



City of San Antonio

Agenda Memorandum

File Number:

Agenda Item Number: 22

Agenda Date: January 11, 2024

In Control: City Council A Session

DEPARTMENT: Office of Historic Preservation

DEPARTMENT HEAD: Shanon Shea Miller

COUNCIL DISTRICTS IMPACTED: Citywide

SUBJECT:

An ordinance authorizing a Second Amendment to the Funding Agreement between Hemisfair Park Area Redevelopment Corporation ("HPARC") and the City of San Antonio to legally designate HPARC as the recipient of the rebate of the State Tax Funds pursuant to Section 351.156 and 351.157 of the Texas Tax Code to collect the State Tax Funds, and HPARC in turn pledged to ZH Downtown Development Company, LLC, the State Tax Funds rebated to the project.

SUMMARY:

An ordinance authorizing a Second Amendment to the Funding Agreement between Hemisfair Park Area Redevelopment Corporation ("HPARC") and the City of San Antonio to legally designate HPARC as the recipient of the rebate of the State Tax Funds pursuant to Section 351.156 and 351.157 of the Texas Tax Code to collect the State Tax Funds, and HPARC in turn pledged to ZH Downtown Development Company, LLC, the State Tax Funds rebated to the project.

BACKGROUND INFORMATION:

On April 7, 2022, the City Council approved a Chapter 380 Agreement between HPARC and ZH Downtown Development Company, LLC that facilitated a rebate to the City of State Hotel Occupancy Taxes (HOT) and State sales taxes generated from the Public Private Partnership in the Northwest Quadrant of Hemisfair on the corner of Alamo and Market Street. The project

includes a 200-room hotel that broke ground in November 2023.

Per State law, the hotel project qualifies for such a rebate due to its proximity to the Convention Center and its location on City-owned land. Based on discussions with the State Comptroller, the sales tax rebate for the project's retail also expands beyond the hotel project provided the retail resides on the P3 property and is physically connected to the hotel through other infrastructure such as parking or walkways. For the project to receive these State Tax Funds, the City granted agency to HPARC to collect the State Tax Funds, and HPARC in turn pledged to ZH Downtown Development Company, LLC, the State Tax Funds rebated to the project. The State Tax Funds will be used to support the development, parking facilities, and other public improvements for Hemisfair.

ISSUE:

During the course of the 88th Texas Legislative Session, Section 351.157 of the Texas Tax Code expanded the definition of a "qualified establishment" to include any restaurants, bars, spas, and retail establishments that were located within 1000 feet of a qualified hotel and eliminated the connection requirement. This revision simplifies the transaction and allows the City of San Antonio to capture as a State tax rebate, additional State sales and use tax dollars from qualified establishments that are within 1000 feet of the P3 hotel that is being built by ZH Downtown Development Company, LLC in the NW Quadrant of Hemisfair Park. Pursuant to the First Amendment to the Funding Agreement, which was approved by the City Council on April 7, 2022, through Ordinance HPPFC 2022-04-07-0001, the City of San Antonio designated HPARC as its agent to collect certain State tax rebates under Section 351.156 of the Texas Tax Code and provide the rebate to Zachry for eligible expenses. The Second Amendment to the Funding Agreement reflects the expanded definition of a "qualified establishment" and limits the rebate that HPARC collects to the State taxes generated from the NW Quadrant of Hemisfair. The City will retain the State taxes that are generated outside the NW Quadrant but within 1,000 feet of the qualified project through the City's designation of Public Financing Zone (PFZ) Number One and will use these funds for eligible improvements within the PFZ.

In connection with the Second Amendment to the Funding Agreement, HPARC and ZH Downtown Development Company, LLC intend to amend and restate the Chapter 380 Agreement between them as it relates to the pledge of the additional State tax rebates available under Section 351.157 of the Texas Tax Code. This furthers the previous pledge by the City to ZH Downtown Development Company, LLC to provide available State Tax Funds generated from the P3 projects in the NW Quadrant of Hemisfair Park to support the development, parking facilities, and other public improvements for Hemisfair.

ALTERNATIVES:

City Council could choose not to approve this action to legally designate HPARC, and as such, they would not be able to be a recipient of the rebate of State Tax Funds pursuant to Sections 351.156 and 351.157 of the Texas Tax Code.

FISCAL IMPACT:

There is no fiscal impact to the City of San Antonio.

RECOMMENDATION:

Staff recommends approval to the Second Amendment to the Funding Agreement between Hemisfair Park Area Redevelopment Corporation (“HPARC”) and the City to legally designate HPARC as the recipient of the rebate of the State Tax Funds pursuant to Section 351.156 and 351.157 of the Texas Tax Code.