

AN ORDINANCE 101756

AMENDING THE DEVELOPMENT AGREEMENT FOR TAX INCREMENT REINVESTMENT ZONE NUMBER FIFTEEN, CITY OF SAN ANTONIO, TEXAS (THE "NORTH EAST CROSSING TIRZ") BY ADDING A PROVISION FOR THE REVISION OF THE CONSTRUCTION SCHEDULE, INSERTING A REVISED CONSTRUCTION SCHEDULE AND CAUSING THE FINAL FINANCING PLAN TO REFLECT THE REVISION.

* * * * *

WHEREAS, by Ordinance Number 959930, dated June 13, 2002, pursuant to the Tax Increment Financing Act, Chapter 311 of the Texas Tax Code (as amended), (hereinafter called the "Act"), the City created Tax Increment Reinvestment Zone Number Fifteen, City of San Antonio, Texas (the "Zone") in accordance with the Act, to promote development and redevelopment of the Zone property through the use of tax increment financing, which would not otherwise occur solely through private investment in the reasonably foreseeable future, and established a Board of Directors for the Zone; and

WHEREAS, the City, by Ordinance Number 96177, dated August 8, 2002, authorized the City Manager of the City of San Antonio or the City Manager's designee to execute the Development Agreement on behalf of the City, to bind the City to the terms and conditions of the Development Agreement, and the Development Agreement was duly executed on that day; and

WHEREAS, a Construction Schedule, created from charts contained in the Final Financing Plan, was attached to the Development Agreement for the Zone as an exhibit, in order to provide a mechanism for the City and the Developer to implement and monitor the progress of the construction in the Zone; and

WHEREAS, the parties and participating taxing entities anticipated that the phasing of the Construction Schedule for the Zone to undergo amendments and should be flexible as circumstances warranted; and

WHEREAS, the Developer has requested the amendment of the phasing of the Construction Schedule exhibit, as market conditions have changed in the area and City staff would like to implement a process for revising the Construction Schedule to permit flexibility of phasing in the Zone without resulting in overall Zone Project Plan amendments; and

WHEREAS, City staff have met and negotiated the changes with staff from the participating taxing entities; and

WHEREAS, it is agreed that the process for revising the Construction Schedule shall not apply in the event a material change is proposed that would result in amendments of the overall Project and Financing Plans; and

WHEREAS, the City and the Board agree that the amendment of the Development Agreement to revise the Construction Schedule and implement a process to provide for a more flexible phasing of the Construction Schedule are both warranted and necessary for the development of the Zone; and

WHEREAS, on December 28, 2004, by a Board Resolution, the Board adopted and approved these amendments to the Development Agreement and authorized the changes to be reflected in the Final Financing Plan for the Zone upon Council approval of the Development Amendments; and

WHEREAS, it is now necessary to authorize the execution of the Amendment to the Development Agreement and cause the Final Financing Plan to reflect the amendment; **NOW THEREFORE:**

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

SECTION 1. The Amendment of the Development Agreement, which adds a provision for the revision of the construction schedule and inserts a revised construction schedule, as approved by the Board of Directors of the Tax Increment Reinvestment Zone Number Fifteen of the City of San Antonio, Texas, known as the North East Crossing TIRZ, is approved. A copy of the Development Agreement Amendment is attached to this Ordinance as Exhibit 1.

SECTION 2. The City Manager, or her designee, is authorized and directed to execute the Amendment of Development Agreement with Neighborhood Revitalization Initiative, Ltd., and the Board of Directors for the North East Crossing TIRZ.

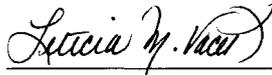
SECTION 3. Staff is directed to cause the Final Financing Plan for the North East Crossing TIRZ to reflect the revision to the Construction Schedule.

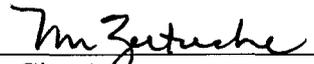
SECTION 4. If any provision of this Ordinance or application of any provision of this Ordinance to any circumstance is held invalid, the remainder of this Ordinance and the application of this Ordinance to other circumstances shall nevertheless be valid, and this Ordinance would have been enacted without the invalid provision.

