



CITY COUNCIL AGENDA SUBMISSION
January 24, 2023

BILL 2997 - AN ORDINANCE AUTHORIZING CERTAIN REVISIONS TO THE DOCUMENTS APPROVED BY ORDINANCE NO. 2727 RELATING TO THE ISSUANCE OF TAXABLE INDUSTRIAL REVENUE BONDS FOR A PROJECT LOCATED ON IRVINGTON COURT AND REYEM COURT IN THE CITY. FIRST READING

Description:

On July 27, 2021 the Council adopted Ordinance [2727](#) authorizing the issuance of the City's Taxable Industrial Revenue Bonds in the maximum principal amount of \$55M for the construction of 207 residential apartments at Irvington Court and Reyem Court.

All buildings on the property have been demolished and the property graded. Construction has not yet started, and the bonds have not been issued. Opus now desires to assign its rights to Olivette ODC BREP I, LLC, an affiliate of Balboa Real Estate Partners.

The change in ownership does not impact the project design or other site improvements.

Recommended Actions:
First Reading

Attachment:

Bill 2997
Revised City Documents

Submitted by:

Barbara Sondag
City Manager

AN ORDINANCE AUTHORIZING CERTAIN REVISIONS TO THE DOCUMENTS APPROVED BY ORDINANCE NO. 2727 RELATING TO THE ISSUANCE OF TAXABLE INDUSTRIAL REVENUE BONDS FOR A PROJECT LOCATED ON IRVINGTON COURT AND REYEM COURT IN THE CITY.

WHEREAS, the City of Olivette, Missouri, a home-rule city and political subdivision of the State of Missouri (the “City”), is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri (collectively, the “Act”), and the City Charter to purchase, construct, extend and improve certain projects (as defined in the Act) and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, office industry, warehousing and industrial development purposes upon such terms and conditions as the City deems advisable; and

WHEREAS, in accordance with the Act, the City previously adopted Ordinance No. 2727, (a) authorizing the issuance of the City’s Taxable Industrial Revenue Bonds (Opus Development Company, L.L.C. Project), Series 2021 in the maximum principal amount of \$55,000,000 (the “Bonds”) and (b) approving the forms of certain documents related to the issuance of the Bonds, all in furtherance of a project consisting of the development of approximately 207 residential apartments on property located on Irvington Court and Reyem Court in the City (the “Project”) to be undertaken by Opus Development Company, L.L.C. (“Opus”) or an affiliate thereof; and

WHEREAS, the Project has not yet been constructed and the Bonds have not yet been issued; and

WHEREAS, Opus desires to assign its rights under the documents approved by Ordinance No. 2727 to Olivette ODC BREP I, L.L.C. (the “New Developer”), an affiliate of Balboa Real Estate Partners, LLC (“Balboa”); and

WHEREAS, certain revisions to the documents approved by Ordinance No. 2727, including, without limitation, insertion of the New Developer and adjustment of dates for performance, are appropriate in light of the current status of the Project.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF OLIVETTE, ST. LOUIS COUNTY, MISSOURI, AS FOLLOWS:

Section 1. Revisions to City Documents. Notwithstanding anything to the contrary in Ordinance No. 2727, the “City Documents” authorized to be executed on behalf of the City by Section 5 of Ordinance No. 2727 shall include the following revisions:

- (a) the name of the Bonds shall be the “City of Olivette, Missouri, Taxable Industrial Revenue Bonds (Olivette ODC BREP I, L.L.C. Project), Series 2023”;
- (b) the name of the “Developer” in the City Documents shall be Olivette ODC BREP I, L.L.C.;
- (c) references to Opus as a parent or affiliated entity shall be changed to Balboa;
- (d) lease terms and other dates for performance of obligations shall be extended by one year;
- (e) acknowledgment that the City has obtained a judgment relating to North Price Road as a public road; and
- (f) such other changes and revisions as may be approved by the officers executing the City Documents and consistent with the intent of this Ordinance.

Section 2. Consent to Assignment. The City is hereby consents to Opus’s assignment of its interests in the Project, Ordinance No. 2727 and the to-be-executed City Documents to the New Developer.

Section 3. Developer Substitution. Notwithstanding Section 1 and Section 2 above, Balboa may designate a substitute entity for Olivette ODC BREP I, L.L.C. and the name of the Developer in the City Documents may be revised accordingly prior to execution so long as the substituted party is an entity controlled by or under common control with or controlling Balboa. In case of such substitution, the name of the Bonds may also be changed to reflect the applicable entity name.

Section 4. Further Authority. The City shall, and the officials, agents and employees of the City are hereby authorized to, take such further action, and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Bonds and the City Documents.

Section 5. Effective Date. This Ordinance shall be in full force and effect from and after its passage and approval.

Passed and approved this ____ day of _____, 2023.

(Seal)

Maxine Weil, Mayor

ATTEST:

Denise Mandel, Acting City Clerk