

**COUNTY OF MILWAUKEE**  
INTEROFFICE COMMUNICATION

DATE: September 13, 2019

TO: Supervisor Theodore Lipscomb, Chair, County Board of Supervisors

FROM: Aaron Hertzberg, Director, DAS, Economic Development

SUBJECT: From the Director of Economic Development – Department of Administrative Services requesting authorization to dissolve the initial development agreement, inclusive of all amendments, with respect to the development of Park East Block 26, East of the Milwaukee River to permit the current owner of Phase 1 to take over the ownership and development of Phases 2 & 3 from the initial developer, Park East Square, LLC.

**REQUEST**

Authorization to dissolve the initial development agreement, inclusive of all amendments, with respect to the development of Park East Block 26, East of the Milwaukee River to permit the current owner of Phase 1 (“Phase 1 Owner”) to take over the ownership and development of Phases 2 & 3 from the Park East Square, LLC (“Initial Developer”).

**Previous Legislation**

File 05-14 – Action Report – Acceptance of proposal to purchase  
File 06-14 – Action Report – Extension of purchase option  
File 07-30 – Action Report – Approval of revised development plan  
File 09-30 – Action Report – Extension to construction commencement  
File 11-108 – Action Report – Extension to construction commencement  
File 11-388 – Action Report – Extension to construction commencement  
File 12-213 – Informational Report – Project update from Initial Developer  
File 12-474 – Action Report – Amendment to restate original development agreement  
File 16-09 – Action Report – Creation of new agreement for Phase 3

**Report**

Following an Request for Proposals, the Milwaukee County Board awarded sale of Park East Block 26 to the Initial Developer. Block 26 is bound by Milwaukee, Lyons and Jefferson Streets and Ogden Avenue. Initial Developer closed on the purchase of the property in December 2007, and the County was paid \$2,725,000 as the purchase price. Due to the economic and financial recession post-closing, the Initial Development Agreement was modified by six amendments and further by a subsequent agreement to implement development. The Initial Developer forfeited its \$50,000 Letter of Credit to the County for failure to commence the project on timelines stated in the development agreement.

Phase 1, commonly known as the Avenir project, was certified as substantially complete on April 27, 2016 with 104 residential units and 14,600 square feet of retail space. Phase 1 was subsequently released from the Initial Development Agreement and sold to the Phase 1 Owner. Phase 1 has a 2018 assessed building value totaling 18,500,200 and occupies approximately 60% of the block. Construction of Phases 2 and 3 of the Avenir project has not commenced; however, the development has been designed to accommodate 82 and 63 residential units, respectively, and to be architecturally homogenous with Phase 1.

The Initial Developer, together with its partners, desires to convey Phases 2 and 3 in order for the development to be completed. They have requested the County to terminate the Initial Development Agreement and to replace it with a New Development Agreement. Because the Initial Development Agreement pre-dates changes to Wis. Stat. 59.17(2)(b)(3) regulating land sales in Milwaukee County, further modification must be approved by the County Board.

The request to dissolve the existing development agreement would be contingent on signing a new development agreement. Based on the complexity and layering of prior agreements, it's advised to dissolve the existing agreement and begin anew, rather than attempting to further amend prior agreements. A copy of the draft new development is provided for consideration. Substantive changes to the Initial Development Agreement are as follows:

- Construction of Phase 2 and Phase 3 shall be substantially similar to plans previously approved, excepting modifications to comply with current building codes, and construction shall be in conformity with the Construction Schedule outlined for the applicable phases. The full schedule is as follows:

PHASE 2	
Project Commencement Date:	4/1/2020
- Commencement of Excavation	
Excavation Completion Date:	10/1/2020
- Completion of Excavation and	
Commencement of Construction	
Project Completion Date:	4/1/2022
- Completion of Construction	
Total:	24 months

PHASE 3	
Project Commencement Date:	10/1/2020
- Commencement of Excavation	
Excavation Completion Date:	4/1/2021
- Completion of Excavation and	
Commencement of Construction	

Project Completion Date: 11/15/2022  
- Completion of Construction  
Total: 25.5 months

- A \$250,000 Letter of Credit shall serve as full security for the complete performance of all obligations, agreements and covenants promised.
- Due to changes in Wisconsin State Law, the Prevailing Wage requirement is removed.

Furthermore, Initial Developer and its partners recognize that because of project delays the County incurred losses to property tax revenue and expenses related to fees for, but not limited to, staff time and employment of private legal counsel. As compensation to the County for these losses and expenses, the Initial Developer and its partners shall contribute \$100,000.00 to the County.

In Milwaukee, available statistics indicate that while the number of new apartment units has grown, vacancy rates have decreased. That is, absorption outpaces supply. This suggests the project as currently proposed is viable.

Under the terms of the existing development agreement, the County has standing to repurchase and resell the undeveloped land. Economic Development does not recommend this alternative. Investment in real estate is speculative and subject to volatilities caused by or resulting from employment rates, wage growth, quality of life, financial investment in the market, among other conditions.

Further, recapturing the property may result in delays caused by potential litigation, marketing, advertising and disposition through the RFP process. During any such delay, market conditions could shift unfavorably. If the original intent of the Park East Redevelopment Compact was to provide development, then the goal should continue to provide for development to occur as expeditiously as possible and to generate the greatest value for and benefit of the overall community.

## **RECOMMENDATION**

The Department of Administrative Services – Economic Development Division respectfully requests authorization to terminate the Initial Development Agreement for the continued development of Park East Block 26.



---

Aaron Hertzberg  
Economic Development Director

cc: Chris Abele, County Executive  
Teig Whaley-Smith, Director, Department of Administrative Services  
Economic and Community Development Committee Members  
Kelly Bablitch, Chief of Staff, County Board of Supervisors  
Raisa Koltun, Chief of Staff, County Executive's Office  
Katarina Lucas, Research & Policy Analyst  
Scott Manske, Comptroller  
Steve Cady, Research & Policy Director