SECTION 5. This ordinance shall be effective on the tenth (10th) day after passage.

PASSED AND APPROVED this 1st day of December 2005.


For **M A Y O R**
PHIL HARDBERGER

ATTEST: 
City Clerk

APPROVED AS TO FORM: 
for City Attorney

Agenda Voting Results

Name: 12.

Date: 12/01/05

Time: 06:46:00 PM

Vote Type: Multiple selection

Description: An Ordinance amending the Development Agreement for Tax Increment Reinvestment Zone Number Fifteen City of San Antonio, Texas (the "North East Crossing TIRZ") by adding a provision for the revision of the Construction Schedule, inserting a revised Construction Schedule and causing the Final Financing Plan to reflect the revision. [Presented by David D. Garza, Director, Neighborhood Action; Jelynn LeBlanc Burley, Assistant City Manager]

Voter	Group	Status	Yes	No	Abstain
ROGER O. FLORES	DISTRICT 1	Not present			
SHEILA D. MCNEIL	DISTRICT 2		x		
ROLAND GUTIERREZ	DISTRICT 3	Not present			
RICHARD PEREZ	DISTRICT 4		x		
PATTI RADLE	DISTRICT 5		x		
DELICIA HERRERA	DISTRICT 6		x		
ELENA K. GUAJARDO	DISTRICT 7		x		
ART A. HALL	DISTRICT 8		x		
KEVIN A. WOLFF	DISTRICT 9		x		
CHIP HAASS	DISTRICT_10	Not present			
MAYOR PHIL HARDBERGER	MAYOR	Not present			

**AMENDMENT OF DEVELOPMENT AGREEMENT
BETWEEN THE CITY OF SAN ANTONIO, TEXAS and
NEIGHBORHOOD REVITALIZATION INITIATIVE, LTD., and
BOARD OF DIRECTORS OF
REINVESTMENT ZONE NUMBER FIFTEEN, CITY OF SAN ANTONIO, TEXAS
_____, 2005**

THIS AMENDMENT OF DEVELOPMENT AGREEMENT is made in multiple originals and is entered into by and between the **CITY OF SAN ANTONIO**, a Texas municipal corporation of Bexar County, Texas (hereinafter called "**CITY**"); **NEIGHBORHOOD REVITALIZATION INITIATIVE, LTD.**, a Texas limited partnership, (hereinafter referred to as "**DEVELOPER**"); and **BOARD OF DIRECTORS OF REINVESTMENT ZONE NUMBER FIFTEEN, CITY OF SAN ANTONIO, TEXAS**, a tax increment financing zone (hereinafter called "**BOARD**").

WITNESSETH:

WHEREAS, by Ordinance Number 95930, dated June 13, 2002, pursuant to Chapter 311 of the Texas Tax Code (as amended), **CITY** created Reinvestment Zone Number Fifteen ("Zone") in accordance with the Tax Increment Financing Act, as amended (Chapter 311 of the Texas Tax Code, Vernon's Texas Codes Annotated, hereinafter called the "Act"), established a board of directors for Zone, to promote development and redevelopment of land in the Zone ("Zone Property") through the use of tax increment financing, which development and redevelopment would not otherwise occur solely through private investment in the reasonably foreseeable future; and

WHEREAS, on July 1, 2002, by a Board Resolution, **BOARD** adopted and approved a final Project Plan and a final Financing Plan defined hereunder and referred to herein as "Project Plan" and "Financing Plan" providing for development of the Zone Property; and

WHEREAS, **CITY** approved the Project Plan and Financing Plan for the Zone by Ordinance Number 96176, on August 8, 2002; and

WHEREAS, pursuant to the Act (as amended) and City of San Antonio Ordinance Number 95930, dated June 13, 2002, **BOARD** has authority to enter into agreements as **BOARD** considers necessary or convenient to implement the Project Plan and Financing Plans and to achieve the purposes of developing the Zone Property; and

