RR
12/04/14
Item No. 29

AN ORDINANCE 2014-12-04-0968

APPROVING AMENDMENTS TO THE MASTER ECONOMIC INCENTIVE AGREEMENT AMONG THE CITY OF SAN ANTONIO, TAX INCREMENT REINVESTMENT ZONE #11 AND ALAMO BEER L.L.C.

* * * * *

WHEREAS, on August 2, 2012, the City Council passed City Ordinance No. 2012-08-02-0568 approving a Master Economic Incentive Agreement (the "Agreement") with Alamo Beer Company LLC ("Alamo Beer") that included the conveyance of City-owned real property located at 803 N. Cherry St.; and

WHEREAS, following passage of the ordinance, litigation ensued which has delayed the conveyance of the City-owned property; and

WHEREAS, due to the delay, Alamo Beer revised its plans to construct and operate a micro-brewery facility on the City-owned property and, instead, has commenced construction of the facility on its own property located at 415 Burnett; and

WHEREAS, Alamo Beer intends to meet the terms and conditions of the Agreement which include: (1) the constructing, establishing and operating a microbrewery and its associated office functions, (2) establishing a restaurant/beer garden; (3) establishing an indoor/outdoor event venue; and (4) establishing an outdoor activity area to be used in conjunction with activities from the microbrewery (the "Project"); and

WHEREAS, in addition to the Project requirements previously agreed to, Alamo Beer has agreed to: (1) prohibit the construction of a hotel on the City-owned property; (2) provide a height limitation of five stories on structures built on the City-owned property; and (3) undertake additional landscaping improvements; and

WHEREAS, as a result of the delay of conveyance of City-owned property to Alamo Beer and the relocation of the brewery site, additional amendments, including extending the completion date of the Project and amending the permitted uses in the associated License Agreements, are necessary; **NOW THEREFORE**:

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

SECTION 1. Amendments to the Master Economic Incentive Agreement among the City of San Antonio, Tax Increment Reinvestment Zone #11 and Alamo Beer L.L.C. as described above, are hereby approved.

SECTION 2. The City Manager or her designee is authorized to execute a document amending the Master Economic Incentive Agreement and associated License Agreements in accordance with this Ordinance. A copy of the amendments, in substantially final form, is attached to this

Ordinance as "**Exhibit A,**" "**Exhibit B**," "**Exhibit C**" and "**Exhibit D**." The final amendments shall be filed with this Ordinance upon execution.

SECTION 3. This Ordinance shall be effective immediately upon its passage by eight (8) votes or after the 10th day after its passage by less than eight (8) affirmative votes.

PASSED AND APPROVED this 4th day of December, 2014.

M A Y O R
Ivy R. Taylor

ATTEST:

Leticia M. Vacek
City Clerk

APPROVED AS TO FORM:

Martha G. Sepeda
Acting City Attorney

Agenda Item:	**29**
Date:	12/04/2014
Time:	09:56:49 AM
Vote Type:	Motion to Approve
Description:	An Ordinance authorizing the execution of an amended and restated Master Economic Development Incentive Agreement with Alamo Beer Company, LLC for the Alamo Beer Microbrewery Project. [Carlos Contreras, Assistant City Manager; Lori Houston, Director, Center City Development & Operations]
Result:	Passed

Voter	Group	Not Present	Yea	Nay	Abstain	Motion	Second
Ivy R. Taylor	Mayor		x				
	District 1	x					
Keith Toney	District 2		x			x	
Rebecca Viagran	District 3	x					
Rey Saldaña	District 4		x				x
Shirley Gonzales	District 5		x				
Ray Lopez	District 6	x					
Cris Medina	District 7	x					
Ron Nirenberg	District 8		x				
Joe Krier	District 9		x				
Michael Gallagher	District 10		x				

Exhibit A

ALAMO BEER COMPANY
BREWERY PROJECT

Amended and Restated
MASTER ECONOMIC DEVELOPMENT INCENTIVE AGREEMENT

~~AUGUST 2, 2012~~ December 4, 2014

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ALAMO BEER COMPANY BREWERY PROJECT

AMENDED AND RESTATED
MASTER ECONOMIC DEVELOPMENT INCENTIVES AGREEMENT

This Amended and Restated Alamo Beer Company Brewery Project Master Economic Development Incentive Agreement (hereinafter referred to as this "Agreement") 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 #11 (the "TIRZ'), acting by and through its Board of Directors and Alamo Beer Company L.L.C. (hereinafter referred to as the "DEVELOPER") and whom together may sometimes be referred to as the "Parties."

RECITALS

WHEREAS, the DEVELOPER ~~intends to acquire~~acting through an affiliate acquired and has developed approximately 1.893 acres of real property located at 415 Burnet, San Antonio, TX 78202, as depicted on "**Exhibit A"** attached hereto (the "DEVELOPER's Property"); and

WHEREAS, the ~~CITY is the owner of~~DEVELOPER acting through an affiliate intends to acquire or has acquired approximately 1.69 acres of unimproved property owned by the City and located within the boundaries of the TIRZ, specifically at 803 N. Cherry Street, San Antonio, TX 78202, as depicted on "**Exhibit B"** attached hereto (the "Cherry Street Parcel"); and

WHEREAS, DEVELOPER is engaged in a multi-phased economic development project that will be located within the city limits of San Antonio and will consist of the construction and operation of a microbrewery facility ~~to~~that may include: 1) the construction, establishment and operation of a microbrewery and its associated office functions, 2) a restaurant/beer garden; 3) indoor/outdoor event venue; 4) parking facilities, and 4~~5~~) outdoor activity area to be used in conjunction with activities from the microbrewery (the "Project"); and

WHEREAS, once all phases are completed, the Project is anticipated to ultimately result in the investment of approximately $8,030,000.00 in real and personal property improvements, to include land acquisition costs, and create 40 full-time equivalent jobs within the TIRZ; and

WHEREAS, DEVELOPER is seeking economic incentives from the CITY and the TIRZ in the form of the transfer of the Cherry Street Parcel, grants, loans, and property license agreements; and

WHEREAS, CITY ~~has agreed to~~authorized the sale of the Cherry Street Parcel and has authorized three (3) City-property license agreements as part of the incentive package offered to DEVELOPER as consideration for undertaking, completing and operating the Project; and

WHEREAS, the CITY and the TIRZ have identified funds to be made available to DEVELOPER in the form of a grant and a loan for use in undertaking and completing the Project in accordance with the terms and conditions of this Agreement; and

WHEREAS, pursuant to Chapter 380 of the Texas Local Government Code and Section 311.010(b) and Section 311.010 (h) of the Texas Tax Code, the CITY and the TIRZ are authorized to grant and loan funds to promote state or local economic development and to stimulate business and commercial activity in the municipality and within the boundaries of the TIRZ; and

WHEREAS, the City Council ~~has~~previously authorized the City Manager or her designee to enter into ~~this~~a Master Economic Incentive Agreement (the "Prior Agreement") in accordance with City Ordinance No.2012-08-02-0568, passed and approved on August 2, 2012~~ to sell the Cherry Street Parcel, authorize certain property licenses,~~ ; and

WHEREAS, the Prior Agreement was amended by the City Manager on July 31, 2013 (the "First Amendment") under the conditions of article XXIV of the Prior Agreement pertaining to Force Majeure delay; and

WHEREAS, prior to this amended and restated Agreement, the Prior Agreement (as amended by the First Amendment) was in full effect and Developer was in compliance with all terms and conditions; and

WHEREAS, the Parties now seek to amend the terms and conditions of the Prior Agreement as amended, by restating the terms and conditions herein; and

