CITY OF EL PASO, TEXAS
AGENDA ITEM
DEPARTMENT HEAD'S SUMMARY FORM

AGENDA DATE: March 14, 2023

CONTACT PERSON(S) NAME AND PHONE NUMBER: Karina Brasgalla, (915) 212-1570
Elizabeth Triggs, (915) 212-0094

DISTRICT(S) AFFECTED: 8

STRATEGIC GOAL: Goal 1 - Create an Environment Conducive to Strong, Sustainable Economic Development.

SUBGOAL: Goal 1.1 Stabilize and Expand El Paso's Tax Base

SUBJECT:
A Resolution authorizing the City Manager to sign an Amendment to the Chapter 380 Economic Development Program Agreement ("Agreement") by and between the CITY OF EL PASO, TEXAS and 309 MILLS, LLC to support an infill renovation project for the downtown building commonly known as the De Soto, located at 309 East Mills Avenue, El Paso, Texas 79901. The Amendment will require the Applicant to increase the minimum investment amount to $2.4 million.

BACKGROUND / DISCUSSION:
On December 14, 2021, City Council approved a Chapter 380 Economic Development Program Agreement with 309 Mills, LLC. The developer will be renovation 309 E. Mills Avenue, commonly known as the De Soto. The proposed project will renovate a blighted hotel located in El Paso's central business district. The scope of work includes a full remediation of fire damage, conversion of the ground floor into a restaurant, renovation of upper floors into hotel rooms, renovation of façade and the addition of public art. The project will increase the tax value of the property and greatly enhance the aesthetic value of the area.

This amendment increases the minimum investment to $2.4 million.

PRIOR COUNCIL ACTION:
On December 14, 2021, City Council approved the original Chapter 380 Economic Development Program Agreement.

AMOUNT AND SOURCE OF FUNDING:
N/A

HAVE ALL AFFECTED DEPARTMENTS BEEN NOTIFIED? __X_ YES ___NO

PRIMARY DEPARTMENT: Economic and International Development
SECONDARY DEPARTMENT: N/A

**********************REQUIRED AUTHORIZATION**********************

DEPARTMENT HEAD: _____

(If Department Head Summary Form is initiated by Purchasing, client department should sign also)

Revised 04/09/2021

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign an Amendment to the Chapter 380 Economic Development Program Agreement ("Agreement") by and between the **CITY OF EL PASO, TEXAS** and **309 MILLS, LLC** to support an infill renovation project for the downtown building commonly known as the De Soto, located at **309 East Mills Avenue, El Paso, Texas 79901**. The Amendment will require the Applicant to increase the minimum investment amount to $2.4 million.

APPROVED this ____ day of _____, 2023.

CITY OF EL PASO:

_____
Oscar Leeser
Mayor

ATTEST:

_____
Laura D. Prine
City Clerk

APPROVED AS TO FORM:

_____
Juan S. Gonzalez
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

_____
Elizabeth K. Triggs, Director
Economic & International Development

THE STATE OF TEXAS)	**AMENDMENT**
)	**TO CHAPTER 380 ECONOMIC**
COUNTY OF EL PASO)	**DEVELOPMENT PROGRAM AGREEMENT**

This Amendment to that certain Chapter 380 Economic Development Program Agreement for the redevelopment of the property at 309 East Mills Street is made this ___ day of _____ 20__, by and between the City of El Paso, a Municipal Corporation organized and existing under the laws of the State of Texas (the *"City"*), and 309 Mills, a Texas limited liability company ("Applicant").

WHEREAS, on December 14, 2021, the City and Applicant entered into a Chapter 380 Economic Development Program Agreement for an infill renovation project on the property at 309 East Mills Street ("Agreement");

WHEREAS, the Agreement may be amended under the provisions of Section 8. A. Amendments. of the Agreement;

WHEREAS, the parties desire to amend the Agreement to better reflect the specific parameters surrounding Applicants' redevelopment, rehabilitation and improvement to the downtown building commonly known as the De Soto, located at 309 East Mills Street, El Paso, Texas 79901.