WHEREAS, pursuant to said authority above, **BOARD** entered into a binding Development Agreement with **CITY** and **DEVELOPER** for **DEVELOPER** to develop the Zone Property as specified in the Project Plan, Financing Plan and Development Agreement; and

WHEREAS, **CITY**, by Ordinance Number 96177, dated August 8, 2002, authorized the City Manager of the City of San Antonio or the City Manager's designee to execute the Development Agreement on behalf of **CITY**, to bind **CITY** to the terms and conditions of the Development Agreement, and said Development Agreement was duly executed on that day; and

WHEREAS, while not required by the Act, a Construction Schedule was attached to the Development and Interlocal Agreements for Zone as an exhibit and formed the basis for charts contained in the Final Financing Plan, in order to provide a mechanism for **CITY** and **DEVELOPER** to implement and monitor the progress of the construction in Zone; and

WHEREAS, the phasing of the Construction Schedule for the Zone was anticipated by the parties and participating taxing entities to undergo amendments and be flexible as circumstances warranted; and

WHEREAS, **DEVELOPER** has requested the amendment of the phasing of the Construction Schedule exhibit, as market conditions have changed in the area and has asked to implement a process for revising the Construction Schedule to permit flexibility of phasing in the Zone without resulting in overall Project Plan amendments; and

WHEREAS, **CITY** staff have had several meetings and discussions with staff from the participating taxing entities to discuss and negotiate these changes; and

WHEREAS, the process for revising the Construction Schedule shall not apply in the event a material change is proposed that would result in amendments of the overall Project and Financing Plans; and

WHEREAS, **CITY** and **BOARD** agree that the amendment of the Development Agreement to revise the Construction Schedule and implement a process to provide for a more flexible phasing of the Construction Schedule are both warranted and necessary for the development of Zone;

WHEREAS, on December 28, 2004, by a Board Resolution, **BOARD** adopted and approved these amendments to the Development Agreement and authorized the changes to be reflected in the Final Financing Plan for Zone upon Council approval of the Development Amendments; **NOW THEREFORE**:

In consideration of the terms, covenants, agreements and demises herein contained, and in consideration of other good and valuable consideration, each to the other given, the sufficiency and receipt of which are hereby acknowledged, the parties hereto agree, covenant and warrant as follows:

- A. Exhibit C, entitled "North East Crossing Project Construction Schedule" of the Development Agreement for Zone is hereby replaced with the "Revised North East Crossing Project Construction Schedule," which is attached hereto and incorporated in its entirety into said Development Agreement for Zone.
- B. Article XVII. **CHANGES AND AMENDMENTS** is hereby amended by adding the following paragraph:
 - 17.1.1 Notwithstanding the above, the phasing of the Construction Schedule may be amended by approval of **BOARD** and **CITY**, as evidenced by written agreement between **BOARD** and the Director of the Department of **CITY** responsible for the management of the TIF Program, as long as the overall Final Project Plan and Final Financing Plans are not materially changed by such amendment. In the event an

amendment to the phasing of the Construction Schedule will result in a material change to the overall Final Project Plan or Final Financing Plan, then such amendment shall comply with the requirements of Section 17.1. above.

DEVELOPER may rely on the determination of the Director of the Department of **CITY** responsible for the management of the TIF Programs whether a change in the phasing of the Construction Schedule would result in a material change to the overall Final Project Plan and Final Financing Plans.

- C. All other provisions and conditions of said Development Agreement are hereby retained in their entirety and remain unchanged.

IN WITNESS WHEREOF, THIS AMENDMENT OF DEVELOPMENT AGREEMENT IS EXECUTED IN MULTIPLE ORIGINALS ON THIS THE _____ day of _____ 2005.

