

CITY OF LAREDO

SPECIAL CITY COUNCIL MEETING

A-2015-SC-07

CITY COUNCIL CHAMBERS
1110 HOUSTON STREET
LAREDO, TEXAS 78040
TUESDAY, SEPTEMBER 15, 2015
12:00 NOON



DISABILITY ACCESS STATEMENT



Persons with disabilities who plan to attend this meeting and who may need auxiliary aid or services are requested to contact Gustavo Guevara, City Secretary at (956) 791-7308 at least two working days prior to the meeting so that appropriate arrangements can be made. The accessible entrance and accessible parking spaces are located at City Hall, 1100 Victoria Ave.

Out of consideration for all attendees of the City Council meetings, please turn off all cellular phones and pagers, or place on inaudible signal. Thank you for your consideration.

I. CALL TO ORDER

II. PLEDGE OF ALLEGIANCE

III. ROLL CALL

IV. PUBLIC HEARING AND INTRODUCTORY ORDINANCES

1. **Public hearing and introductory ordinance** authorizing the City Manager to ratify the contract amendment from the Department of State Health Services (DSHS) and amending the FY 2014-2015 budget by appropriating additional revenues and expenditures in the amount of \$605,000.00 for a total of \$6,162,724.00 for the continuation of the City of Laredo Health Department Women, Infants, and Children (WIC) Program for the term period from October 1, 2014 through September 30, 2015 to provide supplemental nutrition services for Webb and surrounding counties.

V. INTRODUCTORY ORDINANCES

2. Providing that the property tax rate (revenue) be increased by the adoption of a tax rate of \$0.637000 per \$100 value, which is effectively a 2.88 percent increase in the tax rate (revenue). This tax rate, which has been the same since Tax Year 2004, will have a Maintenance and Operation Rate of \$0.493751 per \$100 value and a Interest and Sinking Fund Rate of \$0.143249 per \$100 value for the levy and the collection of General and Special Ad Valorem taxes for the City of Laredo for Tax Year 2015 and Fiscal Year 2015-2016. **(This will be the twelfth year that the City would adopt this same rate.)**

3. Authorizing the City Manager to execute a restated master lease agreement for the lease of 14.5 acres of Airport Property located on Saunders Street and authorizing the City Manager to execute a ground lease estoppel certificate, confirmation and modification agreement, stipulating that the Lessee is in good standing with the City once payment of past due additional rent in an amount that exceeds \$1,600,000.00.

VI. FINAL READINGS

4.

2015-O-131 Establishing rental rates and tenant policies for the rental housing project located at 1901 Farragut providing for rents to be charged at low HOME rents; occupancy to be limited to persons aged 62 years or older with incomes at or below 50% of the Area Median Income as set by the U.S. Department of Housing and Urban Development; and leasing of the units on a first come first serve basis.

VII. ADJOURNMENT

This notice was posted at the Municipal Government Offices, 1110 Houston Street, Laredo, Texas, at a place convenient and readily accessible to the public at all times. Said notice was posted on Friday, September 11, 2015 at 6:30 p.m.

Gustavo Guevara, Jr.
City Secretary

City Council-Special

Meeting Date: 09/15/2015

Initiated By: Cynthia Collazo, Deputy City Manager

Staff Source: Ronnie Acosta, Community Development Department

SUBJECT

2015-O-131 Establishing rental rates and tenant policies for the rental housing project located at 1901 Farragut providing for rents to be charged at low HOME rents; occupancy to be limited to persons aged 62 years or older with incomes at or below 50% of the Area Median Income as set by the U.S. Department of Housing and Urban Development; and leasing of the units on a first come first serve basis.

VENDOR INFORMATION FOR COMMITTEE AGENDA

N/A

PREVIOUS COUNCIL ACTION

09/08/2015- Ordinance was introduced at the City Council Chambers to Authorize the City manager to establish rental rates and tenant policies for the rental housing project located at 1901 Farragut.