WHEREAS, the City Council has authorized the City Manager or her designee to enter into this amended and restated Agreement with Developer in accordance with City Ordinance No.2014-12-04-____, passed and approved on December 4, 2014to grant and loan certain funds as described herein; and

WHEREAS, the Board of Directors of the TIRZ had previously authorized the Prior Agreement, in accordance with that certain TIRZ Resolution approved on May 11, 2012;

WHEREAS, the Board of Directors of the TIRZ has authorized this amended and restated Agreement with Developer and the use of funds available in that certain fund established for the TIRZ pursuant to Section ~~311.004, Texas Tax Code, which shall be used as a funding source for the economic development grant provided under this Agreement, in accordance with that certain TIRZ Resolution approved on May 11, 2012;~~ 311.004; and

WHEREAS, by City Ordinance No. 2012-08-02-0571, the City Council authorized an amendment to the TIRZ project and finance plan to include the Project and funding authorized by this Agreement; **NOW THEREFORE:**

The Parties hereto severally and collectively agree, and by the execution hereof are bound, to the mutual obligations herein contained and to the performance and accomplishment of the tasks hereinafter described:

ARTICLE I. AGREEMENT PURPOSE

The DEVELOPER shall undertake the Project which is anticipated to promote local economic development and to stimulate business and commercial activity in the City of San Antonio and within the boundaries of the TIRZ. The CITY and the TIRZ are supporting the Project through this Agreement to provide funds to be used to defer costs associated with the Project and to facilitate certain CITY property license agreements and the sale of the Cherry Street Parcel in connection with the Project.

ARTICLE II. AGREEMENT PERIOD

This Agreement shall commence upon the Effective Date listed on the signature page and terminate upon the earlier of: (A) the payment of all grant funds due to DEVELOPER from the CITY and/or TIRZ in the cumulative amount of the Maximum Disbursement Amount (defined below); (B) December 31, ~~2028~~2029 (the "Outside Termination Date"), or (C) termination of this Agreement as otherwise provided herein (the "Term").

ARTICLE III. PROJECT REQUIREMENTS

~~A. Purchase of CITY Property.~~

~~1. The DEVELOPER is seeking to purchase the Cherry Street Parcel located within the boundaries of the TIRZ.~~

~~2. In accordance with Texas Local Government Code §272.001(b)(6), the CITY has authorized the direct sale of the Cherry Street Parcel to DEVELOPER, under the terms and~~

~~conditions of the Purchase and Sale Agreement between the CITY and DEVELOPER, attached hereto as "**Exhibit C**" (the "Purchase and Sale Agreement"). DEVELOPER shall pay TWO HUNDRED AND NINETY-FIVE THOUSAND DOLLARS AND NO CENTS ($295,000.00) (the "Purchase Price") for the Cherry Street Parcel.~~

~~3. The DEVELOPER shall acquire the Property from the City.~~

~~B. Licensing of CITY Property.~~

~~1. The DEVELOPER is seeking to license certain CITY right-of-way and CITY-owned property in proximity to the Project. Specifically, DEVELOPER and CITY have entered into the following license agreements:~~

~~a. Under Bridge License Agreement, attached hereto as "**Exhibit D**" (the "Under Bridge License Agreement"): (i) permits the DEVELOPER to create a pedestrian path between the DEVELOPER's Property and the Cherry Street Parcel, (ii) provides the DEVELOPER with the necessary rights to make improvements and conduct outside activities and events within the "Licensed Area" (as such term is defined in the Under Bridge License Agreement); and (iii) permits DEVELOPER to install landscaping improvements and amenities in the Licensed Area. The Under Bridge License Agreement also provides for the DEVELOPER to secure and fence the Licensed Area.~~

~~b. Skywalk License Agreement, attached hereto as "**Exhibit E**," (the "Skywalk License Agreement") permits the DEVELOPER to construct and safely attach one or more pedestrian access ramps between the Project Site and the eastern concrete approach ramp to the Hays Street Bridge.~~

~~c. Bridge Deck License Agreement, attached hereto as "**Exhibit F**," (the "Bridge Deck License Agreement") grants DEVELOPER permission to use approximately 1,190 sq. ft. of space on the Hays Street Bridge to accommodate table seating of the restaurant/beer garden that is contemplated as part of the Project, and for other similar purposes as mutually agreed upon by the Parties.~~

~~The reference to the license agreements above are for the purpose of general description, the terms and conditions listed in Exhibits E, F and G shall govern the use of the City's licensed property.~~ C. The Microbrewery Project.

1. Investment. A cumulative amount of at least SEVEN MILLION FOUR HUNDRED AND NINETY-FIVE THOUSAND DOLLARS AND NO CENTS ($7,495,000.00) (the "Minimum Investment") shall be invested in real and personal property improvements on the DEVELOPER's Property, ~~licensed~~ City property licensed to DEVELOPER for its use in connection with the Project, and the Cherry Street Parcel (collectively the "Project Site"). The Minimum Investment may be made in one or more phases of development but shall be made no later than ~~December 31, 2014.~~ June 30, 2015. The Minimum Investment ~~shall~~may include expenditures in the construction and establishment of: (1) a microbrewery and its associated office functions, (2) a restaurant/beer garden; (3) parking facilities; (4) an indoor/outdoor event venue; and (45) an outdoor activity area to be used in conjunction with activities of the microbrewery. For purposes of this Agreement, the Minimum Investment shall include expenditures made by DEVELOPER, directly or indirectly, and/or its parents, partners, subsidiaries, affiliates and/or tenants to develop the Project, including without limitation: architectural, engineering and surveying expenses, financing costs and fees, construction period interest, property acquisition (including acquisition of the DEVELOPER'S Property, the Cherry Street Parcel and other property acquired in connection with the Project), closing and settlement expenses, demolition, construction, site preparation, required public improvements, fencing, paving, landscaping, permit fees, title insurance, installation of equipment (including the full value of equipment installed pursuant to a lease purchase agreement and paid

through periodic installments by DEVELOPER and/or affiliates) and other project expenses.

2. Construction.

(a) Phase I. Phase I construction shall consist of at least $7,495,000.00 of real and personal property improvements on the Project Site~~.~~. DEVELOPER~~shall commence Phase I construction at the Project Site on or before July 31, 2013 and~~ shall use commercially reasonable efforts to complete construction of Phase I no later than ~~December 31, 2014 (the total construction period being the "Phase I Construction Period"),~~ June 30 2015, subject to Force Majeure (as defined in this Agreement). ~~The Phase I construction commencement date shall be determined by the issuance of a building permit for the Project Site and CITY's receipt of correspondence from the general contractor for Phase I certifying that construction has commenced (the "Phase I Commencement Date").~~ The Phase I completion date shall be determined by the issuance of a Certificate of Occupancy for Phase I by CITY (the "Phase I Completion Date").

(b) Upon request by CITY, the DEVELOPER shall prepare and deliver progress reports on the Project within fifteen (15) business days, during the construction of the Project.

(c) DEVELOPER agrees to develop the Project Site in conformance with all applicable Federal, State and local laws and regulations.