NOW THEREFORE, in consideration of the mutual promises set forth in this Amendment and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

1. Specific subsections of **SECTION 1. DEFINITIONS** of the Agreement are amended to read as follows:

B. "Base Year Value" means valuation of the real and personal property by the El Paso Central Appraisal District on the rolls as of January 1st of the year of the Effective Date of this Agreement. The Base Year Value shall not be interpreted to be equivalent or determinative for appraisal purposes or used in any way to determine market value. For the purposes of this Agreement, the Base Year Value is $209,000.00.

C. "Construction Materials Sales Tax Rebate" means a one-time 100% rebate of the City's 1% Sales and Use Tax from receipts for materials and labor of taxable items used in the construction of the Development. The Construction Materials Sales Rebate shall not exceed $12,000.00.

F. "**Grant**" means each rebate payment made by the City to the Applicant pursuant to the terms of this Agreement. The aggregate amount that the City will provide in Grants shall not exceed **$303,900.00**. This aggregate amount reflects the sum total of all applicable rebates.

I. "**Minimum Investment**" means those costs incurred, self-performed or contracted to third parties by the Applicant over the course of the renovation or construction project or furnishing of the improvements for the Development. For purposes of

this Agreement, the Minimum Investment to qualify for the Grant is **$2,400,000.00**.

J. "Property Tax Rebate" means a rebate, according to the Incremental Property Tax Rebate Table found in Exhibit D of this Agreement, of the City's portion of the incremental ad valorem property tax revenue generated by the subject property above the Base Year Value for the Grant Period (as defined herein). For the purposes of this Agreement, the total Property Tax Rebate amount shall not exceed **$158,900.00.**

N. "Building Construction Fee Rebate" means the one-time rebate of certain building construction fees and planning fees as identified in Ordinance No. 018581 paid for the Project and payable from the City's general revenue fund. The Building Construction Fee Rebate shall not exceed **$10,000.00** and will be rebated upon the Applicant's provision of the Grant Submittal Package to the City to demonstrate that the total construction cost for the Project is equal or greater than the Minimum Investment.

2. Specific subsections of **SECTION 2. TERM AND GRANT PERIOD** of the Agreement are amended to read as follows:

A. Term and Effective Date. This Agreement shall commence on the Effective Date and shall terminate on the first to occur of: (i) the date when the aggregate amount of Grants is paid; (ii) 17 years from the Effective Date; (iii) the proper termination of this Agreement in accordance with the applicable provisions contained herein; or (iv) termination by mutual consent of the parties in writing ("Term").

B. Grant Period and Grant Payment Eligibility. The Applicant's eligibility for Grant payments shall be limited to 15 consecutive years within the Term of this Agreement (the "Grant Period"). The first year of the Grant Period shall be the first tax year after the issuance of the certificate of occupancy for the Development. A temporary certificate of occupancy does not qualify as a certificate of occupancy.

3. Subsection A. of **SECTION 3. OBLIGATIONS OF THE APPLICANT** of the Agreement is amended to read as follows:

A. **Development.** Applicant agrees to develop and construct, at its sole cost, the Development; and further agrees:

(1) The Applicant represents that the Development complies with, and adheres to, the provisions and requirements of the City's Infill Policy and is located within the eligible incentive areas identified within the Infill Policy.

(2) The Applicant shall renovate or construct, at its sole cost and expense, the Development, and shall expend a minimum of $2,400,000.00 in Qualified Expenditures to construct the Development.

(3) The Applicant shall obtain all building permits for the Project within 6 months from the Effective Date of this Agreement.

(4) Within 24 months after the Effective Date, the Applicant shall submit documentation to the City to verify the following:

(a) The expenditure of a minimum of $2,400,000.00 in Qualified Expenditures; and

(b) That the Applicant has received a Certificate of Occupancy for the Development.