BACKGROUND

The City of Laredo has constructed four rental housing units consisting of two- two bedroom units and two- one bedroom units located at 1901 Farragut. These rental units were funded in great through the U.S. Department of Housing and Urban Development's HOME Investment Partnerships Program and Laredo Municipal Housing Enterprise funds. As such, the rental of these units must benefit persons of low income and provide for affordable rents in compliance with HOME program rules and regulations.

Proposed are initial rents of \$402 monthly for a 1 bedroom unit and \$ \$479 for a two bedroom unit. The rental rates are subject to change as HOME program rents are set annually by the U.S. Department of Housing and Urban Development.

Based on the great need that exists in the community to provide affordable housing to elderly individuals in the City of Laredo, it is proposed that occupancy of the units be limited to persons 62 years of age or older who are of very low income with incomes at or below 50% of the area median income as set annually by HUD.

COMMITTEE RECOMMENDATION

N/A

STAFF RECOMMENDATION

That this ordinance be passed.

Attachments

Ordinance

ORDINANCE NO. 2015-O-131

ESTABLISHING RENTAL RATES AND TENANT POLICIES FOR THE RENTAL HOUSING PROJECT LOCATED AT 1901 FARRAGUT PROVIDING FOR RENTS TO BE CHARGED AT LOW HOME RENTS; OCCUPANCY TO BE LIMITED TO PERSONS AGED 62 YEARS OR OLDER WITH INCOMES AT OR BELOW 50% OF THE AREA MEDIAN INCOME AS SET BY THE U.S. DEPARTMENT OF HOUSING AND URBAN DEVELOPMENT; AND LEASING OF THE UNITS ON A FIRST COME FIRST SERVE BASIS.

WHEREAS, the City of Laredo has constructed four rental housing units consisting of two- two bedroom units and two- one bedroom units located at 1901 Farragut; and

WHEREAS, the rental units were funded in great through the U.S. Department of Housing and Urban Development's HOME Investment Partnerships Program and Laredo Municipal Housing Enterprise funds; and

WHEREAS, the rental units constructed must benefit persons of low income and provide for affordable rents in compliance with HOME program rules and regulations; and

WHEREAS, there exists a great need in the community to provide affordable housing to elderly individuals in the City of Laredo

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAREDO THAT:

1. Rental rates and tenant policies for the rental housing project located at 1901 Farragut be established providing for rents to be charged at low HOME rents; occupancy be limited to persons aged 62 years or older with incomes at or below 50% of the area median income as set by the U.S. Department of Housing and Development and leasing of the rental units on a first come first serve basis.
2. This Ordinance shall become effective upon passage thereof.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR ON THIS,
THE _____ DAY OF _____, 2015

PETE SAENZ
Mayor

ATTEST:

GUSTAVO GUEVARA, JR.
City Secretary

APPROVED AS TO FORM:
RAUL CASSO
City Attorney

By: Doanh "Zone" T. Nguyen

Public Hearings (also Intro Ord)

City Council-Special

Meeting Date: 09/15/2015

Initiated By: Cynthia Collazo, Deputy City Manager

Staff Source: Hector F. Gonzalez, MD, MPH, Director of Health

SUBJECT

Public hearing and introductory ordinance authorizing the City Manager to ratify the contract amendment from the Department of State Health Services (DSHS) and amending the FY 2014-2015 budget by appropriating additional revenues and expenditures in the amount of \$605,000.00 for a total of \$6,162,724.00 for the continuation of the City of Laredo Health Department Women, Infants, and Children (WIC) Program for the term period from October 1, 2014 through September 30, 2015 to provide supplemental nutrition services for Webb and surrounding counties.

VENDOR INFORMATION FOR COMMITTEE AGENDA

N/A

PREVIOUS COUNCIL ACTION

On January 20, 2015 Council approved Resolution 2014-R-11.