3. Job Creation. On or before the 180th day following the Phase I Completion Date (the "Operational Deadline"), DEVELOPER shall test the brewing equipment at the Project Site and send Notice to the City and TIRZ to inform both parties that beer production shall commence on a specified date prior to the Operational Deadline (the "Operational Commencement Date'). Within two years following the Operational Commencement Date, the DEVELOPER shall employ not less than ten (10 Full-Time Jobs at the Project Site. On or prior to the seventh (7th) anniversary of the Operational Commencement Date, DEVELOPER shall have created an additional twenty (20) Full-Time Equivalent Jobs at the Project Site, for a cumulative total of thirty (30) Full-Time Equivalent Jobs (the "Brewery Jobs").

a. For the purpose of this Agreement, a "Full-Time Equivalent Job" shall mean either: (i) a full-time job expected to require forty (40) regular hours of work per week; or (ii) two or more part-time jobs collectively expected to require at least forty (40) regular work hours per week. For example, two jobs each requiring twenty (20) hours per week (for combined total of 40 work hours per week) would be a considered a single Full-Time Equivalent Job under this Agreement.

b. The hourly wages paid by DEVELOPER for the Brewery Jobs shall not be less than $10.75 per hour, which is the required minimum wage of the CITY's Tax Abatement Guidelines as of the Effective Date of the Agreement.

4. Development Conditions. During the Term of this Agreement, DEVELOPER: (a) shall not construct or operate a hotel or motel business on the Cherry Street Parcel; (b) shall not construct any structure that exceeds five stories on the Cherry Street Parcel; and (c) shall, in connection with development of a permanent structure on the Cherry Street Parcel, install and reasonably maintain grass, ground cover, plant, tree, shrub or similar landscaping materials ("Landscaping") in the Front Yard, if any, and Side Yard abutting a paved public street, if any, (as those yards are defined by the City's Unified Development Code and depicted in Table 310-1 thereof) of the principal structure constructed on the Cherry Street Parcel, provided that: (i) the Landscaping shall be designed, installed, replaced and/or maintained only in areas where no paved or hardscape areas exist and to the degree and to the design preference determined by the owner of the Cherry Street Parcel; and (ii) the maximum width of any required area for Landscaping

hereunder shall not exceed 20 feet.

~~D~~B. Compliance with Laws. During the Term of this Agreement, DEVELOPER shall operate the Project in accordance with the any and all applicable Federal, State and local laws and regulations.

ARTICLE IV. ECONOMIC DEVELOPMENT PROGRAM GRANT AND LOAN

A. Economic Development Program Grant. The CITY and the TIRZ are providing DEVELOPER with an Economic Development Program Grant in the combined amount of approximately SEVEN HUNDRED FORTY-FOUR THOUSAND DOLLARS AND NO CENTS ($744,000.00) (the "Maximum Disbursement Amount"), which shall be disbursed as follows:

1. Landscape Improvement Grant. The CITY shall provide DEVELOPER with TWO HUNDRED AND NINETY-FIVE THOUSAND DOLLARS AND NO CENTS ($295,000.00) (the "Landscape Improvement Grant") for the design, construction, installation and inspection of: (a) all improvements to the Licensed Area of the Under Bridge License Agreement, including: landscaping, hardscape, utilities, lighting, fencing, benches, picnic tables, park equipment or other outdoor amenities; (b) all improvements ~~to Lamar and North Cherry Street proximate~~ to the Project Site or right-of-way required by CITY in connection with Phase I, including: the installation of utilities (including storm drain systems), grading and paving of streets, street lighting installation sidewalks, street trees, irrigation systems, bike lanes or other similar requirements; ~~and~~ (c) parking facilities (temporary and/or permanent) on the Project Site; and (d) landscaping, fencing, signage and lighting improvements to the DEVELOPER's Property (collectively, the "Priority Improvements."). In the event that the estimated cost of the Priority Improvements is less than the total amount of the Landscape Improvement Grant, the DEVELOPER may use any unspent or surplus portion of the Landscape Improvement Grant for other Project development costs (the "Secondary Improvements"), provided that the DEVELOPER sends Notice to the City of DEVELOPER's intention to do with an itemized list of the Secondary Improvements prior to such expenditures. The Landscape Improvement Grant shall be paid to DEVELOPER in a lump sum in the full amount within 60 days upon the ~~occurrence of all of the following:~~ Execution of this Agreement by all Parties.

~~(a) Execution of this Agreement by all Parties; and~~

~~(b) Closing on the Cherry Street Parcel by DEVELOPER, pursuant to the Escrow Agreement; and~~

~~(c) Receipt of evidence of the issuance of a building permit from the CITY for Phase I; and~~

~~(d) Commencement of Phase I construction to be evidenced by the submission and receipt of a letter confirming commencement of Phase I by the general contractor to CITY; and~~

~~(e) Receipt by the CITY of evidence that the DEVLOPER has obtained funds (including investor funds and/or loans) sufficient to complete Phase I.~~

2. Annual Incremental Property Tax Reimbursement. Subject to the terms and conditions of this Agreement and the Payment Conditions (defined below), for each tax year commencing with the ~~2014~~2015 tax year (January 1 through December 31, ~~2014~~2015) and then annually throughout the remainder of the Term of this Agreement, the CITY and the TIRZ, through the City and this Agreement, shall provide DEVELOPER a grant (the "Annual Incremental Property Tax Reimbursement") which shall be equal to the sum of (a) and (b) below:

(a) the actual amount of real property taxes paid by DEVELOPER to CITY and/or TIRZ with respect to the Project Site for the immediately preceding tax year, *less* $2218.81 (which represents the amount of real property taxes paid by DEVELOPER on the Project Site for the 2012 tax year) (the net amount each tax year being the "Real Property Tax Portion"); *PLUS*

(b) an amount equal to sixty-six percent (66%) of the ad valorem taxes paid by DEVELOPER to CITY on personal property located the Project Site in each tax year following the Phase I Completion Date, *less* $0.00, (which represents the amount of real property taxes paid by DEVELOPER on the Project Site for the 2012 tax year) (the net amount each tax year being the "Personal Property Tax Portion").

(c) Payment of the Annual Incremental Property Tax Reimbursement to DEVELOPER shall occur no later than sixty (60) business days following submission of a tax invoice by DEVELOPER indicating full payment of all ad valorem taxes owed by DEVELOPER on the Project Site.

(d) ~~Provided that the TIRZ has not terminated and the City has not assumed the obligations of the TIRZ pursuant to Section 11(A) of this Agreement, payment~~Payment of the Annual Incremental Property Tax Reimbursement to DEVELOPER shall occur in accordance with the following conditions (collectively, the "Payment Conditions"):

(i) For each tax year during the Term of this Agreement, CITY and TIRZ shall pay the Real Property Tax Portion of the Annual Incremental Property Tax Reimbursement to DEVELOPER provided that the CITY or other participating taxing entities have deposited funds into the TIF for that particular tax year, pursuant to Section 311.013 of the Texas Tax Code.

(ii) For any particular tax year during the Term of this Agreement, if no tax increment is realized within the TIRZ, then the TIRZ shall defer payment of the Real Property Tax Portion of the Annual Incremental Property Tax Reimbursement that is due to DEVELOPER under this Section, during that particular tax year.

(iii) For any particular tax year during the Term of this Agreement, if insufficient tax increment is realized by the TIRZ to permit the full payment of the Real Property Tax Portion of the Annual Incremental Property Tax Reimbursement due to DEVELOPER under this Section, the TIRZ shall pay as much of the Real Property Tax Portion of the Annual Incremental Property Tax Reimbursement to DEVELOPER, as possible, and the TIRZ shall defer payment of any unpaid balance of the Real Property Tax Portion of the Annual Incremental Property Tax Reimbursement due to DEVELOPER under this Section during that particular tax year.

(iv) It is expressly agreed that all deferred Annual Incremental Property Tax Reimbursements (the "Deferred Amounts Due") shall accrue without interest and be payable at the earliest reasonable opportunity to DEVELOPER by the TIRZ upon the availability of tax increment in the Tax Increment Fund during the Term of this Agreement.