(5) The Applicant agrees that the Development shall not include the demolition of properties with a historic overlay that are deemed historic or contributing unless specifically approved by El Paso City Council.

(6) The Applicant agrees that Development shall be in accordance with the requirements and review provisions of Chapter 20.20 (Historic Landmark Preservation) of the City municipal code, where applicable.

(7) The Applicant shall diligently and faithfully in a good and workmanlike manner pursue the completion of the Development and that the construction of same will be in accordance with all applicable federal, state and local laws and regulations.

(8) The Applicant agrees that during the Term of this Agreement, the Development shall be limited to a hotel use on the upper floors and retail or restaurant on the ground floor.

(9) The Applicant shall demonstrate, before the receipts of any Grant payments, that the Applicant has incurred no delinquency taxes by providing certified city tax certificates for any parcel of property owned in the City of El Paso.

(10) The Applicant agrees that during the Term of this Agreement it shall not challenge nor permit anyone else to take actions on its behalf to challenge any assessments by the El Paso Central Appraisal District of $1,200,000.00 or less. It is the intent of the parties that the assessed value of the Property on the tax rolls have a minimum appraisal value of $1,200,000.00 during the Term of this Agreement. This property value should in no way be interpreted to affect the values set by the Central Appraisal District for tax purposes. Upon the termination of this Agreement, the Applicant agrees that neither this Agreement, nor the values contained herein, will be utilized to contest appraisal values or in the determination of the market value of the Development.

(11) The Applicant, during normal business hours, at its principal place of

business in the city of El Paso, Texas, shall allow the City or its agents reasonable access to operating records, accounting books, and any other records related to the economic development considerations and incentives described herein, which are in Applicant's possession, custody, or control, for purposes of verifying the Qualified Expenditures and for audit purposes, if so requested by the City. The confidentiality of such records will be maintained in accordance with all applicable laws.

(12) Applicant shall provide all required invoices and other required documentation to City electronically at the following address: EDcompliance@elpasotexas.gov

4. Subsection B.1 of **SECTION 3. OBLIGATIONS OF THE APPLICANT** of the Agreement is amended to read as follows:

(1) The Applicant shall annually submit one Grant Submittal Package which shall be in the form provided in Exhibit C, together with the requisite documentation. The Applicant shall submit to the City the initial Grant Submittal Package on February 13, 2026, or within 30 business days after this date. Thereafter, the Applicant's annual Grant Submittal Package must be submitted on or within 30 business days after the 13th day of February of each year. A failure by the Applicant to timely submit a Grant Submittal Package in accordance with this paragraph is a waiver by the Applicant to receive a Grant payment for that Grant year.

5. Specific subsections of **SECTION 4. OBLIGATIONS OF THE CITY** of the Agreement is amended to read as follows:

A. The City agrees to provide a Construction Materials Sales Tax Rebate not to exceed $12,000.00 in accordance with the terms and provisions of this Agreement.

B. The City agrees to provide a Building Construction Fee Rebate not to exceed $10,000.00 in accordance with the terms and provisions of this Agreement.

C. The City agrees to provide a Property Tax Rebate not to exceed $158,900.00 in accordance with the terms and provisions of this Agreement.

D. The City will process any eligible Grant payment within 90 days after receipt of the Applicant's annual Grant Submittal Package.

6. Exhibit B **Description of Development** is replaced in its entirety by Attachment A to this Amendment;

7. Exhibit C **Grant Submittal Package Form** is replaced in its entirety by Attachment B to this Amendment;

8. Exhibit D **Property Tax Rebate Table** is replaced in its entirety by Attachment C to this Amendment;

9. All terms and conditions of the Agreement and all subsequent Amendments thereto, except as herein revised, shall remain in full force and effect.

IN WITNESS WHEREOF, the parties have hereunto set their hands this _____ day of _____, 20___.

