

FIRST AMENDMENT TO CHAPTER 377 PROJECT FUNDING AGREEMENT ECONOMIC DEVELOPMENT AGREEMENT BETWEEN THE CITY OF FAIR OAKS RANCH, TEXAS AND THE FAIR OAKS RANCH MUNICIPAL DEVELOPMENT DISTRICT

This First Amendment ("First Amendment") to the Agreement between the City of Fair Oaks Ranch and the Fair Oaks Ranch Municipal Development District dated September 25, 2020 ("Funding Agreement") is made and entered by and between the City of Fair Oaks Ranch, Texas ("City") and the Fair Oaks Ranch Municipal Development District ("MDD").

RECITALS

WHEREAS, on September 25, 2020, the City and MDD entered into a Funding Agreement for a Civic Center; and,

WHEREAS, the Funding Agreement between the City and the MDD is set to expire on September 20, 2023; and,

WHEREAS, the Funding Agreement may be amended by mutual written agreement of the Parties, as approved by the governing bodies of the MDD and City; and,

WHEREAS, both parties have determined a three-year extension (1,095 days) of the Funding Agreement is in the best interest of the residents of Fair Oaks Ranch; and,

WHEREAS, the approximate square footage of the Civic Center has changed from approximately 3,000-4,000 square feet to 3,000-5,000 square feet; and,

WHEREAS, the Funding Agreement states that upon the completion of the Facility and receipt of a certificate of occupancy, as contemplated by the Agreement, the MDD agrees to reimburse the City up to SIX HUNDRED THOUSAND DOLLARS AND NO CENTS (\$600,000.00); and,

WHEREAS, this Amendment changes the reimbursement amount from the MDD to the City up to ONE MILLION TWO HUNDRED THOUSAND DOLLARS AND NO CENTS (\$1,200,000.00).

NOW, THEREFORE, in consideration of the foregoing recitals and of the mutual promises and covenants hereinafter contained, the City and MDD in this First Amendment to the Funding Agreement, agree to amend the Funding Agreement as follows in Parts 1, 2, 3, 4, and 5 below. All other terms and conditions of the Funding Agreement not expressly amended by this First Amendment shall continue in full force and effect.

Part 1: Article III - Definitions

“Facility” means the planned Fair Oaks Ranch Civic Center that will add approximately 3,000-5,000 square feet of flexible, and highly functional meeting and event space to be built on property owned by the City and including public meeting space, conference rooms and a kitchen for the express purpose of creating a welcoming gathering space for private and public events using flexible space for community programs, private and public meetings, city staff, and resident use.

“Maximum Grant Amount” or “Maximum Total Amount of Grant Payment” means an amount not to exceed *ONE MILLION TWO HUNDRED THOUSAND DOLLARS AND NO CENTS (\$1,200,000.00)*.

Part 2: Article IV - Facility

Description of the Facility. Located in the Heart of the City of Fair Oaks Ranch, the Civic Center will add approximately *3,000-5,000 square feet* of flexible and highly functional meeting and event space. The center will be built on property owned by the City and will replace a time-worn existing City building and will include public meeting space, conference rooms and a kitchen. The exterior façade of the new civic center will be enhanced with building material repurposed from the existing building to ensure the unique hill country theme of the municipal campus is maintained.

The purpose of the project is to create a welcoming gathering space for private and public events. The center will maximize flexible space for community programs, private and public meetings, city staff, and resident use while minimizing cost relative to square footage. The civic center will feature the following:

- A new building that helps create a community gathering space for residents.
- *3,000-5,000 square feet* of flexible, highly functional space, inclusive of a Board room to better accommodate large capacity town hall meeting formats.
- Design elements that strengthen and celebrate Fair Oaks Ranch’s Hill County aesthetic.
- A seamless transition between City Hall complex buildings and maximized greenspace.
- Kitchen facility to enhance catering needs for events and meetings.
- Outdoor seating areas.

Part 3: Article V – City’s Obligations

2. Default

- a. **Construction.** Failure to complete the construction of the Facility within ONE THOUSAND NINETY-FIVE DAYS (1,095) days from the *date this First Amendment is fully executed*, shall cause the automatic termination of this Agreement without the need for any further action by the MDD; and, the MDD shall have no obligation to make any Grant Payments to City. Enforcement of this section is subject to Force Majeure. In the event of unforeseeable third-party delays, which are not Force Majeure, and upon a reasonable showing by City that it has in good faith commenced and is diligently pursuing the correction, removal or abatement of such delays by using commercially reasonable efforts, the MDD may consent to and excuse any such delays.

Part 4: Article VI – MDD’s Obligation

1. **Grant Payments.** Provided City is in full compliance with the terms of this Agreement and is not in Default, upon receipt of both a Certificate of Occupancy and Notice of Substantial Completion as defined in the contract for construction for the Facility, a Grant Payment not to exceed *ONE MILLION TWO HUNDRED THOUSAND DOLLARS AND NO CENTS (\$1,200,000.00)* shall be made from MDD to City.
3. **Maximum Total Amount of Grant Payment.** The maximum total amount of any Grant Payment authorized by this Agreement shall not exceed *ONE MILLION TWO HUNDRED THOUSAND DOLLARS AND NO CENTS (\$1,200,000.00)*.

Part 5: Article VIII – Termination

- 1. Termination.** This Agreement shall terminate upon the earliest occurrence of any one or more of the following:
 - (a) The written agreement of the Parties;
 - (b) The Agreement's Expiration Date, 1,095 days from *the date this First Amendment is fully executed*;
 - (c) Default by City; or
 - (d) Payment of the maximum funds contemplated herein.

Executed on this _____ day of _____, 2023.

MDD

By: _____
Laura Koerner, MDD President

ATTEST:

By: _____
Rachelle Garcia, MDD Secretary

Executed on this _____ day of _____, 2023.

CITY

By: _____
Scott M. Huizenga, Interim City Manager

ATTEST:

By: _____
Christina Picioccio, City Secretary