

Mayor and Council Communication

DATE: 09/14/21

M&C FILE NUMBER: M&C 21-0679

LOG NAME: 25PFZ_REPAYMENT

SUBJECT

(CD 7 and CD 9) Adopt Attached Ordinance Increasing Fiscal Year 2021 Receipts and Appropriations in the Project Finance Zone Fund by \$450,000.00 and Decreasing Fund Balance by the Same Amount, and Approve a Repayment Plan with the State of Texas for Overpayments in 2020 of Project Finance Zone Revenues

RECOMMENDATION:

It is recommended that the City Council:

1. Approve a repayment plan with the State of Texas for overpayment in 2020 of Project Finance Zone revenues, including a one-time fiscal year 2021 payment of \$450,000.00 from the Project Finance Zone Fund; and
2. Adopt the attached ordinance increasing FY2021 estimated receipts and appropriations in the Culture and Tourism Project Finance Zone Fund in the amount of \$450,000.00, from available funds, for the purposes of funding a portion of the repayment to the State of Texas for overpayment in 2020 of Project Finance Zone revenues, and reducing fund balance by the same amount.

DISCUSSION:

The purpose of this Mayor and Council Communication (M&C) is to take action to correct an overpayment received by the City's Culture and Tourism Funds in 2020 from the State of Texas.

Section 351.1015 of the Texas Tax Code allows a city that meets certain requirements to designate a project financing zone around a "qualified project" that complies with specified criteria. Once such a zone is designated and the Texas Comptroller of Public Accounts (Comptroller) is notified, the Comptroller begins to set aside incremental growth in hotel-associated revenue (primarily state tax revenue) from all hotels within the zone for use by the designating city on the qualified project. A zone expires no later than the 30th anniversary of the date of designation.

When the Comptroller is notified that a qualified project has been commenced, that incremental hotel-associated revenue is paid out to the designating city for use to acquire, lease, construct, improve, enlarge, and equip qualified projects and/or as security for and payment of bonds or other obligations issued or incurred for those purposes.

Fort Worth meets the requirements of Section 351.1015, and both the Fort Worth Convention Center and Dickies Arena, adjacent to the Will Rogers Memorial Center, meet the definition of qualified project. In October of 2013, the Fort Worth City Council adopted an ordinance designating the Project Finance Zone (PFZ) around those two facilities. After notifying the Comptroller that work on the qualified project had commenced, the City began receiving payments in 2017.

Each month, an estimate is calculated by the state and, if the estimated amount exceeds the base year (2013), a corresponding disbursement is made, which the City deposits into Culture and Tourism funds. In administering the zone, the State operates on a calendar year basis and conducts a "true-up" reconciliation in December.

In 2020, based on its initial estimates, the Comptroller remitted four monthly payments to the City from January 2020 - April 2020, prior to the onset of the pandemic. However, by the end of the year, the total incremental hotel associated revenue compared to the base year was negative due to the effects of the COVID-19 pandemic, and it was determined the City had not been due any payments for 2020.

The State notified the City that a repayment of \$1,806,816.86 was due. After exhausting all possibilities of using CARES Act and ARPA Funds to assist with the repayment until the recovery stabilized in the hotel and tourism industry, the Public Events Department has entered into a repayment plan with the State of Texas.

The repayment proposal is as follows:

- *Remit a one-time payment in the month of September 2021 in the amount of \$450,000.00, which represents \$150,000.00 a month for the 4th quarter of FY2021 (July, August, September);*
- *Remit monthly payments of \$150,000.00 a month in the first four months of FY2022 (October 2021 – January 2022);*
- *After those payments, the remaining balance due to the State will be \$756,816.96;*
- *Based on the recently received July 2021 estimates, it is expected there will be a sufficient increment remaining following the 2021 calendar year end true up to satisfy the remaining balance, which will be retained by the State and no payments are expected to be made by the City in August 2021– December 2021;*
- *If there is excess after the true up has been completed and the \$756,816.96 has been satisfied, that amount will be deposited into the City's PFZ 1 account;*
- *If there is insufficient incremental revenue earned in calendar 2021 to cover the remaining \$756,816.96 balance, the state will retain the*

incremental revenue available, if any, and the City will continue to remit monthly payments of \$150,000 until the balance has been paid off.

Adoption of the attached appropriation ordinance provides funds for the initial September 2021 payment. Funds for remaining monthly repayments have been included in FY2022 Project Finance Zone Fund recommended budget and will be available upon adoption.

This project is located in COUNCIL DISTRICT 7 and COUNCIL DISTRICT 9

A Form 1295 is not required because: This contract will be with a governmental entity, state agency or public institution of higher education: State of Texas

FISCAL INFORMATION / CERTIFICATION:

The Director of Finance certifies that funds are currently available in the fund balance within the Culture & Tour Proj Fin Zone Fund and upon approval of the above recommendations and adoption of the attached appropriation ordinance, funds will be available in the Culture & Tour Proj Fin Zone Fund. Prior to an expenditure being incurred, the Culture and Tourism Department has the responsibility of verifying the availability of funds.

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