 7. The financial allocations in this Ordinance are subject to approval by the Chief Financial Officer (CFO), City of San Antonio. The CFO may, subject to concurrence by the City Manager or the City Manager's designee, correct allocations to specific Cost Centers, WBS Elements, Internal Orders, General Ledger Accounts, and Fund Numbers as necessary to carry out the purpose of this Ordinance.

SECTION 8. This Ordinance shall be effective immediately upon the receipt of at least eight (8) affirmative votes; in the event that less than eight (8) affirmative votes are received, then this Ordinance shall be effective on the tenth (10th) day after passage.

PASSED AND APPROVED this 24th day of June, 2010.

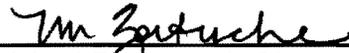

M A Y O R
Julián Castro

ATTEST:

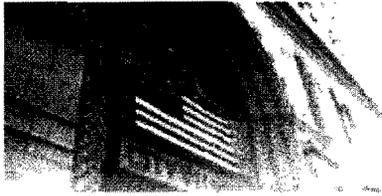


Leticia M. Vacek, City Clerk

APPROVED AS TO FORM:



for Michael D. Bernard, City Attorney



Request for
**COUNCIL
 ACTION**

City of San Antonio



Agenda Voting Results - 56

Name:	56						
Date:	06/24/2010						
Time:	06:08:47 PM						
Vote Type:	Motion to Approve						
Description:	An Ordinance approving a waiver of up to \$462,759.00 in San Antonio Water System (SAWS) impact fees, and an economic development grant agreement in the amount of \$962,759.00 from the Economic Development Incentive Fund, and \$1,937,691.00 to be disbursed over a ten year period. [Pat DiGiovanni, Deputy City Manager]						
Result:	Passed						
Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Julián Castro	Mayor	x					
Mary Alice P. Cisneros	District 1		x				x
Ivy R. Taylor	District 2		x				
Jennifer V. Ramos	District 3		x				
Philip A. Cortez	District 4	x					
David Medina Jr.	District 5		x				
Ray Lopez	District 6		x				
Justin Rodriguez	District 7	x					
W. Reed Williams	District 8		x				
Elisa Chan	District 9		x			x	
John G. Clamp	District 10		x				

ATTACHMENT I

TERM SHEET FOR 1221 BROADWAY

I. Overview

- A. Broadway Lofts, L.P. is a local limited partnership formed for the purpose of developing a project located at 1221 Broadway, San Antonio, Texas.
- B. The City of San Antonio (the "City") is political subdivision of the State of Texas, capable of offering economic incentives under the State's Constitution.
- C. The City and Broadway Lofts, L.P. ("Developer") seek to negotiate an economic incentive agreement that would result in Broadway Lofts completing development of a vacant and abandoned property located at 1221 Broadway in San Antonio and the City providing certain financial incentives to assist Developer in its efforts to commence and complete construction for this Project.

II. Broadway Lofts, L.P.

- A. Developer proposes a \$46,275,914 mixed-use development in an existing incomplete and vacant structure at 1221 Broadway in Council District 1.
- B. The Project will consist of 268 units of market-rate apartments totalling 179,578 square feet; ground floor retail totalling 12,161 square feet; office space on floors 2-5 totalling 64,296 square feet; and 514 parking spaces.
- C. Developer will commence construction for the housing units and parking garage by September 30, 2010, with the retail and office space component to commence by March 31, 2011.
- D. Developer will:
 - Comply with the City Charter, City Code and Ordinances, state and federal laws, all as may be amended, including but not limited to, City's Unified Development Code.
 - Provide quarterly construction reports in format provided by City.
 - Provide insurance and indemnification as required by City.
 - Agree to, and comply with reasonable provisions for, site inspection, examination of records and right of entry.
 - Pay prevailing wages in compliance with Tex. Govt. Code, Chapter 2258 and City Ordinance No. 2008-11-20-1045.
 - Competitively bid all construction contracts for Project public improvements in compliance with Local Govt. Cd., Chapter 252.
 - Comply with City's SBEDA Ordinance No. 2007-04-12-0396.
 - Ensure that contractors deliver payment and performance bonds in compliance with Tex. Govt. Code, Chapter 2253, and Developer will provide a copy to City

in conformance with City's Risk Management Division standards prior to commencement of construction.

- Dedicate Developer-constructed public improvements to City within sixty (60) days of completion and acceptance by City.
- Bear the costs of and provide for maintenance of all Developer-constructed public improvements for one year after completion and after acceptance of public improvements by the City, provide to City a one (1) year extended warranty bond for costs of repair, replacement and maintenance.

III. City of San Antonio

- A. The City of San Antonio will approve a waiver of up to \$462,759.000 in San Antonio Water System (SAWS) impact fees.
- B. All costs for construction of CPS' current plans for the project shall be funded from the previously approved CIED fund (\$454,900 from \$1,371,047) which shall include underground conversion of utilities within the boundaries of the project.
- C. The City of San Antonio, contingent upon the dissolution of the River North TIRZ or the Project location being removed from the River North TIRZ with a corresponding boundary change, would provide funding in the approximate amount of \$962,759.00 from City's Economic Development Incentive Fund (EDIF) and \$1,937,691.00 from City's General Fund to assist Broadway Lofts in closing the financing gap for completion of the Project construction.
- D. The disbursement of City funds would be as follows:
 - \$320,919.00 disbursed upon contract execution, proof of building permits, 100% design schematics and proof of financing.
 - \$320,919.00 disbursed upon the completion of 168 apartment units
 - \$320,921.00 disbursed upon the completion of the remaining 100 apartment units and 514 parking spaces.
 - An annual disbursement, for a ten-year period, of \$193,769.10, for a total of \$1,937,691.00 for public improvements constructed by Developer for the Project, requiring a separate, dedicated fund and accounting for said public improvements.
- E. The City would require a recapture of all disbursed funds should Broadway Lofts fail to comply with any material terms of an Agreement for said Project, or any other agreement with the City for any of the principals of Broadway Lofts.