



## Recommendation for Action

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**File #:** 20-2273, **Agenda Item #:** 30.

6/11/2020

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### **Posting Language**

Authorize the negotiation and execution of the Funding, Operations and Administrative Agreement with the Austin-Rosewood Community Development Corporation and the City of Austin.

### **Lead Department**

Parks and Recreation Department.

### **Fiscal Note**

There is no unanticipated fiscal impact. A fiscal note is not required.

### **Prior Council Action:**

Resolution No. 950803-16, which included \$8,785,000 for the development of the Central City Entertainment Center, approved on Councilmember Nofziger's motion, Councilmember Shea's second, 5-0-1 vote, with Councilmember Mitchell abstaining, and Mayor Todd absent.

Resolution No. 951116-022, which created the Austin-Rosewood Community Development Corporation (Corporation) and approved the Articles of Incorporation, approved on Mayor Pro Tem Garcia's motion, Mayor Todd's second, 6-1 vote, with Councilmember Nofziger voting no.

Ordinance No. 951116-E, which authorized promissory notes and loan documents to the U.S. Department of Housing and Urban Development (HUD) to develop the Central City Entertainment Center (CCEC), approved on Mayor Pro Tem Garcia's motion, Mayor Todd's second, 5-2 vote, with Councilmembers Shea and Nofziger voting no.

Ordinance No. 960718-G, which authorized the execution of the final loan documents with HUD for the development of the Central City Entertainment Center and repealed Ordinance No. 951116-E, approved on Councilmember Mitchell's motion, Mayor Pro Tem Garcia's second, 5-0-2 vote, with Councilmembers Griffith and Slusher abstaining.

### **For More Information:**

Kimberly McNeeley, Parks and Recreation Department Director, 512-974- 6722; Sammi Curless, Business Process Specialist, 512-974-6716.

### **Council Committee, Boards and Commission Action:**

May 22, 2020 - Agreement approved by the Austin-Rosewood Community Development Corporation on Board Member AJ Bingham's motion and Board Member Francis Jordan's second on a vote of 5-1 with Board Member Jim Burns absent from the action portion of the agenda item due to remote meeting technical issues and Board Members Ghislaine Jean and Deborah Taylor King absent.

### **Additional Backup Information:**

Following the completion of the construction of the Millennium Youth Entertainment Complex (MYEC) in 1999 and the fulfillment of the Housing and Urban Development (HUD) loan guarantee, Section 108 of the Housing

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and Community Development Act of 1974 Agreement in 2016, the City and the Corporation agreed that responsibilities related to the ongoing financial support, operations and administrative services with respect to the MYEC be delineated between the City and the Austin-Rosewood Community Development Corporation.

The Agreement term between the City of Austin and the Austin-Rosewood Community Development Corporation expired in 2016. The Parks and Recreation Department became aware of the term expiration in May 2017 and has worked diligently since that time to draft a new agreement, negotiate terms and seek Austin-Rosewood Community Development Corporation approval.

The agreement includes the following highlights:

- The agreement term ends on September 30, 2028 and may be extended for up to three additional terms, with the length of each additional term to be agreed to in writing by the City and the Corporation.
- The Corporation shall enter into an agreement with a Facility Manager to operate, manage and use the property to provide a community, sports, entertainment, convention and exhibition venue for the benefit of the City and the public.
- The City will make quarterly advance payments (October, January, April and July) on allowable costs to the Corporation in an amount not to exceed the Corporation's annual budget via submission of a billing package to the Parks and Recreation Department contract manager. Advance payments may only be used for operation of the MYEC as set forth each year in the annual budget.
- Advances will be deposited into a special revenue account which will only be used for the payment of bills related to the operation of the MYEC, for payment of any revenue income due to the City and for other items in the annual budget.
- The agreement does not financially obligate the City and the City's payment obligations to the Corporation are payable only from funds appropriated or available for the purpose of the agreement.
- Examples of allowable costs that require prior written authorization from the City include encumbrances or expenditures during any one-month period which exceed one-twelfth of any budgeted line item for personnel costs; any subcontract in an amount greater than \$5,000 except in an emergency; out-of-town travel, meals, lodging, and entertainment, including, but not limited to, fees for attending out-of-town meetings, seminars, or conferences; alterations or improvements to the Property; alterations, deletions or additions to the personnel schedule incorporated in the Corporation annual budget; costs for temporary employees, services or consultants in an amount greater than \$5,000.
- The City and the Corporation will enter into a separate agreement to address program income which may include gifts of money or things of value and earnings realized from activities undertaken in accordance with the Agreement or from the Corporation's management of funding such as interest income, usage or rental fees, income produced from agreement-supported services or from the use of equipment or facilities or payments from clients or third parties for services rendered by the Corporation.
- The Corporation will provide a draft annual budget for the upcoming fiscal year on or before January 1 of each year during the term of the agreement as well as shall submit a performance report and budgeted/actual variance report, in a form required by the City, on a periodic basis, but not less often than semi-annually, as determined by the City.
- The City will perform administrative services such as providing general oversight of corporate activities to be performed by the Corporation, to post notices of Board meetings in compliance with the Texas Open Meetings Act, to make required filings with the Texas Secretary of State and to provide such other services as the parties agree to in writing.

Council's authorization will allow the City Manager to execute the Funding, Operations and Administrative Agreement between the Austin-Rosewood Community Development Corporation and the City of Austin.

**Strategic Outcome(s):**

Economic Opportunity; Health & Environment; Culture & Lifelong Learning.