



City of San Antonio

Agenda Memorandum

File Number:

Agenda Item Number: 22

Agenda Date: May 5, 2022

In Control: City Council A Session

DEPARTMENT: Finance Department

DEPARTMENT HEAD: Troy Elliott

COUNCIL DISTRICTS IMPACTED: Citywide

SUBJECT:

Approving, for purposes of satisfying Section 147(f) of the Internal Revenue Code relating to the issuance of tax-exempt "private activity bonds," changes being made in an Amended and Restated Indenture of Trust relating to establishing certain variable interest rates on Refunding Bonds issued in 2013 by the City's Empowerment Zone Development Corporation for the Drury Hotel Project.

SUMMARY:

This Resolution approves, for purposes of Section 147(f) of the Internal Revenue Code, an Amended and Restated Indenture of Trust relating to the outstanding City of San Antonio, Texas Empowerment Zone Development Corporation Contract Revenue Empowerment Zone Refunding Bonds (Drury Southwest Hotel Project), Series 2013A and Series 2013B, primarily for the purpose of modifying the interest rate formula related to such Bonds.

BACKGROUND INFORMATION:

The City of San Antonio, Texas Empowerment Zone Development Corporation (the "Corporation") is a nonprofit local government corporation created by the City and exists under the laws of the State of Texas to act on behalf of the City to accomplish certain governmental purposes of the City to include the administration of various federal tax incentives relating to the Empowerment Zone designated within the City, including the issuance of empowerment zone

facility bonds on behalf of qualified businesses within the Empowerment Zone.

The Corporation, acting on behalf of the City, originally issued “Empowerment Zone Bonds” in 2005 and 2007 for the benefit of Alamo National Building Development LP, a Missouri limited partnership (the "Borrower"), in connection with its acquisition and renovation of the former Alamo National Bank Building into a “Drury Hotel.” At the request of the Borrower, the original bonds were refunded in 2013 with proceeds of the outstanding City of San Antonio Texas Empowerment Zone Development Corporation Contact Revenue Empowerment Zone Refunding Bonds (Drury Southwest Hotel Project), Series 2013A and Series 2013B (collectively, the “Bonds”). The Bonds were issued pursuant to an Indenture of Trust between the Corporation and U.S. Bank National Association as Trustee (the “Trustee”), and were privately placed with U.S. Bank National Association, which currently owns and holds the Bonds.

Immediately prior to the City Council's consideration of the Resolution described in this Memorandum, the Board of Directors of the Corporation will consider a separate resolution to approve an Amended and Restated Indenture of Trust primarily for the purpose of replacing the London InterBank Offered Rate (“LIBOR”) with the Secured Overnight Financing Rate ("SOFR") as the index to be used to establish periodic variable rates of interest on the Bonds, and replacing U.S. Bank with UMB Bank, N.A., as the new purchaser and Trustee of the Bonds (as more fully described in the Agenda Memorandum relating to the Corporation's Resolution).

ISSUE:

Section 147(f) of the Internal Revenue Code (the "Code") requires that the "highest elected official" of the City (which can be either the Mayor or the City Council) must approve the issuance of tax-exempt "private activity bonds" such as the Bonds. The City Council previously approved the original issuance of the Bonds in 2013 for purposes of Section 147(f) of the Code; however, Bond Counsel to the Corporation (McCall, Parkhurst & Horton L.L.P.) has advised the City that the modification of the interest rate provisions contained in the Amended and Restated Indenture may constitute a "reissuance" of the Bonds for federal income tax purposes, which would require to City Council approve such amendments following a public hearing. (Notice of such public hearing was posted on the City's website on April 7, 2022, and was held on April 18, 2022, at 11:00 a.m. in the offices of Bond Counsel, all in compliance with pursuant to Section 147(f) of the Code. No member of the general public attended the public hearing or provided written comments.) The approval of the Resolution by the City Council is required to permit the Borrower to accomplish the changes it is requesting with respect to the Bonds.

ALTERNATIVES:

If the City Council does not approve the new Amended and Restated Indenture for purposes of satisfying the requirements of Section 147(f) of the Code, the Borrower will be unable to provide a substitute for LIBOR as the interest rate index to establish variable interest rates on the Bonds and will be unable to change its banking relationship with respect to the Bonds to UMB Bank.

FISCAL IMPACT:

Funds are not encumbered. The City and the Corporation are not obligated in any manner to pay the Bonds. The Borrower has been, and will continue to be, responsible for all debt service on the Bonds and will pay the City administrative fees of \$20,000.00, which will be deposited into the General Fund upon the delivery of the Amended and Restated Indenture.

RECOMMENDATION:

Staff recommends approval of the Resolution authorizing the Amended and Restated Indenture of Trust between the Corporation and UMB Bank, primarily for the purpose of modifying the interest rate formula related to the Bonds, in satisfaction of Section 147(f) of the Code.