3. Obligation to Pay Taxes. It is understood that DEVELOPER shall continue to pay all ad valorem taxes owed on the ~~Property~~Project Site as required by law. Ad valorem taxes owed by DEVELOEPR shall be determined by the Bexar County Appraisal District. Prior to the CITY disbursing Annual Incremental Property Tax Reimbursements under this Agreement, DEVELOPER must provide to CITY evidence indicating that all taxes owed by DEVELOPER on the ~~Property~~Project Site have been paid in full for the tax year for which payment of the Annual Incremental Property Tax Reimbursement is sought, subject to DEVELOPER's right to protest taxes as permitted by law. If, during the Term of this Agreement, DEVELOPER allows its ad valorem taxes due on the ~~Property~~Project Site 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.

4. Property Tax Reconciliation. In no case shall the cumulative Annual Incremental Property Tax Reimbursements made to DEVELOPER under this Agreement exceed FOUR HUNDRED AND FORTY-NINE THOUSAND DOLLARS AND NO CENTS ($449,000.00) (the "Maximum Tax Reimbursement Amount"). Should such disbursements exceed the Maximum Tax Reimbursement Amount, no further disbursements shall be due to DEVELOPER and any excess funds disbursed to the DEVELOPER shall be repaid by DEVELOPER to CITY within sixty (60) days following written demand from CITY to DEVELOPER.

B. Economic Development Program Loan. In addition to the grants described above, the CITY is providing DEVELOPER with an Economic Development Program Loan in an amount not to exceed FIFTY THOUSAND DOLLARS AND NO CENTS ($50,000.00) (the "Restaurant Incentive Loan"), which represents an approximately $2 per square foot subsidy (over a 10-year period) for the approximately 2,500 square feet of interior and outdoor restaurant patio space planned for the Project (the "Restaurant Space"). The purpose of the Restaurant Incentive Loan is to provide an economic incentive to attract and retain a restaurant operation at the Project Site for a period of at least sixty (60) months during the Term of this Agreement, subject to Force Majeure and Permitted Closures (defined below) (the "Minimum Restaurant Operational Requirement").

1. Disbursement. The Restaurant Incentive Loan made available to DEVELOPER through this Agreement shall be made solely from lawfully available funds that have been appropriated by the CITY, and shall be disbursed to DEVELOPER in one lump sum within thirty (30) days following DEVELOPER having entered into a lease or similar contractual agreement with a food service company (the "Initial Restaurateur") to locate and operate a restaurant at the Project Site for a term equal or greater to the Minimum Restaurant Operational Requirement.

2. Finish-Out. The Restaurant Incentive Loan shall be used solely for the purpose of finish-out to the Restaurant Space for occupancy and use by the Initial Restaurateur and/or Replacement Restaurateurs (defined below). For purposes of this Agreement, "finish-out" shall include plumbing work, electrical improvements, the construction of or improvements to interior or exterior walls, painting, interior finishes, any restaurant and bar equipment, wall decoration, art, signage, light fixtures, tables, chair, fixtures, heaters, fans, and other similar types of finishes or equipment.

3. Repayment of Loan. Following the disbursement of the Restaurant Incentive Loan to DEVELOPER, the DEVELOPER shall take all commercially reasonable measures to ensure that the Initial Restaurateur meets the Minimum Restaurant Operational Requirement. Should the Initial Restaurateur close and the Restaurant Space lease be terminated for any reason, subject to the resolution of any litigation pertaining to the lease, lease termination or claims made by third parties against the Initial Restaurateur that delays releasing the Restaurant Space (a "Claim-Caused Delay"), the DEVELOPER shall exercise all commercially reasonable efforts to enter into subsequent lease(s) or agreement(s) with one or more restaurant companies to occupy and use the Restaurant Space to fulfill the Minimum Restaurant Operational Requirement (the "Replacement Restaurateurs"). The DEVELOPER is expressly permitted by the CITY to close the Restaurant Space for periods of up to six (6) consecutive months during the Term of this Agreement to allow for: (a) renovation by the either the Initial Restaurateur and/or Replacement Restaurateurs, provided that such renovation occurs no more than one time every two years; (b) construction to fix damage due to casualty; or (c) correction of building code deficiencies or similar defect (collectively, the "Permitted Closures"). Subject to the Permitted Closures, Claim-Caused Delays and/or Force Majeure, should DEVELOPER fail to achieve the Minimum Restaurant Operational Requirement during the Term of this Agreement, then DEVELOPER shall be obligated to repay CITY the Restaurant Incentive Loan as follows:

0 to 12 months	0 percent	$50,000
13 to 24 months	20 percent	$40,000
25 to 36 months	40 percent	$30,000
37 to 48 months	60 percent	$20,000
49 to 60 months	80 percent	$10,000
60 or more months	100 percent	$0 (zero dollars)

4. Payment of Principal and Accrued Interest. In addition to the principal amount due to the CITY, DEVELOPER shall also pay interest annually on the outstanding principal balance beginning on the Loan Repayment Commencement Date and then annually on December 31 of each remaining year of the Term (the "Accrued Interest"). Accrued Interest on the outstanding principal balance shall be at a fixed-rate of **three percent (3.0%)** per annum. Repayment of any principal amount and Accrued Interest due to CITY shall be permitted to occur in equal annual payments so that the entire outstanding principal amount is amortized and repaid on or before the expiration of the Outside Termination Date of this Agreement, beginning on the December 31 that follows DEVELOPER's failure to meet the Minimum Restaurant Operational Requirement (the "Loan Repayment Commencement Date"). At any time prior to the Outside Termination Date, the DEVELOPER shall be permitted to pay the remaining balance of the Restaurant Incentive Loan due to the City without penalty or payment of un-accrued interest.

5. Sufficient Amounts. Each payment made by or for DEVELOPER pursuant to Article IV(B)(4) above shall be sufficient to pay the total amount of principal and Accrued Interest due and payable upon that date (the "Loan Payment Amount Due"). The CITY shall be responsible for sending Notice to the DEVELOPER of the Loan Payment Amount Due. Such notice shall indicate that full payment of the Loan Payment Amount Due shall be due within thirty (30) days following receipt of the notice (the "Loan Payment Deadline"). Failure of DEVELOPER to remit the Loan Payment Amount Due by the Loan Payment Deadline shall constitute a default event under this Agreement, subject to Article XIII and Article IX. **It is expressly agreed by the Parties that failure by DEVELOPER to retain a restaurant in the Restaurant Space for the Minimum Restaurant Operational Requirement shall itself not be deemed a default under this Agreement, and that the sole remedy of CITY and TIRZ in such circumstance shall be the repayment of the Restaurant Incentive Loan.**

6. Acceleration of Loan Repayment. Should CITY terminate the Agreement in accordance with Article IX, then the Restaurant Incentive Loan shall be due and payable to CITY no later than sixty (60) days following CITY's Notice of Termination to DEVELOPER.

7. Loan Forgiveness. Should DEVELOPER retain a restaurateur at the Project Site for sixty (60) consecutive months during the Term of this Agreement, with no greater than a three (3) month gap between occupancy of the Restaurant Space, subject to Force Majeure and Permitted Closures, then the principal balance of the Restaurant Incentive Loan shall be zero dollars ($0.00) and no repayment is required by this Agreement.

C. Fee Waivers. In addition to the grants and loan provided to DEVELOPER, the CITY is providing DEVELOPER with fee waivers and/or credits in the amount of at least EIGHTY THOUSAND DOLLARS AND NO CENTS ($80,000.00) to include SAWS fee credits and other fee waivers as outlined in the Inner CITY Reinvestment Infill Policy (collectively, the "Fee Waivers"). The Fee Waivers are administrative in nature but are reflected in the attached Fee Waiver Letter, attached hereto as "**Exhibit ~~G~~C**." The City agrees that DEVELOPER shall not be required to remit any fees to the CITY in connection with the Under Bridge License Agreement, the Skywalk License Agreement and Bridge Deck License Agreement.

