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2009-09-03-0689

AN ORDINANCE

CONSENTING TO THE ASSIGNMENT OF THE CITY'S TAX PHASE-IN AND ECONOMIC DEVELOPMENT INCENTIVE FUND TRAINING GRANT AGREEMENTS FROM WASHINGTON MUTUAL BANK TO JP MORGAN CHASE BANK NATIONAL ASSOCIATION AND AUTHORIZING THE AMENDMENT OF SUCH AGREEMENTS UPON ASSIGNMENT.

* * * * *

WHEREAS, on May 12, 2005, City Council approved a Tax Phase-In Agreement and Economic Development Incentive Fund (EDIF) Training Grant Agreement (the "Incentive Agreements") with Washington Mutual Bank ("WaMu") to attract a Regional Operations Center in San Antonio to be located in an existing facility at 20855 Stone Oak Parkway; and

WHEREAS, by the terms of the Incentive Agreements, WaMu was required to invest $7,200,000.00 in personal property improvements and create 3,000 jobs at the facility in accordance with a hiring schedule by December 31, 2012; and

WHEREAS, for consideration of the investment and job creation, the City agreed to abate 100% of ad valorem personal property taxes for a period of ten (10) years and reimburse WaMu for new employee job training at $1,000.00 per newly hired employee at the facility up to $3,000,000.00; and

WHEREAS, as of September 24, 2008, WaMu was in compliance with all terms and conditions of the Incentive Agreements having invested at least $7,200,000 in personal property taxes and having hired 1,000 employees to work at the Regional Operations Center in accordance with the hiring schedule and the City had abated $60,903.00 in ad valorem personal property taxes and disbursed $1,000,000.00 in training grant funds; and

WHEREAS, on September 25, 2008, the Federal Office of Thrift Supervision seized the assets of WaMu and in accordance with federal regulations appointed the Federal Deposit Insurance Corporation (FDIC) as the "Receiver" of WaMu assets, then, subsequently, sold the assets, including the Regional Operations Center, to JP Morgan Chase Bank ("Chase Bank"); and

WHEREAS, the terms of the Incentive Agreements allow for an assignment of rights and amendment of terms upon the consent of the City Council and Chase Bank has requested that City consent to the assignment of the Incentive Agreements from WaMu and upon assignment amend the terms of the Incentive Agreements to reduce the number of jobs created from 3,000 to 2,500; and

WHEREAS, since its acquisition of the assets of WaMu, Chase Bank has continued operations at the Regional Operations Center, has employed and retained a reported 1,863 jobs as of December 31, 2008, and has advised the City of its intent to create an additional 637 jobs at the site by the end of 2010 for a cumulative total of 2,500 jobs; and

WHEREAS, the City recognizes that since September 25, 2008, all employees at the Regional Operations Center have been employees of Chase Bank and that all such employees are eligible to be counted against the job creation target set out in the Incentive Agreements and that all new employees hired since September 25, 2008, by Chase Bank at the Regional Operations Center are eligible to be counted against the job creation targets set out in the Incentive Agreements; and

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WHEREAS, combining its 43 retail banking facilities, two major credit card service facilities in Westover Hills, and the Regional Center at Stone Oak, Chase Bank currently employs over 4,700 individuals in and around San Antonio, including those working at former WaMu locations; **NOW THEREFORE:**

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

SECTION 1. The City Council consents to the assignment of the City's Tax Phase-In Agreement and Economic Development Incentive Fund Agreement from Washington Mutual Bank to JP Morgan Chase Bank National Association. Upon assignment, the terms and conditions of the First Amendments to the Tax Phase-In Agreement and the Economic Development Incentive Fund Agreement are hereby approved.

SECTION 2. The City Manager or her designee is authorized to execute the First Amendments to the Tax Phase-In Agreement and Economic Development Incentive Fund Agreement with JP Morgan Chase Bank National Association in accordance with the terms and conditions of this ordinance. A copy of the assignment agreement and amendments, in substantially final form, are attached to this ordinance as Attachments I, II and III. The final amendments shall be filed with this ordinance upon execution.

SECTION 3. Funding in the amount of $1,500,000.00 for this ordinance is available in SAP Fund 29059000, Cost Center 1604010001, General Ledger 5201040 as part of the Fiscal Year 2009 Budget and is contingent upon available budget for future years. Funding is also contingent upon job creation quotas being met and proper wage requirements being maintained.

SECTION 4. Payment not to exceed the budgeted amount is authorized to JP Morgan Chase Bank National Association and should be encumbered with a purchase order.

SECTION 5. The financial allocations in this Ordinance are subject to approval by the Director of Finance, City of San Antonio. The Director 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 shall be effective on and after the tenth day after passage.

