

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

DEPARTMENT: Economic and International Development Department
AGENDA DATE: CCA Regular 05/15/2018
CONTACT PERSON/PH. No.: Jessica Herrera, Director 915-212-1624
DISTRICT(S) AFFECTED: District 8

SUBJECT:

That the City Manager be authorized to sign the First Amendment to the Chapter 380 Economic Development Incentive Agreement, originally approved on September 19, 2017, between the CITY OF EL PASO ("City") and WESTSTAR TOWER LLC ("Company"), amending provisions governing pre-construction development; subject to the terms and conditions in the First Amendment to the Economic Development Program Grant Agreement. (District 8) [Economic and International Development, Jessica Herrera, 915-212-1624].

On September 19, 2017 the original chapter 380 agreement was approved. The first amendment will increase the original proposed investment by \$15,000,000 from \$70,000,000 to \$85,000,000. These funds will be applied to building two additional floors for office space and one additional floor for parking for a total of 18 floors.

BACKGROUND / DISCUSSION:

On September 19, 2017, City Council approved the Chapter 380 Economic Development Program Agreement was approved for an aggregate total of \$10,515,433. Hunt Mesa, LLC is proposing to build two additional floors for office space and one additional floor for parking for a total of 18 floors. The proposed new multi-tenant, multi-level "Class A" office building, would be the first high-rise office building developed in Downtown El Paso in approximately 40 years.

This first amendment will increase the original proposed investment by \$15,000,000 from \$70,000,000 to \$85,000,000, the incentive term will increase the incremental property tax rebate by five years from fifteen to twenty years and will increase the construction materials sales tax rebate. The aggregate grant amount will increase by \$3,518,622 and shall not exceed \$18,794,356.

Economic Development Department Staff is recommending City Council approval of the Chapter 380 Economic Incentive Agreement as this will increase economic development activity in the downtown area.

PRIOR COUNCIL ACTION:

Has the Council previously considered this item or a closely related one?

Yes, Executive Session on May 1, 2017

AMOUNT AND SOURCE OF FUNDING:

How will this item be funded? Has the item been budgeted? If so, identify funding source by account numbers and description of account. Does it require a budget transfer?

General Fund

BOARD / COMMISSION ACTION:

N/A

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

DEPARTMENT HEAD:

For


CITY CLERK DEPT.
2018 MAY 9 PM3:32

RESOLUTION

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF EL PASO:

That the City Manager be authorized to sign the first amendment to the Economic Development Incentive Agreement between CITY OF EL PASO ("City") and WESTSTAR TOWER LLC ("Company") in support of the redevelopment, construction, and operation of a new multi-level, multi-tenant building with Class A office space to be located at 601 North Mesa Street, El Paso, Texas.

APPROVED this ____ day of _____, 2018


CITY OF EL PASO

Dee Margo
Mayor

ATTEST:

Laura D. Prine
City Clerk

APPROVED AS TO FORM:


Roberta Brito
Assistant City Attorney

APPROVED AS TO CONTENT:

Jessica Herrera, Director
Economic & International Development

STATE OF TEXAS)
)
COUNTY OF EL PASO)

**FIRST AMENDMENT TO CHAPTER 380
ECONOMIC DEVELOPMENT PROGRAM
AGREEMENT**

This First Amendment to Chapter 380 Economic Development Program Agreement ("First Amendment") is made this _____ day of _____, 2018, by and between the CITY OF EL PASO, TEXAS (the "City"), a Texas home rule municipal corporation, and WESTSTAR TOWER, LLC, a Delaware limited liability company (the "Company"). Capitalized terms not defined herein shall have the meanings given to them in the Agreement.

WHEREAS, on September 19, 2017, the City and Company entered into a Chapter 380 Economic Development Program Agreement (the "Agreement").

WHEREAS, the Company has requested, and the City has agreed, to amend certain terms and provisions contained in the Agreement as more particularly described below.

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Company agree as follows:

1. The definition of "Development" in Section 1(L) of the Agreement is amended to add the following sentence to the end of the definition:

Such Development is preliminarily depicted in Exhibit A-1 and Exhibit A-2, which are attached hereto and incorporated herein for all purposes but which shall be replaced with the final renderings of the Development upon completion of the design process.

2. The second sentence in the definition of "Grant" in Section 1(R) of the Agreement is amended to read as follows:

For the purpose of this Agreement, the aggregate Grant amount shall not exceed \$14,034,055.00, excluding the amount of the (i) Development Fee Rebate and (ii) any Special Privilege fees or taxes waived as provided in Section 4.H below.