ARTICLE V. CITY AND TIRZ OBLIGATIONS

A. The CITY and the TIRZ will pay DEVELOPER in accordance with Article IV above, subject to the terms and conditions hereof.

B. Neither the CITY nor the TIRZ will be liable to DEVELOPER or other entity for any costs incurred by DEVELOPER in connection with this Agreement.

ARTICLE VI. RETENTION AND ACCESSIBILITY OF RECORDS

A. The DEVELOPER shall maintain the fiscal records and supporting documentation for investments and expenditures made for the Project under this Agreement (the "Records"). DEVELOPER shall retain the Records for the greater of: (1) Eight (8) years from the end of the Operational Commencement Date; or (2) the period required by other applicable laws and regulations.

B. The DEVELOPER shall, following reasonable advance written notice from the CITY, give the CITY, its designee, or any of their duly authorized representatives, access to and the right to examine the Records. CITY's access to the Records will be limited to information needed to verify that DEVELOPER is and has been complying with the terms of this Agreement. Any information that is not required by law to be made public shall be kept confidential by the CITY. DEVELOPER shall not be required to disclose to the CITY or TIRZ any information that by law DEVELOPER is required to keep confidential. Should any good faith dispute or question arise as to the validity of the data provided, the CITY reserves the right to require DEVELOPER to obtain an independent firm to verify the information. This certified statement by an independent firm shall be provided at the sole cost of DEVELOPER. The rights to access the Records shall continue as long as the Records are retained by DEVELOPER. Failure to provide reasonable access to the Records to authorized CITY representatives shall give the CITY and TIRZ the right to suspend this Agreement as provided for herein. All records shall be retained by DEVELOPER in accordance with this article.

ARTICLE VII. MONITORING

A. The CITY reserves the right to confirm DEVELOPER's compliance with the terms and conditions of this Agreement. The CITY will provide DEVELOPER with a written report of the monitor's findings. If the monitoring report notes deficiencies in DEVELOPER's performance obligations under the terms of this Agreement, the monitoring report shall include a listing of requirements for the correction of such deficiencies by DEVELOPER. Should DEVELOPER fail to fulfill those requirements for DEVELOPER to meet its obligations under this agreement, CITY may pursue its remedies provided herein including for suspension or termination of this Agreement.

B. Upon request by the CITY, DEVELOPER shall provide to the CITY a statement with reasonable supporting information evidencing satisfaction of the job-creation requirements under Article III of this Agreement.

ARTICLE VIII. DEFAULT/CURE PERIOD/SUSPENSION

A. Notwithstanding the provisions of Chapter 2251 of the Texas Government Code, in the event DEVELOPER fails to comply with ~~the~~ its obligations herein (except Article III (~~D~~B.) pursuant to this Article, and the exception pertaining to the repayment of the Restaurant Incentive Loan, as provided in Article IV((B.)(5.)) such non-compliance shall be deemed a default. The CITY shall provide DEVELOPER with written notice as to the nature of the default (the "Notice of Default") and grant DEVELOPER a sixty (60) day period from the receipt of Notice of Default to cure such default (the "Cure Period"). Should DEVELOPER fail to cure the default within the Cure Period, CITY may, upon written notice (the "Notice of Suspension"), suspend grant and/or loan payments made to DEVELOPER under this Agreement. Such Notice of Suspension shall include: (1) the reasons for such suspension; (2) the effective date of such suspension; and, (3) in the case of partial suspension, the portion of the Agreement to be suspended.

B. In the case of default for causes beyond DEVELOPER's reasonable control, which cannot with due diligence be cured within the Cure Period, the CITY may extend the Cure Period provided that DEVELOPER shall: (1) immediately upon receipt of Notice of Default advise the CITY of DEVELOPER's intention to institute all steps necessary to cure such default and the associated time frame; and (2) institute and thereafter prosecute to completion with reasonable dispatch all steps necessary to cure same.

C. A suspension under this Article VIII shall be lifted by the City upon a showing of compliance by the DEVELOPER or written waiver by CITY of the deficiency in question.

D. CITY shall not be liable to DEVELOPER or to DEVELOPER's creditors for costs incurred during any term of suspension of this Agreement.

E. Default of Article III (B.). Any failure by DEVELOPER to comply with the requirements of Article III (~~D~~B.) due to any single incident of violation of an applicable Federal, State and local law and/or regulation (an "Applicable Law") by an employee, officer, agent, tenant, or contractor of DEVELOPER shall not be deemed a default under this Agreement. With respect to the requirements under Article III (~~D~~B.), the Parties agree that only final, non-appealable convictions of DEVELOPER for intentional, repeated and continuing violations of an Applicable Law (a "Regulatory Default") during the Term of this Agreement may be deemed a default under this Agreement. Following a Notice of Default, DEVELOPER may cure a Regulatory Default by: (1) the payment in full of any penalty, fine or judgment imposed upon DEVELOPER by a court of competent jurisdiction or regulatory body; and (2) completion of any actions required for DEVELOPER to remain in compliance with the Applicable Law. Should the standards for DEVELOPER to comply with the Applicable Law (e.g., building modifications) require time beyond the Cure Period, Section B above shall apply.

ARTICLE IX. TERMINATION

A. The CITY shall have the right to terminate this Agreement in whole or in part should DEVELOPER fail to perform under the terms and conditions herein and fails to cure a default in accordance with Article VIII above. Such Termination may occur at any time prior to the end of the Term of this Agreement. CITY may, upon issuance to DEVELOPER of written notice (the "Notice of Termination"), terminate this Agreement and withhold further payments to GRANTEE. A Notice of Termination shall include: (1) the reasons for such termination; (2) the effective date of such termination; and, (3) in the case of partial termination, the portion of the Agreement to be terminated.

B. In addition to the above, this Agreement may be terminated in whole or in part as follows:

1. By the CITY (with the consent of DEVELOPER) in which case the two parties shall agree upon the termination conditions, including the repayment of funds, if any, the effective date and in the case of partial termination, the portion to be terminated; or

2. By the DEVELOPER upon written notification to the CITY, setting forth the reasons of such termination, the effective date, and in the case of partial termination, the portion to be terminated. However, if, in the case of partial termination, CITY determines in its sole discretion that the remaining portion of the Agreement will not accomplish the purpose for which the Agreement was made, then CITY may terminate the Agreement in its entirety.

C. Notwithstanding any exercise by the CITY of its right of suspension under Article VIII of this Agreement, or of early termination pursuant to this Article IX, DEVELOPER shall not be relieved of its obligation to repay unpaid loan amounts due under this Agreement or any liability to CITY for actual damages due to CITY by virtue of any breach by DEVELOPER of any terms of this Agreement, as determined by a court of competent jurisdiction.

ARTICLE X. NOTICE

Any notice required or permitted to be given hereunder by one party to the other shall be in writing and the same shall be given and shall be deemed to have been served and given if: (a) delivered in person to the address set forth herein below for the party to whom the notice is given; (b) placed in the United States mail with postage prepaid, return receipt requested, properly addressed to such party at the address hereinafter specified; or (c) deposited, with fees prepaid, into the custody of a nationally recognized overnight delivery service such as FedEx, addressed to such party at the address hereinafter specified (a "Notice"). Any Notice mailed in the above manner shall be effective two (2) business days following its deposit into the custody of the United States Postal Service or one (1) business day following its deposit into the custody of such nationally recognized delivery service, as applicable; all other notices shall be effective upon receipt. From time to time, either party may designate another address for all purposes under this Agreement by giving the other party no less than ten (10) calendar days advance written notice of such change of address in accordance with the provisions hereof.

