



# CITY OF BAYTOWN

OFFICE OF THE CITY CLERK

2401 Market Street  
P.O. Box 424  
Baytown, Texas 77522-0424  
(281) 420-6504

March 26, 2018

Mr. Oscar Chapa  
4401 Country Club View  
Baytown, Texas 77521

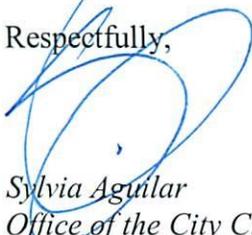
Re: Second Amendment to Chapter 380 Economic Development Agreement

Dear Mr. Chapa:

Please find enclosed copy of the above noted Second Amendment to Agreement having been signed by City Manager, Mr. Richard L. Davis on this the 23<sup>rd</sup> day of March, 2018 and as same pertains to the Façade Improvements to the property known as 123 W. Defee, Baytown, Harris County, Texas. This Amendment having been attached as Exhibit "A" under City of Baytown Ordinance No. 13,721 dated March 22, 2018.

If our offices may be of further assistance, please do not hesitate in contacting our Planning & Community Development Department to 281-420-5394.

Respectfully,

  
Sylvia Aguilar  
Office of the City Clerk

Enclosure

xc: Legal Department  
Planning & CD Department

**SECOND AMENDMENT TO THE  
CITY OF BAYTOWN / YOYO LLC, SERIES 13  
CHAPTER 380  
ECONOMIC DEVELOPMENT AGREEMENT**

STATE OF TEXAS           §  
  §  
COUNTY OF HARRIS       §

This Second Amendment (“Amendment”) to that certain Chapter 380 Economic Development Agreement dated April 18, 2017, (“Agreement”) by and between YOYO LLC, SERIES 13 (the “Developer”) and the CITY OF BAYTOWN, TEXAS, a home rule city and municipal corporation, located in Harris and Chambers Counties, Texas (the “City”) is made and entered into on this 23rd day of March, 2018.

**RECITALS**

WHEREAS, the City and the Developer entered into the Economic Development Agreement (the “Agreement”) on April 18, 2017, in order to set out the terms of an economic development program to stimulate business and commercial activity in CITY; and

WHEREAS, due to delays caused by Hurricane Harvey, the City and the Developer entered into the First Amendment to the Agreement on December 17, 2017, to extend certain milestone dates; and

WHEREAS, the City and the Developer desire to extend such dates again; and

WHEREAS, the terms of the Agreement shall remain in full force and effect except as specifically altered by the terms of the First Amendment and this Second Amendment;

NOW THEREFORE, for and in consideration of the promises and the mutual agreements set forth herein, the Parties hereby agree to amend the First Amendment and the Agreement as follows:

**I.  
Amendments**

1.01 Subsection a, Section 5.01 “Commitment to Develop,” Article V “Developer’s Obligations” of the Agreement is hereby amended to read as follows:

5.01 Commitment to Develop.

- a. The Developer hereby agrees to complete the approved Façade Improvements and to develop the Project in conformance with all applicable laws, rules and regulations of the City and any other governmental entity having authority over the Project, so that, upon approval by the Chief Building Official of the City, the Project fully satisfies the Code in accordance with a scope of work approved by the City Manager. The Façade Improvements must be commenced within sixty (60) days of the City Manager’s approval of the documents detailed in Section 4.01 of this Agreement. The Project must be finally completed and the Developer must have obtained the following from the City on or before the date indicated:

1. a certificate of occupancy for the multi-family dwelling unit component of the Project on or before July 31, 2018;
2. a certificate of completion for the commercial retail component of the Project on or before July 31, 2018; and
3. a certificate of occupancy for the commercial retail component of the Project on or before September 30, 2018.

Prior to any construction activity on the Façade Improvements, the Developer must obtain the written approval of the City's Chief Building Official and the City Manager of the plans and specifications for the Façade Improvements, which approval shall not be unreasonably withheld, conditioned or delayed. After such approval, no change may be made without the prior written approval of the City's Chief Building Official and the City Manager.