BACKGROUND

The Texas Department of State Health Services has contracted with the City of Laredo to continue to provide public health services to residents of Webb, Duval, Jim Hogg, Zapata, Brooks, Jim Wells, Kleberg, and Live Oak Counties through the City of Laredo Health Department (CLHD) for wellness, nutrition services and food supplemental services through the Women, Infant and Children (WIC) Program. The WIC Program provides health screening, nutrition education and counseling, breastfeeding education and counseling, food supplemental services for whole grains, fruits, vegetables and dairy products, referrals to other programs, and immunizations at no cost to high risk, low income, eligible residents who are pregnant, lactating, infants, and children up to age five who are identified to have a nutritional risk. The additional funding will cover a new modular building for the WIC Clinics and operations

COMMITTEE RECOMMENDATION

NA

STAFF RECOMMENDATION

Staff recommends that Council introduce the Ordinance.

Fiscal Impact

Fiscal Year: 2015

Budgeted Y/N?:

Source of Funds:

Account #:

Change Order: Exceeds 25% Y/N:

FINANCIAL IMPACT:

The revenue line item 226-0000-323-4003 and expenditure division 226-6009 with Project Number HEWC07 will increase by \$605,000.

Attachments

WIC Amendment

Ordinance

Budget

DEPARTMENT OF STATE HEALTH SERVICES



Amendment #2

The Department of State Health Services (DSHS) and City of Laredo Health Department (Contractor) agree to amend Contract ID#2015-047370 (Contract), DSHS Program: NSS/WIC LOCAL AGENCY; which was effective on October 1, 2014. This Contract has been amended prior to this Amendment.

- I. The Parties agree to amend this Contract's Program Attachment #001A to #001B.
- II. The Parties agree to amend Section VII. BUDGET of this Contract to read as follows: Total reimbursements will not exceed: \$6,162,724.00 (increase of \$605,000)
- III. Except as provided in this Amendment, all other terms and conditions in the Contract and its Program Attachment will remain and be in full effect.
- IV. This Amendment is effective on July 27, 2015.

By signing this Amendment, the undersigned certify that they have the authority to bind their respective party to this Amendment's terms and conditions.

Department of State Health Services

Contractor

By: _____
Kirk Cole
Commissioner

By: _____
Name: _____
Title: _____

Date: _____

Date: _____

ORDINANCE

AUTHORIZING THE CITY MANAGER TO RATIFY THE CONTRACT AMENDMENT FROM THE DEPARTMENT OF STATE HEALTH SERVICES (DSHS) AND AMENDING THE FY 2014-2015 BUDGET BY APPROPRIATING ADDITIONAL REVENUES AND EXPENDITURES IN THE AMOUNT OF \$605,000.00 FOR A TOTAL OF \$6,162,724.00 FOR THE CONTINUATION OF THE CITY OF LAREDO HEALTH DEPARTMENT WOMEN, INFANTS, AND CHILDREN (WIC) PROGRAM FOR THE TERM PERIOD FROM OCTOBER 1, 2014 THROUGH SEPTEMBER 30, 2015 TO PROVIDE SUPPLEMENTAL NUTRITION SERVICES FOR WEBB AND SURROUNDING COUNTIES

WHEREAS, the Texas Department of State Health Services has contracted with the City of Laredo to continue to provide public health services to residents of Webb, Duval, Jim Hogg, Zapata, Brooks, Jim Wells, Kleberg, and Live Oak Counties through the City of Laredo Health Department (CLHD) for wellness, nutrition services and food supplemental services through the Women, Infant and Children (WIC) Program; and

WHEREAS, the WIC Program provides health screening, nutrition education and counseling, breastfeeding education and counseling, food supplemental services for whole grains, fruits, vegetables and dairy products, referrals to other programs, and immunizations at no cost to high risk, low income, eligible residents who are pregnant, lactating, infants, and children up to age five who are identified to have a nutritional risk. The additional funding will cover a new modular building for the WIC Clinics and operations.