If intended for CITY, to:	City of San Antonio Attn: Director Center City Development Office P.O. Box 839966 San Antonio, TX 78283-3966
If by delivery, to:	Director of Central City Development Office City Clerk City of San Antonio 100 Military Plaza San Antonio, TX 78205
If intended for DEVELOPER, to:	Alamo Beer Company Attn: Eugene Simor, President 135 Magnolia Drive San Antonio, TX 78212-3116
With copy to	Golden Steves Cohen & Gordon LLP 300 Convent, Suite 2600 San Antonio, TX 78205

ARTICLE XI. SPECIAL CONDITIONS AND TERMS

A. Termination of TIRZ. ~~The CITY acknowledges that the TIRZ shall expire on December 31, 2014 (the "TIRZ Termination Date").~~ The CITY agrees that, in the event that the TIRZ terminates ~~on the TIRZ Termination Date or~~ at any time prior to the expiration of the Term of this Agreement, the CITY shall assume all rights and obligations of the TIRZ hereunder, including duties to pay Annual Property Tax Reimbursements.

B. Non-Performance of TIRZ. The Parties agree that, in the event that the TIRZ does not realize any tax increment for a period of three (3) consecutive years following the Effective Date thereby precluding any payment of Annual Property Tax Increment Reimbursements by the CITY and TIRZ to DEVELOPER in accordance with Article IV(A)(2) of this Agreement, the DEVELOPER may petition the CITY to (i) modify the boundaries of the TIRZ to exclude the Property from the TIRZ, and (ii) amend this Agreement to provide for the payment of Annual Property Tax Increment Reimbursements by the CITY directly to DEVELOPER in accordance with the material terms and conditions of this Agreement. The decision to either (i) or (ii) shall be solely that of CITY, in its sole discretion.

C. Employment. ~~DEVELOPER, in accordance with Chapter 2264 of the Texas Government Code, agrees not to knowingly employ any undocumented workers at the Project during the Term of this Agreement. If DEVELOPER is convicted of a violation under 8 U.S.C. Section 1324a (f), then DEVELOPER shall repay the CITY and/or TIRZ the amounts granted by this Agreement for the tax year(s) covered under this Agreement during which such violation occurred. Such payment shall be made within 120 business days after the date DEVELOPER is notified by the CITY of such violation. The CITY, in its sole discretion, may extend the period for repayment herein. Additionally, DEVELOPER shall pay interest on the amounts due to CITY and/ or TIRZ at the rate periodically announced by the Wall Street Journal as the prime or base commercial lending rate, or if the Wall Street Journal shall ever cease to exist or cease to announce a prime or base lending rate, then at the annual rate of interest from time to time announced by Citibank, N.A. (or by any other New York money center bank selected by the CITY) as its prime or base commercial lending rate, from the date of such violation notice until paid.~~

ARTICLE XIII. CONFLICT OF INTEREST

A. For purposes of this Article, the term "Project Contract" means any agreement between DEVELOPER and a contractor to perform work utilizing the Landscape Improvement Grant provided to DEVELOPER pursuant to Section IV (A)(1) of this Agreement.

B. DEVELOPER shall use reasonable business efforts to ensure that no person shall participate in the selection, award or administration of a Project Contract when: (1) the Project Contract calls for payments to be made to such contractor on terms that are greater than those which are customary in the industry for similar services on similar terms, and (2) any of the following have a financial interest in the firm or person selected to perform the Project Contract:

(1) that person

(2) any immediate family member of that person;

(3) any business partner of that person;

(4) any organization which employs, or is about to employ, any of the above.

C. To the extent DEVELOPER hires any former or current official or employee of CITY who would be subject to the CITY's Code of Ethics, as same exists from time to time, DEVELOPER shall take reasonable efforts to ensure that such person complies with all applicable requirements of the said Code of

Ethics in dealings between CITY and DEVELOPER.

ARTICLE XIV. NONDISCRIMINATION AND SECTARIAN ACTIVITY

A. DEVELOPER shall use reasonable commercial efforts to ensure that no person shall, on the ground of race, color, national origin, religion, sex, age or handicap, be excluded from participation in, be denied the benefits of, be subjected to discrimination under, or be denied access to any program or activity funded in whole or in part with the Landscape Improvement Grant and/or Restaurant Incentive Loan made available under this Agreement.

B. None of the performances rendered by DEVELOPER under this Agreement shall involve, and no portion of the funds received by DEVELOPER under this Agreement shall be used in support of, any sectarian or religious activity, nor shall any facility used in the performance of this Agreement be used for sectarian instruction or as a place of religious worship.

C. DEVELOPER shall, to the best of its knowledge and belief, include the substance of this Section in its agreements with general contractors responsible for improvements funded in whole or in part with the Landscape Improvement Grant and/or Restaurant Incentive Loan made available under this Agreement.

ARTICLE XV. LEGAL AUTHORITY

A. Each party assures and guarantees to the other that they possesses the legal authority to enter into this Agreement, to receive/deliver the funds authorized by this Agreement, and to perform their obligations hereunder.

B. The person or persons signing and executing this Agreement on behalf of each party or representing themselves as signing and executing this Agreement on behalf of a party, do hereby guarantee that he, she or they have been duly authorized to execute this Agreement on behalf of that party and to validly and legally bind that party to all terms, performances and provisions herein set forth.

C. CITY will have the right to suspend or terminate this Agreement in accordance with Articles VIII and IX if there is a dispute as to the legal authority, of either DEVELOPER or the person signing this Agreement, to enter into this Agreement, any amendments hereto or failure to render performances hereunder. DEVELOPER is liable to CITY for any money it has received from CITY for performance of the provisions of this Agreement if CITY suspends or terminates this Agreement for reasons enumerated in this Article.

ARTICLE XVI. LITIGATION AND CLAIMS

A. DEVELOPER shall give CITY prompt notice in writing of any formal legal action, including any proceeding before an administrative agency, filed against DEVELOPER directly arising out of: (1) this Agreement during the Term of this Agreement; or (2) landlord-tenant disputes between DEVELOPER and any lessee of the Restaurant Space prior the completion of the Minimum Restaurant Operational Requirement. DEVELOPER shall notify the CITY promptly of any legal action or of any proceeding filed under the federal bankruptcy code by DEVELOPER. DEVELOPER shall submit a copy of such notice to CITY within thirty (30) calendar days after receipt. No funds provided under this Agreement may be used in the payment of any costs incurred from violations or settlements of, or failure to comply with, federal and state regulations. Notwithstanding the above notice requirements, it is expressly agreed by the Parties that DEVELOPER is not required to notify CITY of any claim or litigation that may arise out of DEVELOPER's business operations including without limitation personal injury actions (slip and fall claims), employer-employee disputes, product-related claims or other operational activities or

relationships.

B. DEVELOPER acknowledges that CITY is a political subdivision of the State of Texas and is subject to, and complies with, the applicable provisions of the Texas Tort Claims Act, as set out in the Civil Practice and Remedies Code, Section 101.001 et. seq. and the remedies authorized therein regarding claims and causes of action that may be asserted by third parties for accident, injury or death.

C. This Agreement shall be interpreted according to the Constitution and the laws of the State of Texas. Venue of any court action brought directly or indirectly by reason of this Agreement shall be in Bexar County, Texas.

