

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

DEPARTMENT: City Manager's Office

AGENDA DATE: April 13, 2021

CONTACT PERSON NAME / PHONE NUMBER: Robert Cortinas, Chief Financial Officer (915)-212-1067

DISTRICT(S) AFFECTED: All

STRATEGIC GOALS: Goal 6: Set the Standard for Sound Governance and Fiscal Management

SUBJECT:

AN ORDINANCE approving the issuance of the City of El Paso Downtown Development Corporation Special Revenue Refunding Bonds, Taxable Series 2021 (Downtown Ballpark Venue Project) by the City of El Paso Downtown Development Corporation, approving a Third Amendment to Master Lease Agreement related to such refunding bonds and approving other matters incident and related thereto.

BACKGROUND / DISCUSSION:

The City of El Paso Downtown Development Corporation (the "Corporation") has been created and organized as a public, nonprofit local government corporation incorporated pursuant to Subchapter D of Chapter 431, Texas Transportation Code, as amended, to aid, assist and act on behalf of the City of El Paso, Texas (the "City") in the performance of the City's governmental functions.

On November 6, 2012, the voters of the City authorized the City to provide for the planning, acquisition, establishment, development, construction and financing of a sports and community venue project within the City of the type described and defined in Section 334.001(4)(A).

Under the Master Lease Agreement, First Lease Amendment, and Second Lease Amendment, the City pays to the Corporation lease payments (the "Lease Payments") at such times and in such amounts as will be sufficient to pay debt service on the Outstanding Parity Bonds, such Lease Payments to be primarily funded from the HOT.

Chapter 1207 of the Texas Government Code, as amended ("Chapter 1207"), authorizes the Corporation to issue refunding bonds and deposit the proceeds of the sale directly with any place of payment for the refunded bonds, or other authorized depository, and such deposit, when made in accordance with such statute, shall constitute firm banking and financial arrangements for the discharge and final payment of such refunded bonds.

PRIOR COUNCIL ACTION:

The Corporation has previously issued its "City of El Paso Downtown Development Corporation Special Revenue Bonds, Series 2013A (Downtown Ballpark Venue Project)" (the "Series 2013 Tax Exempt Bonds") and the "City of El Paso Downtown Development Corporation Special Revenue Bonds, Taxable Series 2013B (Downtown Ballpark Venue Project)" (the "Series 2013 Taxable Bonds") pursuant to a Trust Agreement relating to the City of El Paso, Texas, Downtown Ballpark Venue Project Financing, dated as of August 1, 2013, as amended by a First Amendment to the Trust Agreement dated as of October 15, 2013.

The Corporation and the Trustee entered into a First Supplement to Trust Agreement Relating to the City of El Paso, Texas Downtown Ballpark Venue Project Financing, dated May 1, 2016 (the "First Supplement"), in

connection with the Corporation’s issuance of its “City of El Paso Downtown Development Corporation Special Revenue Refunding Bonds, Series 2016 (Downtown Ballpark Venue Project)” (the “Series 2016 Bonds”) and a Second Supplement to Trust Agreement Relating to the City of El Paso, Texas Downtown Ballpark Venue Project Financing, dated July 17, 2020 (the “Second Supplement”), in connection with the Corporation’s issuance of its “City of El Paso Downtown Development Corporation Special Revenue Refunding Bonds, Series 2020 (Downtown Ballpark Venue Project)” (the “Series 2020 Bonds”).

The City and the Corporation executed the First Amendment to Master Lease Agreement, dated as of May 1, 2016 (the “First Lease Amendment”), in connection with the Corporation’s issuance of the Series 2016 Bonds and a Second Amendment to Master Lease Agreement, dated as of July 17, 2020 (the “Second Lease Amendment”) in connection with the Corporation’s issuance of the Series 2020 Bonds.

AMOUNT AND SOURCE OF FUNDING:

Debt service is primarily funded from 2% Hotel Occupancy Tax and team revenues.

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

DEPARTMENT HEAD: *Robert Cortinas*

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

ORDINANCE NO. _____

AN ORDINANCE approving the issuance of the City of El Paso Downtown Development Corporation Special Revenue Refunding Bonds, Taxable Series 2021 (Downtown Ballpark Venue Project) by the City of El Paso Downtown Development Corporation, approving a Third Amendment to Master Lease Agreement related to such refunding bonds and approving other matters incident and related thereto.