NOW, THEREFORE BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF LAREDO THAT:

Section 1: The City Manager is hereby authorized to ratify the contract amendment from the Department of State Health Services (DSHS) and amending the FY 2014-2015 budget by appropriating additional revenues and expenditures in the amount of \$605,000.00 for a total of \$6,162,724.00 for the continuation of the City of Laredo Health Department Women, Infants, and Children (WIC) Program for the term period from October 1, 2014 through September 30, 2015 to provide supplemental nutrition services for Webb and surrounding counties.

Section 2: The revenue line item 226-0000-323-4003 and expenditure division 226-6009 with Project Number HERWC07 are hereby increased by \$605,000.

Section 3: The City Manager is hereby authorized to make transfers within the budget as allowable to meet the necessary costs to accomplish the scope of work for the program.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR ON THIS _____ DAY OF _____, 2015.

**PETE SAENZ
MAYOR**

ATTEST:

**GUSTAVO GUEVARA, JR.
CITY SECRETARY**

APPROVED AS TO FORM:

**RAUL CASSO
CITY ATTORNEY**

**KRISTINA K. LAUREL HALE
ASSISTANT CITY ATTORNEY**

BUDGET (6008; HEWI07)

CATEGORIES				
REVENUES		Original	Amended	New Total
REVENUES	\$	4,573,325	0	4,573,325
PROGRAM INCOME				
TOTAL	\$	4,573,325	0	4,573,325
EXPENSES				
PERSONNEL	\$	2,051,352	0	2,051,352
FRINGE BENEFITS		1,045,042	0	1,045,042
TRAVEL		38,500	0	38,500
EQUIPMENT		0	0	0
SUPPLIES		122,899	0	122,899
CONTRACTUAL		44,500	0	44,500
OTHER		1,271,032	0	1,271,032
TOTAL AWARD	\$	4,573,325	0	4,573,325
TOTAL	\$	4,573,325	0	4,573,325

BUDGET (6009; HEWC07)

CATEGORIES				
REVENUES		Original	Amended	New Total
REVENUES	\$	984,399	605,000	1,589,399
PROGRAM INCOME				
TOTAL	\$	984,399	605,000	1,589,399
EXPENSES				
PERSONNEL	\$	544,415	0	544,415
FRINGE BENEFITS		266,700	0	266,700
TRAVEL		12,284	0	12,284
EQUIPMENT		0	0	0
SUPPLIES		56,000	0	56,000
CONTRACTUAL		0	0	0
OTHER		105,000	605,000	710,000
TOTAL AWARD	\$	984,399	605,000	1,589,399
TOTAL	\$	984,399	605,000	1,589,399

Introductory Ordinances

City Council-Special

Meeting Date: 09/15/2015

Initiated By: Horacio De Leon, Assistant City Manager

Initiated By: Horacio De Leon, Jr., Assistant City Manager

Staff Source: Elizabeth Martinez, RTA, Tax Assessor-Collector

SUBJECT

Providing that the property tax rate (revenue) be increased by the adoption of a tax rate of \$0.637000 per \$100 value, which is effectively a 2.88 percent increase in the tax rate (revenue). This tax rate, which has been the same since Tax Year 2004, will have a Maintenance and Operation Rate of \$0.493751 per \$100 value and a Interest and Sinking Fund Rate of \$0.143249 per \$100 value for the levy and the collection of General and Special Ad Valorem taxes for the City of Laredo for Tax Year 2015 and Fiscal Year 2015-2016. **(This will be the twelfth year that the City would adopt this same rate.)**

VENDOR INFORMATION FOR COMMITTEE AGENDA

Not Applicable

PREVIOUS COUNCIL ACTION

On August 3, 2015, Council made a motion to approve the 2015 Certified Appraisal Roll from the Webb County Appraisal District for the development of the City's tax roll; accept the Effective and Rollback Tax Rate calculations for Tax Year 2015; and accept the tax rate of \$.637000/\$100 used in calculating property tax revenues for the 2015-2016 Proposed Budget.

The First Public Hearing was held on August 17, 2015 and the Second on September 8, 2015.

