



Legislation Details (With Text)

**File #:** 14026      **Version:** 1      **Name:** Cap West Resolution  
**Type:** Resolution      **Status:** Filed  
**File created:** 3/12/2009      **In control:** BOARD OF ESTIMATES (ended 4/2017)  
**On agenda:** 3/31/2009      **Final action:** 3/31/2009  
**Enactment date:**      **Enactment #:**

**Title:** Amending Enactment No. RES-07-00419 and authorizing the execution of a second amendment to the Tax Incremental Financing Development Agreement between the City and 309 W. Washington, LLC

**Sponsors:** Michael E. Verveer

**Indexes:**

**Code sections:**

**Attachments:** 1. 14026 alternate.pdf, 2. 14026 Registration Stmt.pdf

Date	Ver.	Action By	Action	Result
3/31/2009	1	COMMON COUNCIL	Place On File Without Prejudice	Pass
3/23/2009	1	BOARD OF ESTIMATES (ended 4/2017)	RECOMMEND TO COUNCIL TO PLACE ON FILE - REPORT OF OFFICER	Pass
3/17/2009	1	COMMON COUNCIL	Refer	Pass
3/12/2009	1	Attorney's Office	Referred for Introduction	

**Fiscal Note**

The 2009 budget does not anticipate any revenue from the return of prior year TIF loans. Thus, the adoption of this resolution has no budgetary impact, although it would postpone for 3 years the dates by which 309 W. Washington, LLC, the developer of Capitol West, must demonstrate compliance with the unit sales thresholds contained in the current development agreement and avoid repayment of the original loan amount totaling \$4,274,000. Given current real estate market conditions, it is highly unlikely that the developer will be able to achieve the first required sales threshold on June 15, 2009. If the developer is unable or unwilling to repay \$3,274,000 of the TIF loan at that time, the City would pursue remedies available under the development agreement in an attempt to enforce compliance with this provision of the current development contract. Those remedies could include suing the developer (309 W. Washington, LLC), suing the personal guarantor (Randy Alexander) or commencing a foreclosure action. If the developer is unable to achieve the second sales threshold on May 15, 2010, the remaining \$1,000,000 of the original TIF loan would become due, with similar potential remedies available to the City.

**Title**

Amending Enactment No. RES-07-00419 and authorizing the execution of a second amendment to the Tax Incremental Financing Development Agreement between the City and 309 W. Washington, LLC

**Body**

On November 21, 2006, the Common Council adopted Enactment No. RES-06-00986 (the "2006 Resolution") that authorized the execution of a development agreement to fund a tax incremental finance loan in the principal amount of \$4,274,000 to 309 W. Washington, LLC ("Developer"). Under the terms of the 2006 Resolution, \$3,274,000 of the TIF loan was to become a grant if Developer sold seventy-one (71) residential condominium units to owner-occupants by July 15, 2008, and the remaining \$1,000,000 of the TIF loan was to become a grant if Developer sold an additional fifty-three (53) residential condominium units to owner-occupants by March 15, 2009. The Development Agreement provides that if Developer does not sell the required number of units by the two specified dates, Developer is to repay the City the amounts of \$3,274,000

and \$1,000,000, respectively.

On April 17, 2007, the Common Council adopted Enactment No. RES-07-00419, File No. 05934 (the "2007 Resolution"), which extended the two sales dates set forth in the 2006 Resolution by eleven and fourteen months to June 15, 2009 and May 15, 2010. Developer has requested that the two owner-occupant sales dates be further extended to June 15, 2012, and May 15, 2013 due to the economic downturn and the resulting reduction in real estate sales. To date, Developer has sold 42 units of the 141 unit project to owner-occupants, including all 16 inclusionary zoning units.

**NOW, THEREFORE, BE IT RESOLVED** that:

1. Enactment No. RES-07-00419 is amended to extend the sales dates by which Developer must sell residential units to owner-occupants to June 15, 2012 and May 15, 2013. If Developer fails to sell seventy-one (71) units to owner-occupants by June 15, 2012, Developer shall repay the City \$3,274,000 on June 15, 2012. If Developer fails to sell an additional fifty-three (53) units to owner-occupants by May 15, 2013, Developer shall repay the City \$1,000,000 on May 15, 2013.
  2. The Mayor and City Clerk are hereby authorized to execute an amendment to the Development Agreement between the City and Developer to incorporate the extension terms as approved herein.
- All other terms and conditions of Enactment No. RES-07-00419 shall remain the same.