PASSED AND APPROVED this 3rd day of SEPTEMBER 2009.

M A Y O R
JULIÁN CASTRO

ATTEST: Leticia M. Vacek
City Clerk

APPROVED AS TO FORM: _____
for City Attorney

Agenda Item:	**19 (in consent vote: 5, 11, 12, 14, 15A, 15B, 15C, 15D, 15E, 15F, 15G, 15H, 15I, 15J, 15K, 15L, 15M, 15N, 15O, 15P, 16A, 16B, 16C, 16D, 16E, 16F, 16G, 16H, 16I, 16K, 16L, 16M, 16N, 16O, 17, 18, 19, 20, 21)**
Date:	09/03/2009
Time:	10:28:16 AM
Vote Type:	Motion to Approve
Description:	An Ordinance consenting to the Assignment of the City's Tax Phase-In Agreement and Economic Development Incentive Fund (EDIF) Training Grant Agreement from Washington Mutual Bank to JP Morgan Chase Bank and authorizing the amendment of the terms of these Agreements upon assignment. [A.J. Rodriguez, Deputy City Manager/Interim Director, Economic Development]
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				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				
John G. Clamp	District 10		x				

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ATTACHMENT I:

ASSIGNMENT AGREEMENT BETWEEN WASHINGTON MUTUAL BANK AND JP MORGAN CHASE BANK

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ATTACHMENT II:

FIRST AMENDMENT TO THE TAX PHASE IN AGREEMENT BETWEEN THE CITY OF SAN ANTONION AND JP MORGAN CHASE BANK

FIRST AMENDMENT TO THE TAX PHASE-IN AGREEMENT

BETWEEN THE CITY OF SAN ANTONIO AND WASHINGTON MUTUAL (NOW JPMORGAN CHASE BANK, NATIONAL ASSOCIATION)

This First Amendment to the Tax Phase-In 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 JPMORGAN CHASE BANK, NATIONAL ASSOCIATION ("CHASE"), a national banking association organized and existing under the laws of the United States of America. Together, CITY and CHASE may be referred to, herein, as "the Parties."

RECITALS

A. CITY and WASHINGTON MUTUAL BANK entered into that certain TAX PHASE-IN AGREEMENT (the "Agreement") authorized by City of San Antonio Ordinance No. 100870, passed and approved on May 12, 2005, and attached hereto as EXHIBIT A.

B. On September 25, 2008, WASHINGTON MUTUAL BANK was placed in receivership by the Federal Deposit Insurance Corporation in accordance with federal law and Chase subsequently acquired certain assets and liabilities of Washington Mutual Bank, including the Agreement.

C. Prior to the acquisition, the Agreement was in full effect and WASHINGTON MUTUAL BANK was in compliance with all terms and conditions.

D. Pursuant to the acquisition, the Agreement was assigned by WASHINGTON MUTUAL BANK to CHASE as "assignee". The CITY has consented to such assignment through the passage of a duly authorized City ordinance, attached hereto as EXHIBIT B and made a part of this First Amendment.

E. The Parties, now seek to amend the terms and conditions of this Agreement as stated in this First Amendment and affirm that all other provisions of the Agreement 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 Agreement.

2. Amendment. The Parties hereby mutually agree to amend the Agreement as follows:

(A) All references to WASHINGTON MUTUAL BANK or WASHINGTON MUTUAL shall be deleted and replaced with "JPMORGAN CHASE BANK, NATIONAL ASSOCIATION."

(B) Section 3(A) of the Agreement is hereby amended by reducing the number of employees from "approximately three thousand (3,000) to "two thousand five hundred (2,500)" in the second sentence of the sole paragraph.

(C) Section 5(A)(3) of the Agreement is hereby amended by reducing the number of employees from "three thousand (3,000) to "two thousand five hundred (2,500)" and deleting **YEAR 6** and **YEAR 7** from the hiring schedule described.

(D) Section 10 of the Agreement is hereby amended by deleting:

WASHINGTON MUTUAL BANK
Corporate Property Services Department
1111 Third Avenue, Mail Stop EET 2931
Seattle, WA 98101
Attn: Ted Telford

And replacing with:

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION
Corporate Real Estate
270 Park Avenue, 34th Floor
Mail Code NY1-K669
New York, NY 10017
Attn: Kim Bertin

With a copy to:

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION
1111 Polaris Parkway, Suite 4P
Mail Code OH1-0152
Columbus, OH 43240
Attn: Thomas M. Hennessey

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 Agreement shall remain the same and are hereby

ratified and confirmed. The Agreement 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 _____ 2009.