ARTICLE XVII. ATTORNEY'S FEES

A. In the event DEVELOPER should default under any of the provisions of this Agreement and the CITY should employ attorneys or incur other expenses for the collection of the payments due under this Agreement or the enforcement of performance or observance of any obligation or agreement on the part of DEVELOPER herein contained, DEVELOPER agrees to pay to the reasonable fees of such attorneys and such other expenses so incurred by the CITY.

B. In the event CITY or TIRZ should default under any of the provisions of this Agreement and the DEVELOPER should employ attorneys or incur other expenses for the collection of the payments due under this Agreement or the enforcement of performance or observance of any obligation or agreement on the part of CITY or TIRZ herein contained, CITY and TIRZ agrees to pay to the DEVELOPER reasonable fees of such attorneys and such other expenses so incurred by the DEVELOPER.

ARTICLE XVIII. CHANGES AND AMENDMENTS

A. Except as provided below, any alterations, additions, or deletions to the terms of this Agreement shall be by amendment hereto in writing and executed by both Parties to this Agreement.

B. It is understood and agreed by the Parties hereto that performances under this Agreement shall be rendered in accordance with the laws and rules governing the Economic Development Program as set forth in Texas Local Government Code Chapter 380, and the terms and conditions of this Agreement.

C. Any alterations, additions, or deletions to the terms of this Agreement retroactively required by changes in state law or regulations are automatically incorporated into this Agreement without written amendment hereto, and shall become effective on the date designated by such law or regulation.

ARTICLE XIX. SUBCONTRACTING

A. DEVELOPER shall use reasonable business efforts to ensure that the performance rendered under subcontracts entered into by DEVELOPER for the construction activities funded by the Landscaping Grant complies with all terms and provisions of this Agreement as if such performance were rendered by DEVELOPER.

B. DEVELOPER, in subcontracting any of the performances hereunder, expressly understands that in entering into such subcontracts, neither CITY nor TIRZ is liable to DEVELOPER's subcontractor(s).

ARTICLE XX. DEBARMENT

By signing this Agreement, DEVELOPER certifies that it will not award any funds provided under this Agreement to any party which **it knows to be** debarred, suspended or otherwise excluded from or ineligible for participation in assistance programs by the CITY.

ARTICLE XXI. RIGHTS UPON DEFAULT

It is expressly understood and agreed by the Parties hereto that, except as otherwise expressly provided herein, any right or remedy provided for in this Agreement shall not preclude the exercise of any other right or remedy under any other agreements between DEVELOPER and the CITY or TIRZ or under any provision of law, nor shall any action taken in the exercise of any right or remedy be deemed a waiver of any other rights or remedies. Failure to exercise any right or remedy hereunder shall not constitute a waiver of the right to exercise that or any other right or remedy at any time.

ARTICLE XXII. NON-ASSIGNMENT

~~Notwithstanding the assignability of Exhibits E, F and G, this~~This Agreement is not assignable by any Party without the written consent of the non-assigning Parties. Notwithstanding the foregoing, DEVELOPER may assign this Agreement to a parent, subsidiary, affiliate entity or newly created entity resulting from a merger, acquisition or other corporate restructure or reorganization of DEVELOPER (a "Permitted Assignee"). In either of such cases, DEVELOPER shall give CITY no less than thirty (30) days prior written notice of the assignment or other transfer. Any and all future assignees must be bound by all terms and/or provisions and representations of this Agreement as a condition of assignment. Other than assignments to a Permitted Assignee, any attempt to assign the Agreement without the notification and subsequent consent of CITY and TIRZ shall release CITY and TIRZ from performing any of the terms, covenants and conditions herein. Any assignment of this Agreement in violation of this Article shall constitute a default and permit the CITY to pursue its rights under this Agreement.

ARTICLE XXIII. ORAL AND WRITTEN AGREEMENTS

All oral and written agreements between the Parties to this Agreement relating to the subject matter of this Agreement that were made prior to the execution of this Agreement have been reduced to writing and are contained in this Agreement.

ARTICLE XIV. AUTHORIZED RELIEF FROM PERFORMANCE *(Force Majeure)*

The CITY may grant temporary relief from any deadline for performance of any term of this Agreement if the DEVELOPER is prevented from compliance and performance by any unavoidable cause not attributed to the fault or negligence of the DEVELOPER, including without limitation: an act of war, action or order of legal authority, act of God, or regulatory delay. The burden of proof for the need for such relief shall rest upon the DEVELOPER. To obtain relief based upon *force majeure*, the DEVELOPER must file a written request with the CITY. CITY will not unreasonably withhold its consent.

ARTICLE XV. INCORPORATION OF EXHIBITS

Each of the Attachments listed below is an essential part of the Agreement, which governs the rights and duties of the parties.

Exhibit A: DEVELOPER's Property

Exhibit B: Cherry Street Parcel

~~Exhibit C: Purchase and Sale Agreement~~

Exhibit ~~D~~C: Under Bridge License Agreement

Exhibit ~~E~~D: Bridge Deck License Agreement

Exhibit ~~F~~E: Skywalk License Agreement

Exhibit ~~G~~F: Fee Waiver Letter

[Signatures on Following Page]

WITNESS OUR HANDS, EFFECTIVE as of _____ ____, ~~2012~~2014 (the "Effective Date"):

Accepted and executed in two duplicate originals on behalf of the City of San Antonio pursuant to Ordinance Number ~~2012-06-21-0568,~~ 2014-12-04-____, dated ~~August 2, 2012,~~ December 4, 2014, and DEVELOPER pursuant to the authority of its owners.

City of San Antonio,
a Texas municipal corporation

By:_____

Printed Name:_____

Title:_____

Date:_____

Alamo Beer Company, LLC, a Texas limited liability corporation

By:_____

Printed Name:_____

Title:_____

Date:_____

Approved As To Form:

_____
City Attorney

Exhibit A:

DEVELOPER's Property

Exhibit B:

Cherry Street Parcel

~~Exhibit C:~~

~~Purchase and Sale Agreement~~

Exhibit B

Exhibit ~~D~~C:

Under Bridge License Agreement

FIRST AMENDMENT TO THE UNDER HAYS STREET BRIDGE LICENSE WITH ALAMO BEER COMPANY L.L.C.

This First Amendment to the Under Hays Street Bridge License 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 Alamo Beer Company L.L.C. ("Developer"), a limited liability corporation existing under the laws of the State of Texas. Together, CITY and Developer may be referred to, herein, as "the Parties."

RECITALS

A. CITY and Developer entered into that certain "Under Hays Street Bridge License Agreement" (effective as of December 19, 2012) authorized by City of San Antonio Ordinance No. 2012-08-02-0570, passed and approved on August 2, 2012, and attached hereto as **EXHIBIT A** (the "License").

B. Prior to this FIRST AMENDMENT, the License was in full effect and Developer was in compliance with all terms and conditions.

C. The Parties, now seek to amend the terms and conditions of the License as stated herein and affirm that all other provisions of the License remain in full force and effect.

AMENDMENT

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

1. Definitions. Notwithstanding anything to the contrary herein, all capitalized terms used in this FIRST AMENDMENT without definition herein shall have the meanings assigned to such terms in the License.

2. Permitted Uses. The definition of "Permitted Uses" under Section 1 of the License is hereby amended and restated as follows:

"Permitted Uses: (A) Use by employees, visitors and patrons of Licensee and businesses located at 415 Burnet (the **"Brewery Site")** and 803 North Cherry Street (the "**Cherry Street Property**") and for access between the Brewery Site and the Cherry Street Property and adjacent properties; (B) public and private events that may include live and/or amplified music, distribution or sale of food products and alcoholic beverages; and (C) the sale of food products, alcoholic beverages or other items."

