



Louisville Metro Government

Legislation Text

File #: R-053-20, Version: 1

RESOLUTION NO. _____, SERIES 2020

A RESOLUTION APPROVING THE RELEASE OF METRO GOVERNMENT'S RIGHT OF REVERTER PERTAINING TO PROPERTY DEEDED TO LOUISVILLE URBAN LEAGUE SPORTS AND LEARNING COMPLEX, INC. AS SURPLUS.

SPONSORED BY: SPONSORSHIP WITHDRAWN

WHEREAS, Louisville/Jefferson County Metro Government (hereinafter "Metro" or "Metro Government"), acting by and through its agency, Louisville Forward entered into a Development Agreement (hereinafter "Development Agreement") dated June 22, 2018 with The Louisville Urban League, Inc. to develop property located at 3029 W. Muhammad Ali Boulevard and known as Heritage West (the "Property");

WHEREAS, the Development Agreement contemplated that, contingent upon Council approving a Surplus Resolution, Metro would deed the Property to Louisville Urban League Sports and Learning Complex, Inc. (hereinafter "Developer") to develop the Property in accordance with the Development Agreement;

WHEREAS, the Development Agreement contained a provision requiring the Property to revert back to Metro in the event of default, which even included a situation where the Property was not developed according to the Schedule contained in Section 1.04 of the Development Agreement, which Schedule could be extended pursuant to delays caused by force majeure or Administrative Delays as provided in Section 3.06 of the Development Agreement;

WHEREAS, enactment of the Surplus Resolution by Council on July 25, 2019 pursuant to Resolution 069, Series 2019 was predicated upon agreement among the parties to the Development Agreement to amend the Development Agreement to provide that "If the Project is not developed within five (5) years from the date of title transfer of the Property from Metro to Developer, Developer agrees that the Property will revert back to Metro," which agreement was codified in that certain First Amendment to Development Agreement dated July 25, 2019 ("the First Amendment");

WHEREAS, subsequent to the enactment of the Surplus Resolution, the Property was conveyed to Developer pursuant to a Deed of record in Deed Book 11486, Page 709, of record in the Jefferson County Clerk's Office (the "Deed");

WHEREAS, the Deed contains the reverter language codified in the First Amendment, and contemplates the release of the reverter by Metro "within 30 days of a certificate of occupancy being issued for the indoor track and field

facility;"

WHEREAS, the Property is well under development now, with an anticipated completion date of December of 2020;

WHEREAS, the Developer raised the \$20 million in Developer funds contemplated by the Development Agreement, and the costs of the project have increased to include: architectural design, engineering, environmental fees, legal fees, and accounting fees during the course of construction;

WHEREAS, the Developer has raised additional funds to cover those costs, in addition to pursuing funding through New Markets Tax Credits;

WHEREAS, the Development Agreement contemplates Developer's need to acquire financing for the project, and Developer having pursued such financing through New Market Tax Credits, but finding that its lender will not close on the loan due to Metro's Possibility of Reverter in the Property, which Possibility of Reverter substantially affects lender's security in its loan to Developer;

WHEREAS, the current completion date of December 2020, may be adversely affected if Developer is unable to secure the New Market Tax Credit financing; and

NOW, THEREFORE, BE IT RESOLVED BY THE LEGISLATIVE COUNCIL OF THE LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT ("COUNCIL") AS FOLLOWS:

SECTION I: Metro Council authorizes Metro Government, by and through Louisville Forward, to execute a Release of Metro's Right of Reverter contained in the above-referenced Deed.

SECTION II: This Resolution shall take effect upon its passage and approval.

Sonya
Harward Metro Council Clerk

David James
President of the Metro Council

Greg
Fischer Mayor

Approval Date

APPROVED AS TO FORM AND LEGALITY:

Michael J. O'Connell
Jefferson County Attorney

BY: _____
R-053-20 Resolution Approving Release of Reverter JF 0432020