



Legislation Text

File #: 080859, **Version:** 2

080859 SUBSTITUTE 2

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Substitute resolution relating to an Assignment of Lease Agreement and Second Amendment to Lease Agreement between Innovation Fuels, Inc., IFI Terminal Milwaukee, LLC, and the Board of Harbor Commissioners for real property located at 1626 S. Harbor Drive, and to a Leasehold Mortgage for the same property.

This resolution approves an Assignment of Lease Agreement and Second Amendment to Lease Agreement between Innovation Fuels, Inc., IFI Terminal Milwaukee, LLC, and the Board of Harbor Commissioners for approximately 10 acres of real property located at 1626 S. Harbor Drive. It also expresses the Common Council's consent to a Leasehold Mortgage between Securant Bank and Trust Company and IFI Terminal Milwaukee, LLC. The City's approval of the Amendment to Lease Agreement and consent to the Leasehold Mortgage are required as conditions of sale of the private improvements on the property to IFI Terminal Milwaukee, LLC, by Support Terminals Operating Partnership, L.P. & Garland Middendorf.

Whereas, Support Terminals Operating Partnership, L.P. ("STOP") and the City, by and through its Board of Harbor Commissioners, previously entered into a lease agreement dated October 30, 1990 ("Lease Agreement"), whereby the City leased to STOP approximately 10 acres of bare-ground real property located at 1626 S. Harbor Drive on the South Harbor Tract for an initial term commencing on August 17, 1990 and terminating on August 16, 1995 and up to 4 successive periods of 5 years each, at the option of the STOP and commencing on August 17, 1995; and

Whereas, STOP and the City previously entered into the First Amendment to this Lease Agreement on May 7, 1992; and

Whereas, STOP's name was legally changed on March 31, 2008 to NuStar Terminals Operations Partnership L.P.; and

Whereas, The Lease Agreement was assigned to Innovation Fuels, Inc. on August 6, 2008; and

Whereas, On October 2, 2008, Innovation Fuels, Inc., created an operating project entity under the name IFI Terminal Milwaukee, LLC ("Tenant"), and now desires to assign the Lease Agreement and the First Amendment to Lease Agreement to the Tenant; and

Whereas, The sale of the Tenant's leasehold improvements on the property in question requires City approval of the Assignment of Lease Agreement and Second Amendment to Lease Agreement (Exhibit "A") and City consent to the Leasehold Mortgage (Exhibit "B"); and

Whereas, The Board of Harbor Commissioners, at its meeting of October 8, 2008, approved the Assignment of Lease Agreement and Second Amendment to Lease Agreement and gave its consent to the Leasehold Mortgage; now, therefore, be it

Resolved, By the Common Council of the City of Milwaukee, that the "ASSIGNMENT OF LEASE AGREEMENT AND SECOND AMENDMENT TO LEASE AGREEMENT Between Innovation Fuels, Inc., IFI Terminal Milwaukee, LLC, and the BOARD OF HARBOR COMMISSIONERS City of Milwaukee," which is attached to this file as Exhibit "A," is approved; and, be it

Further Resolved, That the proper officers of the City of Milwaukee and the Board of Harbor Commissioners are authorized and directed to execute the Assignment of Lease Agreement and Second Amendment to Lease Agreement; and, be it

Further Resolved, That the Common Council consents to the "LEASEHOLD MORTGAGE OF REAL PROPERTY, SECURITY AGREEMENT OF PERSONAL PROPERTY AND ASSIGNMENT OF RENTS AND PROFITS" between Securant Bank and Trust Company and IFI Terminal Milwaukee, LLC, that is attached to this file as Exhibit "B".

Port of Milwaukee

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10/10/2008