BACKGROUND

Adoption of the ad valorem tax rate must be done in accordance with the truth-in-taxation guidelines of the State of Texas Property Tax Code. This includes the calculation and publication of the effective tax rate and the posting of notices and the holding of two public hearings, if the tax rate exceeds the lower of the rollback rate or effective tax rate.

The budget prepared by staff is based on the tax rate of \$0.637000 per \$100 value. The rate of \$0.493751 per \$100 value is being used for the operations portion of the budget and a rate of \$0.143249 per \$100 value is needed in order to service the tax supported debt requirements of the City.

Proposed Tax Rate	\$0.637000 per \$100 value
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Current Tax Rate	\$0.637000 per \$100 value
Difference	\$0.000000 per \$100 value

Proposed tax levy calculations are as follows:

2015 Certified Value, including WCAD supplement 1 changes.

Certified Taxable Value	11,852,849,427
Under ARB Review (Lower Value)	4,815,920
Total Certified Taxable Value	11,857,665,347
Tax Levy @ 0.637000/\$100	75,533,328
Tax Freeze Levy Loss	(477,279)
Adjusted Levy	75,056,049

COMMITTEE RECOMMENDATION

Not Applicable

STAFF RECOMMENDATION

To adopt a tax rate of \$0.637000 per \$100 value for Tax Year 2015 with a Maintenance and Operation Rate of \$0.493751 per \$100 value and a Interest and Sinking Fund Rate of \$0.143249 per \$100 value.

Fiscal Impact

Fiscal Year:

Budgeted Y/N?:

Source of Funds:

Account #:

Change Order: Exceeds 25% Y/N:

FINANCIAL IMPACT:

This ordinance provides property tax revenue for the maintenance and operation of the city and payment of the Interest and Sinking Fund of Debt Service.

Attachments

Introductory Ordinance

ORDINANCE

PROVIDING THAT THE PROPERTY TAX RATE (REVENUE) BE INCREASED BY THE ADOPTION OF A TAX RATE OF \$0.637000 PER \$100 VALUE, WHICH IS EFFECTIVELY A 2.88 PERCENT INCREASE IN THE TAX RATE (REVENUE). THIS TAX RATE, WHICH HAS BEEN THE SAME SINCE TAX YEAR 2004, WILL HAVE A MAINTENANCE AND OPERATION RATE OF \$0.493751 VALUE AND AN INTEREST AND SINKING FUND RATE OF \$0.143249 PER \$100 VALUE FOR THE LEVY AND THE COLLECTION OF GENERAL AND SPECIAL AD VALOREM TAXES FOR THE CITY OF LAREDO FOR TAX YEAR 2015 AND FISCAL YEAR 2015-2016. (This will be the twelfth year that the City would adopt this same rate.)

WHEREAS, there is hereby approved for the Tax Year 2015 a roll of total taxable value of \$11,857,665,347, a tax freeze levy loss of \$477,279, a tax levy of \$75,056,049 and a tax rate of \$0.637000 (Totals are based on certified and supplemental values provided by the Webb County Appraisal District (WCAD) on July 24, 2015 and September 3, 2015. THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE. THE TAX RATE WILL EFFECTIVELY BE RAISED BY 3.31 PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$2.03; and

WHEREAS, there is hereby levied on all real and personal property in the City of Laredo taxable by law, for the Tax Year 2015 and the fiscal year beginning October 1, 2015 and ending September 30, 2016, a general ad valorem tax of \$0.493751 cents on every \$100.00 valuation thereof for the GENERAL FUND of the City with which to pay current expenses of the City of Laredo for said fiscal year; and

WHEREAS, there is hereby levied on every \$100 valuation of all real and personal property, taxable by law in the City of Laredo for the Tax Year 2015 and the fiscal year beginning October 1, 2015 and ending September 30, 2016, an ad valorem tax of \$0.143249 cents for SINKING FUND purposes to pay principal and interest on all outstanding City of Laredo bonds, not otherwise provided for; and

