



Legislation Text

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090534
ORIGINAL

THE CHAIR

Resolution relating to the intent to issue Industrial Development Revenue Bonds for the DJS, LLC Project.

This initial resolution sets forth the intent of the City of Milwaukee to approve the issuance of industrial development revenue bonds in an amount not to exceed \$1,250,000 on behalf of DJS, LLC, a Wisconsin limited liability company (the "Borrower"). The Borrower desires to complete a multi-jurisdictional project located in both the City of Milwaukee, Wisconsin, and the Town of Fond du Lac, Wisconsin, to finance costs related to the (i) construction of an approximately 7,500 square-foot addition to an existing facility located at 8929 North 107th Street in the City of Milwaukee, Wisconsin, (ii) acquisition and rehabilitation of an existing facility located at 6446 Rolling Meadows Drive in the Town of Fond du Lac, Wisconsin, and (iii) payment of certain costs related to the issuance of the bonds (the "Project"), which Project will be owned by the Borrower and leased by Weld Specialty Supply Corporation, a Wisconsin corporation, and used in its business of distributing welding supplies. The Town of Fond du Lac, Wisconsin, will be the issuer of the bonds. The initial resolution also authorizes a public hearing on the bonds.

Whereas, Section 66.1103 of the Wisconsin Statutes (the "Act") authorizes the City of Milwaukee, Wisconsin (the "City"), to authorize the issuance and sale of bonds by the City to construct, equip, re-equip, acquire by gift, lease or purchase, install, reconstruct, rebuild, rehabilitate, improve, supplement, replace, maintain, repair, enlarge, extend or remodel industrial projects in the City; and

Whereas, Section 66.1103(3)(f), Wisconsin Statutes, provides that a municipality also may finance an industrial project, which is located entirely outside the geographic limits of the municipality, but only if the revenue agreement for the project also relates to another project of the same eligible participant, part of which is located within the geographic limits of the municipality; and

Whereas, DJS, LLC, a Wisconsin limited liability company (the "Borrower"), desires to complete a multi-jurisdictional project consisting of financing the (i) construction of an approximately 7,500 square-foot addition to an existing facility located at 8929 North 107th Street in the City of Milwaukee, Wisconsin, (ii) acquisition and rehabilitation of an existing facility located at 6446 Rolling Meadows Drive in the Town of Fond du Lac, Wisconsin, and (iii) payment of certain costs related to the issuance of the bonds (the "Project"), which Project will be owned by the Borrower and leased by Weld Specialty Supply Corporation, a Wisconsin corporation, and used in its business of distributing welding supplies, all of which would contribute to the well-being of the City and the Town of Fond du Lac; and

Whereas, The cost of the Project is presently estimated to be greater than \$1,250,000, and the amount proposed to be financed with one or more series of tax-exempt and/or taxable industrial development revenue bonds does not exceed \$1,250,000; and

Whereas, The proposed Project is a multi-jurisdictional project, which is located in the City and the Town of Fond du Lac, and the Borrower has requested that the City and the Town of Fond du Lac each approve an initial resolution providing for the financing of the

Project in an amount not to exceed \$1,250,000; and

Whereas, On February 24, 2009, the Town of Fond du Lac adopted an initial resolution providing for the financing of the multi-jurisdictional Project, a portion of which is located in the City and in the Town of Fond du Lac, in an amount not to exceed \$1,250,000; and

Whereas, The Town of Fond du Lac shall be the issuer of said industrial development revenue bonds; and

Whereas, The Borrower has requested that the City now approve an initial resolution providing for the financing of the multi-jurisdictional Project; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that:

1. Based upon representations of the Borrower, it is the finding and determination of the Common Council that the Project is a qualified "project" within the meaning of the Act and that the Borrower is an "eligible participant" within the meaning of the Act. The City approves the following:

(a) Financing of the Project in an amount not to exceed \$1,250,000.

(b) The Town of Fond du Lac shall issue industrial development revenue bonds in one or more series of tax-exempt and/or taxable bonds (the "Bond(s)"), in an amount not to exceed \$1,250,000 to finance costs of the Project, located in both the City and the Town of Fond du Lac, pursuant to Section 66.1103(3)(f), Wisconsin Statutes.

2. The aforesaid plan of financing contemplates and is conditioned upon the following:

(a) The Bonds shall never constitute an indebtedness of the City or the Town of Fond du Lac within the meaning of any state constitutional provision or statutory limitation.

(b) The Bonds shall not constitute or give rise to a pecuniary liability of the City or the Town of Fond du Lac or a charge against its general credit or taxing powers.

(c) The Project shall be subject to property taxation in the same amount and to the same extent as though the Project were not financed with industrial development revenue bonds.

(d) The Borrower shall find a purchaser for all of the Bonds.

(e) The City's and the Town of Fond du Lac's out-of-pocket costs, including but not limited to legal fees, in connection with the authorization, issuance and sale of the Bonds shall be paid by the Borrower, whether or not the Bonds are issued.

(f) A notice of public hearing (the "TEFRA Hearing") required by federal law for purposes of Section 147(f) of the Internal Revenue Code of 1986, as amended, shall be published in a newspaper or newspapers of general circulation in the City and the Town of Fond du Lac, and public hearings shall be held by both the City and the Town of Fond du Lac to provide interested individuals or parties the opportunity to testify with respect to the nature and locations of the Project and the issuance of the Bonds to finance the Project.

3. The aforesaid plan of financing shall not be legally binding upon the City or the Town of Fond du Lac nor be finally implemented unless and until:

(a) The details and mechanics of the same are authorized and approved by a further resolution of the Town Board of the Town of Fond du Lac, which shall be solely within the discretion of the Town Board of the Town of Fond du Lac.

(b) The City Clerk shall cause notice of adoption of this Initial Resolution in the form of Exhibit A, a copy of which is attached to this Common Council File, to be published once in a newspaper of general circulation in the City, and the electors of the City shall have been given the opportunity to petition for a referendum on the matter of the aforesaid Bond issue, all as required by law.

(c) Either no such petition shall be timely filed or such petition shall have been filed and said referendum shall have approved the Bond issue.

(d) The City Clerk and the Village Clerk, respectively, shall have received an employment impact estimate issued under Section 560.034 of the Wisconsin Statutes.

(e) All documents required to consummate the financing have been duly authorized and delivered.

(f) The City, the Town of Fond du Lac and the Borrower have resolved all land use and special use issues with respect to the affected property and the Project.

(g) The City and the Town of Fond du Lac have approved the issuance of the Bonds following the public hearings required by Section 2(f) above.

4. Pursuant to the Act, all requirements that the Project be subject to the contracting requirements contained in Section 66.1103, Wisconsin Statutes, are waived, the Borrower having represented that it is able to negotiate satisfactory arrangements for completing the Project and that the City's interests are not prejudiced thereby.

5. The City Clerk is directed, following adoption of this Initial Resolution (i) to publish notice of such adoption not less than one time in the official newspaper of the City, such notice to be in substantially the same form as Exhibit A, and (ii) to file a copy of this Initial Resolution, together with a statement indicating the date the Notice to Electors was published, with the Secretary of Business Development of the State of Wisconsin within twenty (20) days following the date of publication of such notice.

6. Upon notice from Bond Counsel that the TEFRA Hearing has been properly noticed and held by the City, the Mayor is authorized to execute an Approval of Highest Elected Official for the purposes of Section 147(f) of the Internal Revenue Code of 1986, as amended, with respect to the issuance of the Bonds.

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