CITY
THE CITY OF EL PASO:

_____
Tomás Gonzalez
City Manger

APPROVED AS TO FORM:

_____
Juan S. Gonzalez
Senior Assistant City Attorney

APPROVED AS TO CONTENT:

_____
Elizabeth Triggs, Director
Economic & International
Development

APPLICANT
309 MILLS, LLC,
a Texas Limited Liability Company

Rogelio Gonzalez
[NAME]

[SIGNATORY CAPACITY]

ATTACHMENT "A"

Replacement of Exhibit B Description of Development

EXHIBIT B

Description of Development

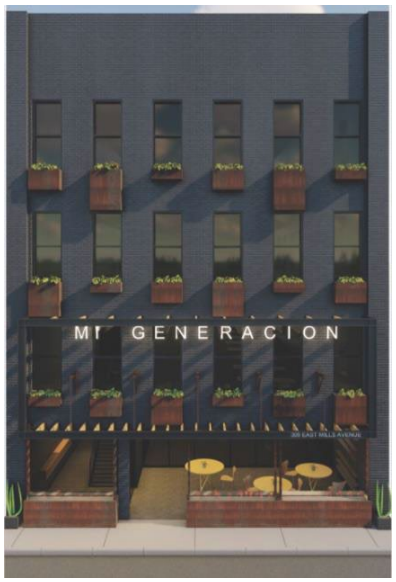
309 MILLS, LLC. will rehabilitate the property located at 309 Mills Avenue, 79901, in El Paso, Texas. The company will invest a minimum of $2,400,000.00 to renovate the facility. The renovation will include the elements listed below and will be substantially similar, in design, to the rendering shown below.

List of Renovations:

- Address all damage caused by fire
- Convert the upper floors to a standard hotel
- Rehabilitate store front, doors and windows
- Repaint interior and outer public art
- Replace interior doors and all signage
- Brace basement foundation
- Repair, HVAC, plumbing, electrical
- Re-floor the building

Rendering:

Façade



Mural on Building Side

ATTACHMENT "B"

Replacement of Exhibit C Grant Submittal Package Form

EXHIBIT C

Grant Submittal Package Form

_____(the Applicant) believes that it has substantially met its obligations under the Chapter 380 Agreement executed on _____ (date). Pursuant to the Agreement, the Applicant submits this Grant Submittal Package Form in compliance with said Agreement and in anticipation of receiving the Grant in consideration for his obligations met under the Agreement.

As required by the Agreement, the following information is submitted.

1. Documentation (i.e. including; but not limited to, bank statements, invoices, copies of checks, receipts) evidencing proof of payment by Applicant of at least a minimum aggregate of **$2,400,000** in Qualified Expenditures associated with the Development, as those terms are defined in the Agreement.
2. Copies of all required permits and approvals obtained by Applicant or on Applicant's behalf for construction of improvements in the Development.
3. Property Tax Payment Receipt(s) of payment for tax year _____.

It is understood by the Applicant that the City of El Paso has up to 90 days to process this request and reserves the right to deny the Grant claim if the Applicant has failed to comply with the terms of the Agreement.

By the signature of the Applicant below, the Applicant hereby certifies that: (1) the copies of the receipts attached to this Grant Submittal Package Form represent Qualified Expenditures incurred in the improvements and new construction to the Development; (2) the Applicant has paid or caused to be paid the City's local sales and use taxes associated with the Qualified Expenditures; and (3) that the copies of the receipts and copies of the permits attached herein are true and correct.

Signature: _____

ATTACHMENT "C"

Replacement of Exhibit D Property Tax Rebate Table

EXHIBIT D
Property Tax Rebate Table

Year	Rebate Percentage
Year 1	100%
Year 2	100%
Year 3	100%
Year 4	100%
Year 5	100%
Year 6	100%
Year 7	100%
Year 8	100%
Year 9	100%
Year 10	100%
Year 11	100%
Year 12	100%
Year 13	100%
Year 14	100%
Year 15	100%