CITY OF SAN ANTONIO

By: _____
Sheryl Sculley
CITY MANAGER

DEVELOPER

NEIGHBORHOOD REVITALIZATION INITIATIVE, LTD., a Texas Limited Partnership

By: GORDON H. INDUSTRIES, LP, a Texas Limited Partnership, its general partner

By: GH INDUSTRIES MANAGEMENT, LLC, a Texas limited liability company, its general partner

By: _____
Gordon V. Hartman, Member

BOARD OF DIRECTORS OF REINVESTMENT ZONE NUMBER FIFTEEN, CITY OF SAN ANTONIO, TEXAS

By: _____
Raoul Edward Berlanga, Presiding Officer

Approved as to form: _____
for City Attorney

Exhibit C
Revised North East Crossing Project
Construction Schedule

Revised North East Crossing Project Construction Schedule

YEAR	UNIT	LOTS	LOT WIDTH	L.F. OF STREET
2002	1	49	45'	190
2002	2	23	45'	228
2003	3	119	50'	3861
2002	3A	-	-	1720
2004	4	82	50'	2660
2005	5	119	50'	4847
2006	6	56	45'	1825
2007	7	107	45'	3162
2008	8	93	45'	3985
2009	9	98	45'	2705
2010	10	96	45'	2466
2011	11	87	45'	2260
2012	12	90	45'	2624
2013	13	94	45'	2346
2014	14	91	50'	2550
2015	15	91	50'	3000
2016	16	69	40'	1562
TOTAL		1,364		41,991 L.F.

**CITY OF SAN ANTONIO
NEIGHBORHOOD ACTION DEPARTMENT
CITY COUNCIL AGENDA MEMORANDUM**

TO: Mayor and City Council

FROM: David D. Garza, Director, Neighborhood Action Department

SUBJECT: Amendments to the Development Agreement for Tax Increment Reinvestment Zone Number Fifteen, City of San Antonio, known as the North East Crossing TIRZ, and related actions

DATE: December 1, 2005

SUMMARY AND RECOMMENDATIONS

This Ordinance amends the Development Agreement for Tax Increment Reinvestment Zone Number Fifteen, City of San Antonio, Texas (the "North East Crossing TIRZ") by (1) replacing Exhibit C entitled "Construction Schedule" with a "Revised Construction Schedule"; and (2) adding a provision for the revision of the Construction Schedule by written agreement between the TIRZ Board and the Director of the Neighborhood Action Department responsible for the management of the Tax Increment Financing (TIF) Program; and upon approval of those amendments, revises the Final Financing Plan to reflect those changes.

Staff recommends approval of this Ordinance.

BACKGROUND INFORMATION

The North East Crossing TIRZ was created on June 13, 2002 by Ordinance Number 95930 to facilitate the development of 1,364 single-family homes within City Council District 2. On July 1, 2002 the North East Crossing TIRZ Board approved the Final Project and Finance Plans, which were subsequently approved by the City Council by Ordinance Number 96176 on August 8, 2002. In addition, the City Council approved the execution of the Development Agreement with the TIRZ Board, the Developer and the City of San Antonio on August 8, 2002 by Ordinance Number 96177. The Construction Schedule is an attachment to the Development Agreement and to the Final Finance Plan. The Development Agreement provides a mechanism for the City and the Developer to implement and monitor the progress of the construction in the TIRZ. To date, the project has constructed 123 single-family units.

In 2004, the Developer requested an amendment to the phasing of the Construction Schedule due to changes in the market. The proposed changes, however, keep the number of single-family homes constant at 1,364. The Developer further requested that a process for potential future revisions to the Construction Schedule be approved to permit flexibility of phasing in the Zone without having to result in overall Project Plan amendments. City staff provided notices to the participating taxing entities of the proposed changes to the phasing of the construction schedule. City staff also had several meetings with staff from these entities to discuss and negotiate proposed changes.