WHEREAS, pursuant to an election held in the City of El Paso, Texas (the “**City**”) on November 6, 2012, the voters of the City authorized the City to provide for the planning, acquisition, establishment, development, construction and financing of a sports and community venue project within the City of the type described and defined in Section 334.001(4)(A) of and permitted by Chapter 334, Local Government Code, as amended (the “**Venue Project Act**”), and described in summary form as a multipurpose coliseum, stadium or other type of arena or facility that is planned for use for one or more professional or amateur sports events, including minor league baseball games and related infrastructure as defined in the Venue Project Act (the “**Project**”), and to impose a tax on the occupancy of a room in hotels located within the City, at a maximum rate of two percent (2%) of the price paid for such room, as authorized by Subchapter H of the Venue Project Act; and

WHEREAS, the City Council (the “**Council**”) of the City authorized the creation of a local government corporation known as the “City of El Paso Downtown Development Corporation” (the “**Corporation**”) pursuant to the provisions of Section 431.001 of the Transportation Code to aid, assist and act on behalf of the City in the performance of the City’s governmental functions, including the financing of the Project; and

WHEREAS, the Corporation issued its “City of El Paso Downtown Development Corporation Special Revenue Bonds, Series 2013A (Downtown Ballpark Venue Project)” (the “**Series 2013 Tax Exempt Bonds**”) and the “City of El Paso Downtown Development Corporation Special Revenue Bonds, Taxable Series 2013B (Downtown Ballpark Venue Project)” (the “**Series 2013 Taxable Bonds**”) pursuant to a Trust Agreement relating to the City of El Paso, Texas, Downtown Ballpark Venue Project Financing, dated as of August 1, 2013, as amended by a First Amendment to the Trust Agreement dated as of October 15, 2013, and as further supplemented by a First Supplement to Trust Agreement Relating to the City of El Paso, Texas Downtown Ballpark Venue Project Financing, dated May 1, 2016, and a Second Supplement to Trust Agreement Relating to the City of El Paso, Texas Downtown Ballpark Venue Project Financing, dated July 17, 2020 (collectively, as amended and supplemented, the “**Trust Agreement**”), by and between the Corporation and Wells Fargo Bank, National Association, as trustee (the “**Trustee**”); and

WHEREAS, the Corporation and the Trustee entered into the First Supplement to Trust Agreement Relating to the City of El Paso, Texas Downtown Ballpark Venue Project Financing, dated May 1, 2016 (the “**First Supplement**”), in connection with the Corporation’s issuance of its “City of El Paso Downtown Development Corporation Special Revenue Refunding Bonds, Series 2016 (Downtown Ballpark Venue Project)” (the “**Series 2016 Bonds**”) and the Second Supplement to Trust Agreement Relating to the City of El Paso, Texas Downtown Ballpark

Venue Project Financing, dated July 17, 2020 (the “**Second Supplement**”), in connection with the Corporation’s issuance of its “City of El Paso Downtown Development Corporation Special Revenue Refunding Bonds, Series 2020 (Downtown Ballpark Venue Project)” (the “**Series 2020 Bonds**”); and

WHEREAS, the City and the Corporation executed that Master Lease Agreement Relating to the City of El Paso, Texas, Downtown Ballpark Venue Project Financing, dated as of August 1, 2013, between the City and the Corporation (the “**Master Lease Agreement**”), pursuant to which the City leased the Project to the Corporation and the Corporation subleased the Project back to the City; and

WHEREAS, the City and the Corporation executed that First Amendment to Master Lease Agreement, dated as of May 1, 2016 (the “**First Lease Amendment**”), in connection with the Corporation’s issuance of the Series 2016 Bonds and a Second Amendment to Master Lease Agreement, dated as of July 17, 2020 (the “**Second Lease Amendment**”), in connection with the Corporation’s issuance of the Series 2020 Bonds; and

WHEREAS, the Master Lease Agreement will have to be amended pursuant to a Third Amendment to Master Lease Agreement Relating to the City of El Paso, Texas Downtown Ballpark Venue Project Financing Between the City and the Corporation (the “**Third Lease Amendment**”), substantially in the form of attached Exhibit B which is hereby incorporated by reference, to reflect the issuance of the Series 2021 Bonds and defeasance of the Series 2013 Tax Exempt Bonds; and

WHEREAS, the Board of Directors of the Corporation has found and determined that the Series 2013 Tax Exempt Bonds should now be refunded through the issuance of “City of El Paso Downtown Development Corporation Special Revenue Refunding Bonds, Taxable Series 2021 (Downtown Ballpark Venue Project)” (the “**Series 2021 Bonds**”); and

WHEREAS, the Series 2013 Taxable Bonds shall not be affected by the proposed refunding and shall remain outstanding under the Original Trust Agreement; and

WHEREAS, on a contemporaneous basis herewith, the Board of Directors of the Corporation has adopted a Resolution, a copy of which is attached hereto as Exhibit A and incorporated herein by reference (the “**DDC Resolution**”), authorizing the issuance of the Series 2021 Bonds pursuant to the terms of a Third Supplement To Trust Agreement Relating to the City of El Paso, Texas Downtown Ballpark Venue Project Financing Between the Trustee and the Corporation (the “**Third Supplement**”); and

WHEREAS, the Articles of Incorporation and Bylaws of the Corporation require that the Corporation obtain written approval from the Council prior to the consummation of the sale and delivery of any bonds or notes of the Corporation; and

WHEREAS, there have been presented to the Council at this meeting forms of each of the following documents:

1. the DDC Resolution;

2. the Third Supplement; and
3. the Third Lease Amendment (collectively, the “*Transaction Documents*”);

NOW THEREFORE BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF EL PASO, TEXAS:

SECTION 1: The facts and recitations contained in the preamble of, and the recitals to, this Ordinance are hereby found and declared to be true and correct legislative findings and are adopted as part of this Ordinance for all purposes. Capitalized terms used but not defined herein shall have the meanings ascribed to them in the Third Supplement.

