



# Milwaukee County

## Legislation Text

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**File #:** 11-108, **Version:** 1

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From the Manager of Real Estate Services, DTPW, requesting an amendment to the Development Agreement for Block 26 in the Park East Corridor in the City of Milwaukee, Wisconsin

### **POLICY ISSUE:**

Revision of the Development Agreement for Block 26 requires County Board approval.

### **BACKGROUND:**

RSC & Associates ("RSC") closed on the purchase of Block 26 in December 2007 and the County was paid the \$2,725,000 purchase price. RSC was prepared to break ground on the Park East Square project ("Project") when the economic downturn resulted in the Project lender rescinding RSC's loan commitment. Therefore, the construction timeline in the Development Agreement cannot be met until RSC secures replacement financing.

As outlined in the attached letter from RSC, dated February 18, 2011, RSC notes they have pursued numerous types of financing alternatives, including conventional lending through banks, pension funds, insurance companies, Disaster Recovery Bonds and WHEDA housing tax credits with Common Bond Communities ("Common Bond") as a partner. RSC states that unfortunately these various funding alternatives have not materialized or are not entirely feasible financing options in this economic climate. Even those apartment projects that have advanced recently have done so with GAP loans or loan guarantees.

RSC states that they continue to pursue capitalization for the Project and continue to work with Common Bond to identify funding alternatives and design variations to advance the Project. RSC recognizes that time and continued perseverance is needed to find the final solution. Therefore, RSC is requesting a six (6) month extension to the Project Excavation Commencement Date, until September 30, 2011 and sixty days thereafter for the Excavation Completion Date as called for in the Development Agreement. An extension will require an amendment to the Development Agreement ("Fifth Amendment"). County staff, Corporation Counsel and private legal counsel, enlisted by Corporation Counsel, has worked with RSC to establish the following summary terms and conditions of a Fifth Amendment to the Development Agreement:

1. The Project Excavation Commencement Date, as defined in the original Development Agreement with Milwaukee County, be extended from March 30, 2010 to September 30, 2011 and 60 days thereafter for the Excavation Completion Date.
2. RSC has now forfeited to the County the entire \$50,000 in the Letter of Credit for not meeting the prior Excavation Completion Dates and the Letter of Credit will be refunded by RSC to the original \$50,000 prior to the Excavation Commencement Date.
3. In the event RSC fails to achieve the September 30, 2011 Excavation Commencement Date and the Excavation Completion Date 60-days thereafter, the County shall be entitled to all the remedies, rights, terms

and conditions accruing in the Development Agreement, including without limitation, a \$2,000/day penalty and the County's option to repurchase Block 26 at 85% of what the County was paid.

4. Except as noted above, the terms and conditions of the Fifth Amendment to the Development Agreement of Block 26 would be substantially the same as the terms and conditions of the original Development Agreement.

**RECOMMENDATION:**

In this extraordinary economic and lending environment, the successful completion of the RSC Park East Square Project for Block 26 will lead to increased jobs, tax base and will eventually be a catalyst for further development in and in proximity to the Park East Corridor. Therefore, staff respectfully requests approval of the above-described Fifth Amendment to the Development Agreement for Block 26.

**FISCAL NOTE:**

Extending the Excavation Commencement Date for Block 26 until September 30, 2011 and sixty days thereafter for the Excavation Completion Date, pursuant to the Fifth Amendment, will not include the payment of an extension fee.

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Craig C. Dillmann, Manager  
Real Estate Services

Meeting Date: March 7, 2011  
Attachment

cc: Marvin Pratt, County Executive  
Lee Holloway, County Board Chairman  
Jack Takerian, Director, Transportation and Public Works  
Josh Fudge, Fiscal Mgmt. Analyst-DAS