On December 28, 2004, the North East Crossing TIRZ Board approved the amendments to the Development Agreement and to the Final Finance Plan. In January 2005, the participating taxing entities for the North East Crossing TIRZ (ACCD and Bexar County) were sent notifications of the proposed amendments and given 30 business days to respond. From early March through the end of June, City staff addressed a discrepancy involving the project's base value. In late August and early September, staff revised the Finance Plan to adjust for land use acreage changes caused by the proposed Construction Schedule amendments.

POLICY ANALYSIS

The TIF Statute requires the City Council to approve changes and amendments to the Project Plan. This Ordinance will amend the existing Development Agreement Construction Schedule Exhibit C and replace it with the "Revised North East Crossing Project Construction Schedule," which is attached as Exhibit "A." In addition, Article XVII of the Development Agreement will be amended by the addition of Section 17.1.1, which will allow revisions to the Construction Schedule in order to permit flexibility of phasing of units in the Zone without resulting in amendments to the overall Project and Finance Plans. Upon approval of these amendments to the Development Agreement, this Ordinance will also update the Final Finance Plan to reflect the revisions to the Construction Schedule. All other provisions and conditions of the Development Agreement and Final Finance Plans remain unchanged.

FISCAL IMPACT

There is no financial impact to the City or the participating taxing entities because the Maximum Dollar Contributions remain unchanged from the Development Agreement and Legal Documents approved by City Council on August 8, 2002. The total Taxing Entities' contributions for the term of the Zone are \$31,722,165. However, the amendments to the Development Agreement Construction Schedule Exhibit C will change as follows:

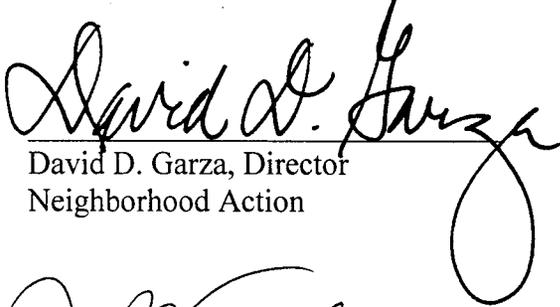
	August 8, 2002	November 17, 2005
Participating Taxing Entity Contributions	\$31,722,165	\$31,722,165
Total Project Costs	\$31,722,165	\$32,903,340
Projected Captured Value	\$162,625,475	\$110,373,758
Projected Revenue	\$24,605,212	\$16,746,937
Developer Contribution	\$7,116,953	\$16,156,403

The cost of the public infrastructure improvements is incurred by the Developer and reimbursed over time from revenues produced by the North East Crossing TIRZ. All financing, development and construction costs, improvements, damages, or other costs incurred with respect to this project are at the sole risk of the Developer. Neither the City nor any Participating Taxing Entity shall incur any risk whatsoever associated with the development, construction, completion or failure of the project. In the event that the project fails, is abandoned by the Developer or for any reason is not completed, the City shall have the right to terminate the North East Crossing TIRZ and any

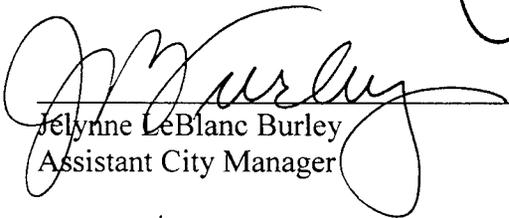
funds remaining in the North East Crossing TIRZ account shall be distributed to the City and participating taxing entities on a pro rata basis in accordance with each entity's participation level.

COORDINATION

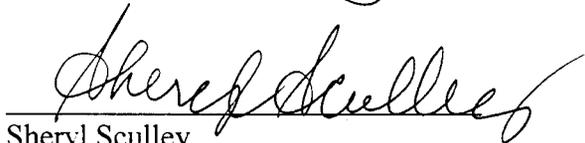
This item has been coordinated with the Finance Department and the City Attorney's Office.



David D. Garza, Director
Neighborhood Action



Jelynn LeBlanc Burley
Assistant City Manager



Sheryl Sculley
City Manager