SECTION 2: The City, acting by and through its Council, approves the issuance by the Corporation of the Series 2021 Bonds for the financing described in the DDC Resolution, upon the terms and arrangements set forth in the DDC Resolution and the Third Supplement.

SECTION 3: The Council hereby approves the Third Lease Amendment in substantially the form and substance presented to the Council, and the Mayor, the City Manager or the Chief Financial Officer of the City is hereby authorized and directed, for and on behalf of the City, to execute the Third Lease Amendment and the City Clerk or Deputy City Clerk of the City is hereby authorized to attest such officer’s signature on the Third Lease Amendment, and such officers are hereby authorized to deliver the Third Lease Amendment. Upon execution by the parties thereto and delivery thereof, the Third Lease Amendment shall be binding upon the City in accordance with the terms and provisions thereof. Any funds appropriated by the City to make payments due under the Master Lease Agreement, as amended by the First Lease Amendment, Second Lease Amendment, and the Third Lease Amendment, shall be and are hereby directed to be deposited to the Venue Project Fund in accordance with the provisions of Section 334.042(c)(5) of the Venue Project Act.

SECTION 4: Pursuant to a City resolution adopted on December 18, 2012, the City established a Venue Project Fund in accordance with Section 334.042 of the Venue Project Act. The City hereby affirms such fund.

SECTION 5: The adoption and execution of the Transaction Documents and the taking of such other actions as may be necessary and appropriate in connection therewith are hereby approved.

SECTION 6: Each of the Mayor, the City Manager, and the Chief Financial Officer of the City is, individually and collectively, authorized and directed to take all action necessary or reasonably required to effectuate the adoption, execution and delivery of the Transaction Documents, the issuance of the Series 2021 Bonds and for carrying out, giving effect to, and consummating the transactions described in the Series 2021 Bonds, this Ordinance, the Transaction Documents, and any other instruments authorized by this Ordinance or required to effect the transactions contemplated hereby, including without limitation, the execution and delivery of any closing documents and other certificates and documents in addition to those specifically referenced herein that are required in connection with the issuance of the Series 2021 Bonds.

SECTION 7: Prior to the initial delivery of the Series 2021 Bonds, any of the City Manager, the Chief Financial Officer of the City or bond counsel to the City are each hereby authorized and directed to approve any changes or corrections to this Ordinance or to any of the documents authorized and approved by this Ordinance: (i) in order to cure any ambiguity, formal defect, or omission in the Ordinance or such other document; (ii) as requested by the Attorney General of the State of Texas or his representative to obtain the approval of the Series 2021 Bonds by the Attorney General, or (iii) to accomplish the issuance and delivery of the Series 2021 Bonds and if such officer or counsel determines that such changes are consistent with the intent and purpose of this Ordinance, such determination shall be final. In the event that any official of the City whose signature shall appear on any document shall cease to be such officer before the delivery of such document, such signature nevertheless shall be valid and sufficient for all purposes the same as if such officer had remained in office until such delivery.

Additionally, the Mayor, the City Manager, and the Chief Financial Officer of the City may execute, authenticate, certify, or endorse or authorize to be executed, authenticated, certified, or endorsed with such officer's facsimile signature instead of the officer's manual signature any written agreement, including a contract, purchase order or surety bond, and any related document, including an application, certificate, or approval. For purposes of this Ordinance, "facsimile signature" means a reproduction of the manual signature of an authorized officer that is made by any method.

SECTION 8: It is officially found, determined and declared that the meeting at which this Ordinance is adopted was open to the public and public notice of the time, place, and subject matter of the public business to be considered at such meeting, including this Ordinance, was given, all as required by Chapter 551 of the Texas Government Code, as amended. This Ordinance is found and deemed to be a public security authorization for the purposes of Section 1201.028 of the Texas Government Code.

SECTION 9: This Ordinance shall take effect and be in full force immediately from and after its adoption on the date hereof in accordance with the provisions of Texas Government Code, Section 1201.028, as amended.

[Remainder of page left blank intentionally.]

APPROVED AND ADOPTED this 13th day of April, 2021.


Oscar Leeser
Mayor, City of El Paso, Texas

ATTEST:

Laura D. Prine
City Clerk, City of El Paso, Texas

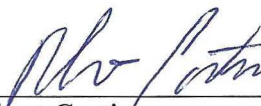
(CITY SEAL)

Approved as to Form:



Karla Nieman
City Attorney
City of El Paso, Texas

Approved as to Content:



Robert Cortinas
Chief Financial Officer
City of El Paso, Texas

Approved as to Form:

Paul A. Braden
Bond Counsel

EXHIBIT A

Resolution of the Corporation

EXHIBIT B

Third Lease Amendment