WHEREAS, Ordinance No. 2003-O-180 hereby granted a \$30,000 homestead exemption to all persons over 65 years of age and claiming of such exemption by filing the necessary forms with the Chief Appraiser of Webb County; and

WHEREAS, Ordinance No. 2006-O-287 provides for the adoption of a limitation on the total amount of taxes that may be imposed by the City on the residence homestead of a disabled individual or an individual 65 years of age or older pursuant to Section 1-B(H),

Article VIII, Texas Constitution and in accordance with Subtitle C, Chapter 11, Section 11.261 of the Texas Property Tax Code; and

WHEREAS, the taxes hereby levied are due and payable as provided in Chapter 31 of the Texas Property Tax Code; and

WHEREAS, in accordance with Section 22.28 and 23.541 of the Texas Property Tax Code, the chief appraiser certified a value of \$185,008,460 (personal property) and \$0 (agricultural land) under which a 10% late rendition penalty of the total amount of taxes will be imposed on the property and included in the tax bill; and

WHEREAS, the taxes hereby levied are payable to the City of Laredo, Texas, at the Office of the City Tax Assessor-Collector, and no discount shall be allowed for the payment thereof; and

WHEREAS, Ordinance No. 2007-O-065 provides for the adoption of a split payment option pursuant to Section 31.03 (A) of the Property Tax Code; which allows a person who pays one-half of the current year property taxes before December 1st may pay the remaining one-half of the taxes without penalty and interest if paid before July 1st of the following year; and

WHEREAS, the City of Laredo shall have available all rights and remedies provided by law or approved by the governing body in the assessment of penalty and interest and enforcement of the collection of taxes hereby levied.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAREDO:

SECTION 1. there is hereby approved for the Tax Year 2015 a roll of total taxable value of \$11,857,665,347, a tax freeze levy loss of \$477,279, a tax levy of \$75,056,049 and a tax rate of \$0.637000 (Totals are based on certified and supplemental values provided by the Webb County Appraisal District (WCAD) on July 24, 2015 and September 3, 2015. THIS TAX RATE WILL RAISE MORE TAXES FOR MAINTENANCE AND OPERATIONS THAN LAST YEAR'S TAX RATE. THE TAX RATE WILL EFFECTIVELY BE RAISED BY 3.31 PERCENT AND WILL RAISE TAXES FOR MAINTENANCE AND OPERATIONS ON A \$100,000 HOME BY APPROXIMATELY \$2.03; and

SECTION 2. That there is hereby levied on all real and personal property in the City of Laredo taxable by law, for the Tax Year 2015 and the fiscal year beginning October 1, 2015 and ending September 30, 2016, a general ad valorem tax of \$0.493751 cents on every \$100.00 valuation thereof for the GENERAL FUND of the City with which to pay current expenses of the City of Laredo for said fiscal year; and

SECTION 3. That there is hereby levied on every \$100 valuation of all real and personal property, taxable by law in the City of Laredo for the Tax Year 2015 and the fiscal year beginning October 1, 2015 and ending September 30, 2016, an ad valorem tax of \$0.143249 cents for SINKING FUND purposes to pay principal and interest on all outstanding City of Laredo bonds, not otherwise provided for; and

SECTION 4. That Ordinance No. 2003-O-180 hereby granted a \$30,000 homestead exemption to all persons over 65 years of age and claiming such exemption by filing the necessary forms with the Chief Appraiser of Webb County; and

SECTION 5. That Ordinance No. 2006-O-287 provides for the adoption of a limitation on the total amount of taxes that may be imposed by the City on the residence homestead of a disabled individual or an individual 65 years of age or older pursuant to Section 1-B(H), Article VIII, Texas Constitution and in accordance with Subtitle C, Chapter 11, Section 11.261 of the Texas Property Tax Code; and

SECTION 6. That the taxes hereby levied are due and payable as provided in Chapter 31 of the Texas Property Tax Code; and