1.02 Section 7.02 "Failure of Developer to Meet Obligations," Article VII "Certificate of Compliance and Recapture" of the Agreement is hereby amended to read as follows:

- 7.02 Failure of Developer to Meet Obligations. In the event that the Developer fails to obtain:
1. a certificate of occupancy for the multi-family dwelling unit component of the Project on or before July 31, 2018,
  2. a certificate of completion for the commercial retail component of the Project on or before July 31, 2018, or
  3. a certificate of occupancy for the commercial retail component of the Project on or before September 30, 2018,

the Developer shall be in default and notwithstanding any other rights provided to the City under this Agreement, the City's obligations to pay any monies under the Economic Development Grant shall be extinguished and the City may terminate this Agreement.

## II.

### Miscellaneous Provisions

- 2.01 Recitals. The recitals set forth above are declared true and correct and are hereby incorporated as part of this Amendment.
- 2.02 Definitions. Unless a different meaning clearly appears from the context, words and phrases as used in this Second Amendment shall have the same meanings as in the First Amendment and the Agreement.
- 2.03. Entire Agreement. The provisions of this Second Amendment, the First Amendment, and the Agreement should be read together and construed as one agreement provided that, in the event of any conflict or inconsistency between the provisions of this Second Amendment and the provisions of the First Amendment or the Agreement, the provisions of this Second Amendment shall control.
- 2.04 Interpretation. This Second Amendment has been jointly negotiated by the parties hereunder and shall not be construed against a party hereunder because that party may have assumed primary responsibility for the drafting of this Second Amendment.

- 2.05 Captions. Captions contained in the Agreement, the First Amendment, and the Second Amendment are for reference only and, therefore, have no effect in construing the documents. The captions are not restrictive of the subject matter of any section.
- 2.06 No Waiver. By this Second Amendment, the City does not consent to litigation or suit, and the City hereby expressly revokes any consent to litigation that it may have granted by the terms of this Second Amendment, the First Amendment, the Agreement or any other contract or agreement or addenda, any charter, or applicable state law. Nothing contained in this Second Amendment, the First Amendment or in the Agreement shall be construed in any way to limit or to waive the City's sovereign immunity.

IN WITNESS WHEREOF, the parties hereto have executed this Amendment in multiple copies, each of which shall be deemed to be an original, but all of which shall constitute but one and the same amendment, this 20th day of March, 2018, the date of execution by the City Manager.

**CITY OF BAYTOWN, TEXAS**



\_\_\_\_\_  
RICHARD L. DAVIS, City Manager

032318

\_\_\_\_\_  
(Date)

ATTEST:



\_\_\_\_\_  
LETICIA BRYSCH, City Clerk

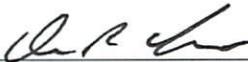


APPROVED AS TO FORM:



\_\_\_\_\_  
IGNACIO RAMIREZ, SR., City Attorney

**YOYO LLC, SERIES 13**



\_\_\_\_\_  
OSCAR CHAPA  
Governing Person

3/20/2018

\_\_\_\_\_  
(Date)

STATE OF TEXAS §  
  §  
COUNTY OF Harris §

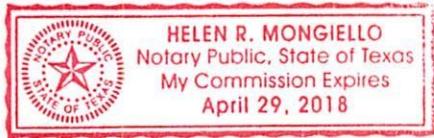
Before me, Helen R. Mongiello, the undersigned notary public, on this day personally appeared OSCAR CHAPA, the Governing Person of YOYO LLC, SERIES 13

\_\_\_\_\_ known to me  
\_\_\_\_\_ proved to me on the oath of \_\_\_\_\_ or  
X proved to me through his current TX Driver License {description of identification card or other document issued by the federal government or any state government that contains the photograph and signature of the acknowledging person}

(check one)

to be the person whose name is subscribed to the foregoing instrument, and acknowledged to me that he executed that instrument for the purposes and consideration therein expressed.

Given under my hand and seal of office this 20<sup>th</sup> day of March, 2018.



Helen R. Mongiello  
Notary Public in and for the State of Texas

My commission expires: April 29, 2018