CITY OF SAN ANTONIO
a municipal corporation

_____
Sheryl L. Sculley
City Manager

ATTEST:

_____
Leticia Vacek
City Clerk

APPROVED AS TO FORM:

_____
Michael D. Bernard
City Attorney

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION
a national banking association

_____
Name:
Title:

ATTEST:

_____
Name:
Title:

<u>Exhibit A</u>
Tax Phase-In Agreement

Exhibit B

City Ordinance Consenting to Assignment to Chase

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ATTACHMENT III:

FIRST AMENDMENT TO THE ECONOMIC DEVELOPMENT INCENTIVE FUND AGREEMENT BETWEEN THE CITY AND JP MORGAN CHASE BANK

FIRST AMENDMENT TO THE AGREEMENT FOR DISTRIBUTION OF AN ECONOMIC DEVELOPMENT INCENTIVE FUND TRAINING GRANT

BETWEEN THE CITY OF SAN ANTONIO AND WASHINGTON MUTUAL (NOW JPMORGAN CHASE BANK, NATIONAL ASSOCIATION)

This First Amendment to the Agreement for Distribution of an Economic Development Incentive Fund Training Grant (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 JPMORGAN CHASE BANK, NATIONAL ASSOCIATION (CHASE), a national banking association organized and existing under the laws of the United States of America. Together, CITY and CHASE may be referred to, herein, as "the Parties."

RECITALS

A. CITY and WASHINGTON MUTUAL BANK entered into that certain AGREEMENT FOR DISTRIBUTION OF AN ECONOMIC DEVELOPMENT INCENTIVE FUND TRAINING GRANT (the "Agreement") authorized by City of San Antonio Ordinance No. _____, passed and approved on May 12, 2005, and attached hereto as EXHIBIT A.

B. On September 25, 2008, WASHINGTON MUTUAL BANK was placed in receivership by the Federal Deposit Insurance Corporation in accordance with federal law and Chase subsequently acquired certain assets and liabilities of Washington Mutual Bank, including the Agreement.

C. Prior to the acquisition, the Agreement was in full effect and WASHINGTON MUTUAL BANK was in compliance with all terms and conditions.

D. Pursuant to the acquisition, the Agreement was assigned by WASHINGTON MUTUAL BANK to CHASE as "assignee". The CITY has consented to such assignment through the passage of a duly authorized City ordinance, attached hereto as EXHIBIT B and made a part of this First Amendment.

E. The Parties, now seek to amend the terms and conditions of this Agreement as stated in this First Amendment and affirm that all other provisions of the Agreement 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 Agreement.

2. Amendment. The Parties hereby mutually agree to amend the Agreement as follows:

(A) All references to WASHINGTON MUTUAL BANK or WASHINGTON MUTUAL shall be deleted and replaced with "JPMORGAN CHASE BANK."

(B) The first recital is amended by deleting "3,000" and replacing with "2,500."

(C) The fourth recital is amended by deleting "$3,000,000.00" and replacing with "$2,500,000.00."

(D) Section 2(B) is amended by deleting "3,000" and replacing with "2,500."

(E) Section 2(C) is amended by deleting all references to "$3,000,000.00" and replacing with "$2,500,000.00."

(F) Section 5(A) is amended by deleting "Three Million and No/100 Dollars ($3,000,000.00)" and replacing with Two Million Five Hundred Thousand and No/100 Dollars ($2,500,000.00)."

(G) Section 16(A) is amended by deleting "December 31, 2012 and replacing with "December 31, 2010."

(H) Section 16(A) is further amended by deleting "Three Million Dollars ($3,000,000.00) and replacing with "Two Million Five Hundred Thousand Dollars ($2,500,000.00)."

(I) Section 16(C) is amended by deleting "December 31, 2012 and replacing with "December 31, 2010."

(J) Section 16(C) is further amended by deleting "Three Million Dollars ($3,000,000.00)" and replacing with "Two Million Five Hundred Thousand ($2,500,000.00)."

(K) Attachment I is amended as follows:

- all references to $3,000,000 shall state $2,500,000
- all references to 3,000 new jobs shall state 2,500
- sections (vi) and (vii) of the "Job Target Requirements" shall be deleted
- the last two sentences of the first paragraph and the second paragraph of the "Reporting Requirements" shall be deleted

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 Agreement shall remain the same and are hereby ratified and confirmed. The Agreement 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 _____ 2009.

CITY OF SAN ANTONIO
a municipal corporation

_____
Sheryl L. Sculley
City Manager

ATTEST:

_____
Leticia Vacek
City Clerk

APPROVED AS TO FORM:

_____
Michael D. Bernard
City Attorney

JPMORGAN CHASE BANK, NATIONAL ASSOCIATION
a national banking association

_____
Name:
Title:

ATTEST:

_____
Name:
Title:

Exhibit A
Agreement for Distribution of Economic Development

Exhibit B
City Ordinance Consenting to Assignment to Chase