



Legislation Text

File #: 201573, Version: 0

IMMEDIATE ADOPTION

201573

201365

ORIGINAL

ALD. BAUMAN

Resolution relating to the Amended and Restated Cooperation, Contribution, and Redevelopment Agreement as well as personal guaranties for the redevelopment of the property at 909 East Michigan Street for the Couture Project.

The Common Council, on March 2, 2021, adopted Common Council File Number 201365, approving an amended and restated cooperation, contribution, and redevelopment agreement as well as personal guaranties, for the redevelopment of the property at 909 East Michigan Street for the Couture Project. The development agreement approved by that file was amended on February 23, 2021, by the Zoning, Neighborhoods, and Development Committee to require the developer to make a contribution of \$100,000 to the Anti-Displacement Fund administered by MKE United at closing. This resolution affirms this earlier action, but also inserts a provision requiring that the contribution be held in escrow by the developer until an outside counsel, selected by the Common Council President and the City Attorney, is able to determine whether the amendment requiring the contribution was adopted in a manner consistent with law. The work of the special counsel is to be completed within 90 days of the effective date of this resolution.

..Body

Whereas, By passage of Common Council Resolution File No. 141263, on February 10, 2015; No. 170169 on May 31, 2017; and No. 201062 on December 15, 2020, the City of Milwaukee ("City") created and amended Tax Incremental District No. 82 (East Michigan) ("TID 82") and approved and amended the Project Plan for TID 82 and authorized the execution of various development documents related to the Couture Project at 909 East Michigan Street (the "Property") including a Cooperation, Contribution and Redevelopment Agreement dated April 28, 2017 (the "Original

Development Agreement”); and

Whereas, The Property is located within the boundaries of TID 82; and

Whereas, Due to concerns about potential liability related to possible loss of outstanding TIGER Grants funds from the Federal Transit Administration in the event of future delays in the project timeline, the City is requiring personal guaranties from Richard Barrett and Tan Lo in the amount of \$1,411,713 to cover such potential liability; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee that the Amended and Restated Cooperation, Contribution and Redevelopment Agreement (“Amended Agreement”) that is in File 201365 as amended by ZND 2-23-2021 is approved contingent upon the Developer closing on the Couture Project financing and the proper City officials are authorized and directed to sign it for the purposes of implementing the Project Plan; and, be it

Further Resolved, That the contribution required in Section 13.4 of the Amended Agreement shall be held in escrow by the developer pending a review by a special counsel selected by the Common Council President and the City Attorney as to whether the Common Council’s actions adopting the amendment providing for this contribution as part of approval of the Amended Agreement were done in a manner consistent with law; and, be it

Further Resolved, That the Common Council President and the City Attorney shall agree to a set of terms, conditions, and a scope of work consistent with this resolution for the hiring of a special counsel and a request for funding based on this agreement shall be submitted to the Common Council; and, be it.

Further Resolved, That the special counsel shall submit his or her findings to the Common Council, Mayor, and the City Attorney no later than 90 days after the effective date of this resolution; and, be it

Further Resolved, That if the Common Council’s actions are found to have been done in a manner consistent with law, the funds held in escrow shall be released as indicated in the Amended Agreement; and be it

Further Resolved, That if the Common Council’s actions are found to have been done contrary to law, then the provision of Section 13.4 of the Amended Agreement requiring the contribution shall be deemed severed from Section 13.4 of the Amended Agreement and of no further force or effect and the funds held in escrow shall be

returned to the developer; and be it

Further Resolved, That the proper City officials are authorized and directed to execute the Personal Guaranty Agreement and any additional documents and instruments necessary to carry out the provisions of the Amended Agreement and to implement the Project Plan; and, be it

Further Resolved, That Common Council File Number 201365 is rescinded.

James R. Owczarski
March 17, 2021