



City of Pflugerville

Legislation Text

File #: RES-0382, **Version:** 1

Approving a resolution with the caption reading: A RESOLUTION OF THE CITY COUNCIL OF THE CITY OF PFLUGERVILLE, TEXAS AUTHORIZING THE USE OF THE FUNDS DRAWN FROM THE \$3,000,000 IRREVOCABLE LETTER OF CREDIT (ILOC) RELATED TO THE ARISTA PROJECT AS AN ADVANCE OF THE PFLUGERVILLE COMMUNITY DEVELOPMENT CORPORATION'S DEBT REIMBURSEMENT PAYMENTS TO THE CITY.

On July 24, 2012, the City and Arista Data Centers, LLC (Arista) entered into an Economic Development Agreement (EDA) to construct a data center within the City (Arista Project). In accordance with the EDA, Arista provided the City with a \$3,000,000 Irrevocable Letter of Credit (ILOC) in the event Arista defaulted on its obligations in the EDA.

On September 5, 2012, the City and the Pflugerville Community Development Corporation (PCDC) entered into an Economic Development Reimbursement & Refund Agreement (Refund Agreement) to reimburse the City its expenses incurred in connection with debt associated with the City's portion of the Arista Project.

PCDC currently reimburses the City for its expenses incurred in connection with debt associated with the Arista Project and it reimburses the City in connection with other debt in accordance with other similar agreements with the City.

In the summer of 2016, Arista defaulted on its obligations in the EDA, and the City immediately drew on and collected the \$3,000,000 as the result of Arista's breach of the EDA.

On December 28, 2016, PCDC and Typhoon Waterpark of Pflugerville, LLC (Typhoon) entered into an Amended and Restated Water and Adventure Park Ground Lease and Operating Agreement (Lease) which requires PCDC to reimburse Typhoon \$4,500,000 if certain conditions are met. On the same date, the City, PCDC, and Typhoon entered into a Texas Typhoon Investment Reserve Fund Disbursement Agreement (Disbursement Agreement) which requires PCDC to fund a \$4,500,000 Investment Reserve Fund by allocating \$900,000/year to an account held by the City for FY 2017, 2018, 2019, 2020, and 2021.

Under this resolution, the City will consider the \$3,000,000 it received under the ILOC as an advance of PCDC's reimbursement of the City's debt under the Refund Agreement and other agreements in order to facilitate PCDC's funding of the \$4,500,000 Investment Reserve Fund.

Once the \$3,000,000 has been expended, PCDC will be obligated to continue reimbursing the City as required by the Refund Agreement and other agreements, and PCDC will be required to fund the remaining balance of the \$4,500,000 Investment Reserve Fund.

Prior City Council Action
None.

Deadline for City Council Action

Action is requested on January 24, 2017. Without this resolution, PCDC will have to explore other avenues to fulfill its obligation to fund \$4,500,000 in accordance with the Disbursement Agreement with Typhoon.

Projected Future City Council Action

None. Once the \$3,000,000 is expended, PCDC's obligations to reimburse the City are automatically reinstated.

Fiscal Impact

There is no fiscal impact to the city.

Staff Recommendation

Approve the resolution.

Drafter

George Hyde
City Attorney