SECTION 7. That in accordance with Section 22.28 and 23.541 of the Texas Property Tax Code, the chief appraiser certified a value of \$185,008,460 (personal property) and \$0 (agricultural land) under which a 10% late rendition penalty of the total amount of taxes will be imposed on the property and included in the tax bill; and

SECTION 8. That the taxes hereby levied are payable to the City of Laredo, Texas, at the Office of the City Tax Assessor-Collector, and no discount shall be allowed for the payment thereof; and

SECTION 9. That Ordinance No. 2007-O-065 provides for the adoption of a split payment option pursuant to Section 31.03 (A) of the Property Tax Code; which allows a person who pays one-half of the current year property taxes before December 1st may pay the remaining one-half of the taxes without penalty and interest if paid before July 1st of the following year; and

SECTION 10. That the City of Laredo shall have available all rights and remedies provided by law or approved by the governing body in the assessment of penalty and interest and enforcement of the collection of taxes hereby levied; and

SECTION 11. That this ordinance shall take effect immediately from and after its passage and publication in accordance with the Texas Property Tax Code and the Charter of the City of Laredo.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR ON THIS
THE ____ DAY OF SEPTEMBER, 2015.

PETE SAENZ, MAYOR

ATTEST:

GUSTAVO GUEVARA, JR.
CITY SECRETARY

APPROVED AS TO FORM:
BY:

RAUL CASSO
CITY ATTORNEY

City Council-Special

Meeting Date: 09/15/2015

Initiated By: Jesus Olivares, City Manager

Staff Source: Jose Luis Flores

SUBJECT

Authorizing the City Manager to execute a restated master lease agreement for the lease of 14.5 acres of Airport Property located on Saunders Street and authorizing the City Manager to execute a ground lease estoppel certificate, confirmation and modification agreement, stipulating that the Lessee is in good standing with the City once payment of past due additional rent in an amount that exceeds \$1,600,000.00.

PREVIOUS COUNCIL ACTION

In 1979, City Council approved a ground lease with Jeffrey H Tamkin and Joan Tamkin; in 1999, City Council approved a settlement of a lawsuit regarding the ground lease; and earlier this year City Council authorized the City Manager to negotiate a settlement of the most recent dispute of involving this ground lease.

BACKGROUND

In May, 1979, Jeffrey H Tamkin and Joan Tamkin entered into a ground lease with the City of Laredo for 14.5 acres of Airport Property located on Saunders Street. In the balance of this communication the Tamkins and their assigns shall be referred to as "Lessee". The Lessee developed the property as a retail center, which includes an H. E. B. grocery store. The lease is for a term of 50 years, expiring in 2029, but provides for extensions, allowing Lessee to extend the term until 2054. Rent required to be paid under the lease included: fixed rent (\$81,000.00 each year); percentage rent (20% of net percentage rents paid from sub-lessee for 1st 25 years then 30% (excludes certain costs and it provides for good faith effort from Lessee to include net percentage rentals in all subleases); and additional rent (equal to the ad valorem taxes which would otherwise be levied against he leased premises). There was a dispute as to how the appraisal district was calculating the ad valorem taxes, which determined the additional rent, resulting in litigation. In 1999, Stipulations and Final Judgment, which provided a formula for determining additional rent requiring each party to select an appraiser and if the parties could not agree on a value they would appoint a third appraiser. However, since 2001 the parties have not been able to agree on a third appraisal and no additional rent has been paid. More recently, the City made a demand for the additional rent and the Lessee's responded by filing a suit for declaratory judgement and breach of contract. The Lessee has offered to dismiss his lawsuit and pay the entire amount of additional rent the City calculates as owed, in excess of \$1,600,000.00; provided the City enter into a restated lease agreement and provide a ground lease estoppel certificate, confirmation and modification agreement, so that Lessee can refinance the existing loan on the leased property. The terms of the restated lease