3. The definition of "Minimum Investment" in Section 1(U) of the Agreement is amended in its entirety to read as follows:

Minimum Investment: The words "Minimum Investment" mean those costs, including hard costs, soft costs and acquisition costs incurred by the Company or third parties in the construction, or furnishing of the improvements thereon, including tenant improvements, in the Building, the finish-out of such improvements and the purchase and installation of personal property for the Project, to include cash and in-kind contributions in an amount not less than \$85,000,000.00.

4. The definition of "Project" in Section 1(V) of the Agreement is amended in its entirety to read as follows:

Project: Is defined in the recitals and is more particularly described in Exhibit A-1 and Exhibit A-2 attached hereto and incorporated herein by reference.

5. The definition of “Property” in Section 1 (W) of the Agreement is amended in its entirety to read as follows:

Property: Means the real property located at 601 N. Mesa Street, El Paso, Texas, as more specifically described in Exhibit A, and the improvements located thereon.

6. The definition of “Qualified Expenditures” in Section 1(Y) of the Agreement is amended in its entirety to read as follows:

Qualified Expenditures: The words “Qualified Expenditures” means all costs incurred by the Company, or the Company’s successors as permitted by the terms of this Agreement, and paid to third parties for the construction and completion of the Development and the tenant improvements in the Building, including acquisition costs, hard costs, soft costs and costs to finish-out tenant improvements.

7. The first paragraph of Section 2 of the Agreement is amended in its entirety to read as follows:

“The term of this Agreement shall be 24 years from the Effective Date of this Agreement, including any renewal agreed upon by the parties.”

8. The third paragraph of Section 2 of the Agreement is amended in its entirety to read as follows:

The Company’s eligibility for Grant payments shall be limited to 20 years (the “Grant Period”) within the terms of this Agreement. During the Grant Period, the City shall review the Company’s eligibility for Grant Payments on an annual basis in accordance with Exhibit C.

9. Section 3(A) of the Agreement is amended to replace the dollar amount of “\$70,000,000.00” with the dollar amount of “\$85,000,000.00” in the two places it appears in the paragraph.

10. Section 4(D) of the Agreement is amended to replace the dollar amount of “\$450,000.00” with the dollar amount of “\$500,000.00” in the one place it appears in the paragraph.

11. Section 4(F) of the Agreement is amended in its entirety to read as follows:

Property Tax Rebate. Beginning the 1st year after the termination of the Abatement Agreement and continuing for 10 years thereafter; City shall rebate to the Company 100% of the City’s portion of the incremental ad valorem real and personal property tax revenue generated by the Development/Project above the Base Year Value. This aggregated rebate amount shall not exceed \$6,433,082.00.

12. Section 4.G of the Agreement is amended to replace the dollar amount of “\$10,515,433.00” with the dollar amount of “\$14,034,055.00” in the one place it appears in the paragraph.
13. All other terms and conditions of the Agreement not expressly modified by this First Amendment shall remain in full force and effect as written.
14. In order to expedite the processing of the signatures, the parties to this First Amendment have agreed that multiple signed counterparts are acceptable.

[Signatures and Acknowledgements Begin on Following Page]

IN WITNESS WHEREOF, the parties have executed this First Amendment to be effective as of the ____ day of _____, 2018.

CITY OF EL PASO, TEXAS

By: _____
Tomás González
City Manager

Approved as to form:

Roberta Brito
Roberta Brito
Assistant City Attorney

Approved as to content:

Jessica Herrera, Director
Economic & International Development

ACKNOWLEDGMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on the ____ day of _____, 2018, by Tomás González, City Manager of the City of El Paso.

Notary Public, State of Texas

My Commission Expires:

[Signatures and Acknowledgements Continue on Following Page]

CITY CLERK DEPT.
2018 MAY 10 AM 11:37

IN WITNESS WHEREOF, the parties have executed this First Amendment to be effective as of the _____ day of _____, 2018.

WESTSTAR TOWER, LLC, a Delaware limited liability company

By: Hunt ELP, Ltd., a Texas limited partnership, Member

By: _____
Name: _____
Title: _____

ACKNOWLEDGMENT

STATE OF TEXAS)
)
COUNTY OF EL PASO)

This instrument was acknowledged before me on the _____ day of _____, 2018, by _____, _____ of Hunt ELP, Ltd., a Texas limited partnership, Member of WestStar Tower, LLC, a Delaware limited liability company, on behalf of said limited liability company.

Notary Public, State of Texas

My Commission Expires:

Exhibit A-1



Exhibit A-2

