

## CM Kitchen MOTION SHEET

### Motion to Amend: Item 11

#### **Addendum 2 Cultural Trust Project:**

##### 1. Description of Project

The City authorizes and directs the AEDC to proceed with the pursuit, planning, assessment, promotion, procurement, acquisition, development, construction and operation of creative spaces and facilities as part of a cultural trust to support the preservation of creative space for the benefit of the public, supporting artists and organization of the arts, the preservation of historic and iconic cultural buildings and spaces for creative and cultural uses, **iconic venue projects described in Resolution 2021203—046**, and the overall promotion of creative and cultural arts within the City (the “Cultural Trust Project”). Such undertakings shall include, without limitation, the following:

(d) Hotel Occupancy Tax (“HOT”) Funds. The City has appropriated HOT funds for Iconic Venues to be utilized by the AEDC. These funds must be administered in accordance with the requirements of Section 8.3 of the Interlocal Agreement. As of the effective date of the Interlocal Agreement, these funds are in an initial amount of \$2.4 million. The work ~~is contemplated~~ to be completed using these funds, **and or/other potential funding sources for a total funding amount of \$15M, and in accordance with the provisions** is set forth in Resolution 20201203-046, **Exhibit A to this Addendum 2.**

#### **Rationale:**

The amendments provide added clarity to Addendum 2 regarding the originating resolution, as is currently reflected in the other two addendums 1 and 3.

#### **Addendum 3 Cultural Trust City Facilities Project:**

##### 1. Description of Project

The City Facilities shall be owned by the City. ~~, but, if such lease is reviewed and approved by the City’s General Obligation Bond and Tax Counsel (City’s bond and tax counsel) may be leased to the AEDC to be used for the Cultural Trust and operated for the exclusive benefit of the City. If a lease is not approved by the City’s bond and tax counsel, the facilities can be operated by the AEDC pursuant to a qualified management agreement approved by the City’s bond and tax counsel.~~ The City Facilities at all times shall be dedicated to the creation, exhibition, or preservation of art and creative expression, **shall be operated and managed in accordance with prior Council actions, including specifically the contract with**

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the voters as it relates to the City Facilities, and no portion of the City Facilities shall be used for private or economic development purposes. ~~The City Facilities shall further also be operated and managed in accordance with the contract with the voters as it relates to these facilities. The facilities shall also be~~ and so as not to impair the tax-exempt status of the bonds issued for the to finance the City Facilities. Upon approval of Council, the City Facilities shall be leased by the City to the AEDC to be used for the Cultural Trust and operated for the exclusive benefit of the City; provided, that prior to the execution of the lease, if the City's General Obligation Bond and Tax Counsel (City's bond and tax counsel) advises the City that the terms of the lease would result in the bonds not qualifying or no longer qualifying as tax-exempt obligations under the Internal Revenue Code of 1986 (the Code), the City Facilities may be operated by the AEDC pursuant to a qualified management agreement that the City's bond and tax counsel determines would not cause the interest on the bonds to be includable in gross income for purposes of the Code. Without the prior consent of Council, the AEDC may not convey, mortgage, or otherwise transfer or encumber its rights to the City Facilities.

When the AEDC conducts the procurement for the facilities funded with the tax-exempt bonds, the solicitation from the AEDC for the use of the bond funds will encourage respondents to propose a broad range of scenarios for consideration, including lease/purchase options. Any proposed scenario will be subject to legal review and, like all other proposals, the deal structure's level of risk will be considered in evaluating the merits of the proposal.

At such time as the bonds issued for the purpose of financing the City Facilities are no longer outstanding in accordance with their terms, the city may sell or otherwise transfer the City Facilities to the AEDC or other purchaser consistent with the laws of the State of Texas relating to sale of city property and the direction of Council.

### Rationale:

The amendments clarify the scope of the project and use of creative space bonds to provide flexibility that aligns with the project's RFI.