would be substantially similar to the terms of the existing lease, with some exceptions. The most notable and beneficial exceptions include the following: (i) clarification that in the event ad valorem taxes are levied on the real estate, Lessee would pay such ad valorem taxes, in addition to the payment of additional rent; (ii) the third party appraiser will be identified in the order dismissing the lawsuit; Lessee will use best efforts not to sublease to disreputable individual and shall be precluded from subleasing to sellers of drug paraphernalia or sexually related items; and (iv) the Lessee shall require all new sub-lessees Environmental Pollution, UST Coverage with Site Pollution and Liquor Liability Insurance, when applicable. The term of the lease would expire in 2055.

As noted above, Lessee is seeking to refinance the debt on the improvements he has made to the leased property. In order to obtain the loan the lender is requiring the City to execute a ground lease estoppel certificate, confirmation and modification agreement confirming that Lessee is in compliance with the terms of the ground lease agreement and that the City will notify the lender should the Lessee be out of compliance with the terms of the ground lease agreement in the future.

The ordinance before you would authorized the City Manager to execute the restated lease agreement and provide a ground lease estoppel certificate, confirmation and modification agreement, but to place both in escrow with instructions not to release either until Lessee paid all additional rent owed to date and agreed upon a third appraiser to settle any dispute that may arise as to the 2015 appraised value of the real property.

COMMITTEE RECOMMENDATION

The Airport Advisory Board will have a Special meeting on September 17, 2015 and consider this item.

STAFF RECOMMENDATION

Approval of Ordinance.

Fiscal Impact

Fiscal Year: 2015
Budgeted Y/N?:
Source of Funds:
Account #: 242-0000-361-2060
Change Order: Exceeds 25% Y/N:

FINANCIAL IMPACT:

Attachments

Tamkin/Crossett 14.5 acres ORD

ORDINANCE NO. _____

AUTHORIZING THE CITY MANAGER TO EXECUTE A RESTATED MASTER LEASE AGREEMENT FOR THE LEASE OF 14.5 ACRES OF AIRPORT PROPERTY LOCATED ON SAUNDERS STREET AND AUTHORIZING THE CITY MANAGER TO EXECUTE A GROUND LEASE ESTOPPEL CERTIFICATE, CONFIRMATION AND MODIFICATION AGREEMENT, STIPULATING THAT THE LESSEE IS IN GOOD STED WITH THE CITY ONCE PAYMENT OF PAST DUE ADDITIONAL RENT IN AN AMOUNT THAT EXCEEDS \$1,600,000.00.

WHEREAS, the Airport Manager recommends that the City Council approve the proposed a restated master lease agreement for the lease of 14.5 acres of Airport Property located on Saunders Street and authorizing the City Manager to execute a ground lease estoppel certificate, confirmation and modification agreement at the Laredo International Airport. As a contract and in furtherance of the development of the Laredo International Airport and as a support to the maintenance and operation of the Laredo International Airport;

WHEREAS, the Airport Advisory Board finds that said lease agreement is in the best interest of the Airport and recommends that the City Council approve the proposed lease; and

WHEREAS, the City Council of the City of Laredo having heard the recommendations of the Airport Manager and of the Airport Advisory Board agrees with same.

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF LAREDO THAT:

Section 1: The City Manager be hereby authorized to execute a restated master lease agreement for the lease of 14.5 acres of Airport Property located on Saunders Street and to execute a ground lease estoppel certificate, confirmation and modification at the Laredo International Airport, a copy of which lease is attached hereto as Exhibit A, and incorporated herein as if set out at length for all intents and purposes.

Section 2: This Ordinance shall become effective upon passage hereof.

PASSED BY THE CITY COUNCIL AND APPROVED BY THE MAYOR ON THIS THE ____ DAY OF _____, 2015.

PETE SAENZ
MAYOR

ATTEST:

GUSTAVO GUEVARA, JR.
CITY SECRETARY

APPROVED AS TO FORM:

BY: _____
RAUL CASSO
CITY ATTORNEY