3. Initial Term: The definition of "Initial Term" under Section 1 of the License is hereby amended and restated as follows:

   "Initial Term: Ten years (the **"Initial Term"),** which shall commence on the Effective Date of this FIRST AMENDMENT (the **"License Term Commencement Date")."**

4. **Section 2.04** of the License is hereby deleted in its entirety.

5. Effective Date. The Effective Date of this FIRST AMENDMENT is indicated on the signature page.

6. No Other Changes. Except as specifically set forth in this FIRST AMENDMENT, all of the terms and conditions of the License shall remain the same and are hereby ratified and confirmed. The License shall continue in full force and effect and with this First Amendment shall be read and construed as one instrument.

7. Choice of Law. This First Amendment shall be construed in accordance with and governed by the laws of the State of Texas.

8. 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.

Signatures appear on next page.

WITNESS HEREOF, the Parties hereto have executed, in triplicate originals, this First Amendment on the _____ day of _____ 2014 (the "Effective Date").

CITY OF SAN ANTONIO
a municipal corporation

_____
Carlos J. Contreras, III
Assistant City Manager

ATTEST:

_____
Leticia Vacek
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

ALAMO BEER COMPANY L.L.C.
a limited liability corporation

_____
Name:
Title:

ATTEST:

_____
Name:
Title:

Exhibit C

Exhibit ~~E~~D:

Bridge Deck License Agreement

FIRST AMENDMENT TO THE HAYS STREET BRIDGE DECK LICENSE WITH ALAMO BEER COMPANY L.L.C.

This First Amendment to the Hays Street Bridge Deck License 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 Alamo Beer Company L.L.C. ("Developer"), a limited liability corporation existing under the laws of the State of Texas. Together, CITY and Developer may be referred to, herein, as "the Parties."

RECITALS

A. CITY and Developer entered into that certain "*Hays Street Bridge Deck License Agreement*" (effective as of December 19, 2012) authorized by City of San Antonio Ordinance No. 2012-08-02-0570, passed and approved on August 2, 2012, and attached hereto as **EXHIBIT A** (the "License").

B. Prior to this FIRST AMENDMENT, the License was in full effect and Developer was in compliance with all terms and conditions.

C. The Parties, now seek to amend the terms and conditions of the License as stated herein and affirm that all other provisions of the License remain in full force and effect.

AMENDMENT

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

1. Definitions. Notwithstanding anything to the contrary herein, all capitalized terms used in this FIRST AMENDMENT without definition herein shall have the meanings assigned to such terms in the License.

2. Permitted Uses. The definition of "Permitted Uses" under Section 1 of the License is hereby amended and restated as follows:

"Permitted Uses: (A) the placement of tables and chairs within the Premises for use by a restaurant and/or bar within designated space at the adjoining commercial or mixed-use development to be constructed at 803 North Cherry Street (the "**Development Site**") for its patrons, including service of food, beverages and alcoholic beverages; and (B) the placement of certain restaurant equipment, heaters, fans, umbrellas, coat rack and similar items (collectively, the "**Permitted Uses**").

3. Initial Term: The definition of "Initial Term" under Section 1 of the License is hereby amended and restated as follows:

   "Initial Term: Ten years (the "**Initial Term**"), which shall commence upon submission of Notice to Licensor that a restaurant or bar shall operate, but in no case later than January 1, 2018 (the "**License Term Commencement Date**").

4. Effective Date. The Effective Date of this FIRST AMENDMENT is indicated on the signature page.

5. No Other Changes. Except as specifically set forth in this FIRST AMENDMENT, all of the terms and conditions of the License shall remain the same and are hereby ratified and confirmed. The License shall continue in full force and effect and with this First Amendment shall be read and construed as one instrument.

6. Choice of Law. This First Amendment shall be construed in accordance with and governed by the laws of the State of Texas.

7. 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.

Signatures appear on next page.

WITNESS HEREOF, the Parties hereto have executed, in triplicate originals, this First Amendment on the _____ day of _____ 2014 (the "Effective Date").

CITY OF SAN ANTONIO
a municipal corporation

_____
Carlos J. Contreras, III
Assistant City Manager

ATTEST:

_____
Leticia Vacek
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

ALAMO BEER COMPANY L.L.C.
a limited liability corporation

_____
Name:
Title:

ATTEST:

_____
Name:
Title:

Exhibit D

Exhibit ~~F~~E:

Skywalk License Agreement

FIRST AMENDMENT TO THE HAYS STREET BRIDGE SKYWALK LICENSE WITH ALAMO BEER COMPANY L.L.C.

This First Amendment to the Hays Street Bridge Skywalk License 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 Alamo Beer Company L.L.C. ("Developer"), a limited liability corporation existing under the laws of the State of Texas. Together, CITY and Developer may be referred to, herein, as "the Parties."

RECITALS

A. CITY and Developer entered into that certain "*Hays Street Bridge Skywalk License Agreement*" (effective as of December 19, 2012) authorized by City of San Antonio Ordinance No. 2012-08-02-0570, passed and approved on August 2, 2012, and attached hereto as **EXHIBIT A** (the "License").

B. Prior to this FIRST AMENDMENT, the License was in full effect and Developer was in compliance with all terms and conditions.

C. The Parties, now seek to amend the terms and conditions of the License as stated herein and affirm that all other provisions of the License remain in full force and effect.

AMENDMENT

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

1. Definitions. Notwithstanding anything to the contrary herein, all capitalized terms used in this FIRST AMENDMENT without definition herein shall have the meanings assigned to such terms in the License.

2. Premises: The definition of "Premises" under Section 1 of the License is hereby amended and restated as follows:

   "Premises: A privately-owned elevated walkway (the "**Skywalk**") to be located above approximately 365 square feet of right-of-way and connected to the north edge of the concrete approach ramp to the Hays Street Bridge (the "Bridge") and a building constructed by Licensee at 803 North Cherry Street (the "**Development Site**"), such Skywalk to be located in the approximate location graphically depicted on **Exhibit A**."

3. Permitted Uses. The definition of "Permitted Uses" under Section 1 of the License is hereby amended and restated as follows:

"Permitted Uses: (a) Pedestrian access between the Bridge and building constructed on the Development Site, and (b) construction of the Skywalk in accordance with the terms, conditions and provisions hereof (the "**Permitted Uses**")."

4. Initial Term: The definition of "Initial Term" under Section 1 of the License is hereby amended and restated as follows:

   "Initial Term: Ten years (the "**Initial Term**") commencing on the later of (a) the date Licensee submits written notice to Licensor stating that Licensee is going to commence construction of the Skywalk, or (b) January 1, 2017 (the "**License Term Commencement Date**")."

5. Effective Date. The Effective Date of this FIRST AMENDMENT is indicated on the signature page.

6. No Other Changes. Except as specifically set forth in this FIRST AMENDMENT, all of the terms and conditions of the License shall remain the same and are hereby ratified and confirmed. The License shall continue in full force and effect and with this First Amendment shall be read and construed as one instrument.

7. Choice of Law. This First Amendment shall be construed in accordance with and governed by the laws of the State of Texas.

8. 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.

Signatures appear on next page.

WITNESS HEREOF, the Parties hereto have executed, in triplicate originals, this First Amendment on the _____ day of _____ 2014 (the "Effective Date").

CITY OF SAN ANTONIO
a municipal corporation

_____
Carlos J. Contreras, III
Assistant City Manager

ATTEST:

_____
Leticia Vacek
City Clerk

APPROVED AS TO FORM:

_____
City Attorney

ALAMO BEER COMPANY L.L.C.
a limited liability corporation

_____
Name:
Title:

ATTEST:

_____
Name:
Title:

Exhibit ~~G~~F:

Fee Waiver Letter