



Legislation Text

File #: 210988, Version: 2

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 210988

Estimating revenue in the amount of \$200,000.00 and appropriating the same amount in the Kansas City Brownfields Revolving Loan Fund; approving a Kansas City Brownfields Revolving Loan Fund Program loan application submitted by ZB AC LLC for remediation of the former Crispus Attucks Elementary School in the aggregate amount of \$300,000.00; authorizing the Director of City Planning and Development to execute the necessary loan documents; extending the performance periods under the Amended and Restated Performance Deed of Trust held by the City; and recognizing this ordinance as having an accelerated effective date.

WHEREAS, a Brownfields Revolving Loan Fund (RLF) Program has been established by the City of Kansas City, Missouri (the “City”), and the U.S. Environmental Protection Agency (EPA) has awarded Brownfields RLF Grant Funds to the City in the amount of \$3,950,107.00, and the City has entered into Federal Cooperative Agreement No. BF-97700901 with EPA; and

WHEREAS, on October 16, 2020, the City’s Brownfields Commission (the “Commission”) adopted Resolution 002-2020 approving subject to preconditions an application submitted by ZB AC LLC to the Kansas City Brownfields RLF Program for a loan in the amount of \$100,000 to abate asbestos containing materials, lead-based paint and other hazardous substances from the structure known as the former Crispus Attucks Elementary School, located at 1818 East 19th Street, Kansas City, MO 64108 (the “Site”); and

WHEREAS, on September 28, 2021 ZB AC LLC subsequently applied to increase the amount of the loan sought to an aggregate amount of \$300,000.00, and

WHEREAS, on October 18, 2021, the Brownfields Commission adopted Resolution No. 001- 2021 recommending that the City Council approve an RLF Loan to ZB AC LLC in the amount of \$300,000.00 for the cleanup of the Site (“RLF Loan”), subject to the preconditions that: (1) the EPA confirms eligibility of the loan under the Federal Cooperative Agreement; (2) the City’s loan consultant reviews the current and updated financial information submitted by ZB AC LLC and provides a basic financial re-evaluation of the loan satisfactory to the City and the Commission; and (3) ZB AC LLC demonstrates a source of funds to pay the remaining remediation project costs in excess of the loan amount; and

WHEREAS, the first precondition has been met by the communication from Catherine Chiccine, EPA Region 7 dated November 16, 2020 and Susan Klein, EPA Region 7 dated November 2, 2021; and

WHEREAS, the second precondition has been met by the City’s loan consultant providing a basic financial re-evaluation of the RLF Loan satisfactory to the City and the Commission, dated October 18, 2021; and

WHEREAS, the third precondition has been met by the submittal of current financial documents by ZB AC LLC demonstrating a source of funds for the remaining remediation project costs; and

WHEREAS, ZB AC LLC has secured construction loan financing, state and federal historic preservation tax credits, and equity partner contributions to the project, and has provided cash flow projections demonstrating how the project is expected to generate sufficient revenues to cover its brownfields loan and other debt service obligations; and

WHEREAS, ZB AC LLC has provided an updated redevelopment plan with information on how the project is expected to produce long term cultural, business, educational, health and economic benefits for the 18th & Vine Jazz District, the surrounding communities and for Kansas City as a whole; and

WHEREAS, ZB AC, LLC, submitted a development plan as a part of the rezoning of the Site, which development plan was approved by this Council through the passage of Ordinance No. 210251 on April 1, 2021; and

WHEREAS, on February 18, 2021, this Council approved an extension and modification of the performance terms and conditions of that certain Performance Deed of Trust, pursuant to Committee Substitute for Ordinance No. 210139, the intent of which was evidenced by the execution of the Amended and Restated Performance Deed of Trust recorded March 18, 2021, as Instrument No. 2021E0029546 (“Amended Deed of Trust”); and

WHEREAS, the time periods for the satisfaction of certain conditions stated in the Amended Deed of Trust need to be extended and modified to continue to assure progress in the redevelopment of the Project; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That revenue in the following account of the Brownfields Revolving Fund is estimated in the following amount:

22-2550-640001-458120-G64BRLFPI	Program Income	\$200,000.00
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Section 2. That an amount of \$200,000.00 is appropriated from the Unappropriated Fund Balance of the Brownfields Revolving Loan Fund into the following account:

22-2550-645020-B-G64BRLFPI	Brownfield Rev Loan- Program, Inc.	\$200,000.00
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Section 3. The application of ZB AC LLC for an RLF Loan from the City for the Project is approved for an amount not to exceed \$300,000.00 and funded from funds previously appropriated in the following accounts:

22-2550-645020-B-G64BRLFPI	Brownfield Rev Loan- Program, Inc.	\$200,000.00
22-2550-0645020-B-G64BRLF	EPA-Brownfields RLF	<u>100,000.00</u>
	TOTAL	\$300,000.00

Section 4. The Director of City Planning and Development is authorized to execute with ZB AC LLC, the site owner Zhou B Art Center of Kansas City, LLC, and related entities the necessary loan documents to

memorialize, issue, and secure the RLF Loan, all in accordance with the terms and conditions of the City's Cooperative Agreement with USEPA governing the RLF Program. Copies of the loan documents, approved in substantial form, are on file with the City Planning and Development Department.

Section 5. The Director of City Planning and Development is authorized to take such necessary further acts related to the RLF Loan and loan documents all consistent with this ordinance.

Section 6. The City Council hereby finds and determines that the terms and conditions as set forth in Section 2 of the Amended Deed of Trust need to be modified and extended, to revise the benchmarks to allow the closing on the construction loan with a third party by February 1, 2022, to obtain all requisite building permits by March 1, 2022, but not to extend the date for the completion of the renovation of approximately 60,000 square feet of gross leasable area for reuse by no later than July 1, 2023 consistent with the development plan approved by the City pursuant to Ordinance No. 210251.

Section 7. The Director of General Services is hereby authorized and directed to negotiate and execute a modification of the Amended Deed of Trust, and any other documents to effectuate the intent of the extension as deemed appropriate by such Director, consistent with the periods of performance set out in Section 6 above.

Section 8. That this ordinance appropriating money is recognized as an ordinance with an accelerated effective date as provided in Section 503(a)(3) of the City Charter and shall take effect in accordance with Section 503, City Charter.

I hereby certify that there is a balance, otherwise unencumbered, to the credit of the appropriation to which the foregoing expenditure is to be charged, and a cash balance, otherwise unencumbered, in the treasury, to the credit of the fund from which payment is to be made, each sufficient to meet the obligation hereby incurred.

Tammy L. Queen
Director of Finance

Approved as to form and legality:

Amelia McIntyre
Assistant City Attorney