

SECOND COMMITTEE SUBSTITUTE FOR RESOLUTION NO. 100139

Expressing the City Council's intent to identify certain funds for demolition debris and asbestos removal at the site of 2715 -21 Swope Parkway if MAC Healthcare purchases the property.

WHEREAS, in 2003, the City expended \$211,534.00 to demolish a large, dilapidated structure then located at what was commonly referred to as either 2715 Swope Parkway or 2715-21 Swope Parkway that had been duly and lawfully declared a dangerous building pursuant to the City's ordinances and to remove asbestos containing materials during the demolition; and

WHEREAS, these demolition and asbestos removal costs became a debt owed by the property owner and a lien on the parcel of property, which was never paid by the property owner; and

WHEREAS, in 2007, the City filed a lawsuit in Jackson County, Missouri Circuit Court styled *City of Kansas City, Missouri v. North American Islamic Trust, Inc., et al.*, Case No. 0716-CV31722, to attempt to collect these demolition and asbestos removal costs; and

WHEREAS, the principal, interest and penalties currently owed for the demolition and asbestos removal is approximately \$395,762.50; and

WHEREAS, Masjid Omar, the current owner of this parcel of property and a defendant in the above lawsuit, filed for Ch. 11 bankruptcy in the U.S. District Court for the Western District of Missouri on August 21, 2008, in the proceeding styled *In re Masjid Omar*, 08-43451-abf11, and listed this parcel of real property (legally described as all of Lots 4 through 21, Block 6, in Warder Park, Jackson County, Missouri) as the only asset of the debtor's estate and listed this demolition debt and lien as one of the debts of the debtor; and

WHEREAS, Masjid Omar has proposed to the Bankruptcy Court a plan by which it would sell to MAC Healthcare all but four platted lots (Lots 13 through 16) of the real property commonly described as located at 2715 Swope Parkway for the sum of \$187,500.00, and

WHEREAS, on December 17, 2009, the City Council adopted Resolution No. 091023, As Amended, which recommended to the Missouri Housing Development Commission the issuance of Missouri Low Income Housing Tax Credits to a senior citizen housing project containing affordable housing proposed by MAC Healthcare, and

WHEREAS, MAC Healthcare has obtained an engineering report which indicates that there remain portions of the demolished structure(s) in the ground on this site which may require additional expenditures over and above typical excavation costs required by development of this previously blighted parcel; and

SECOND COMMITTEE SUBSTITUTE FOR RESOLUTION NO. 100139

WHEREAS, MAC Healthcare has expressed to the City that it will be unwilling to develop this property unless the City provides funding for demolition debris and asbestos removal at the site in an amount equal to the amount of money the City receives from the Bankruptcy Court as a result of the purchase by MAC Healthcare of the larger portion of the real property located at 2715 Swope Parkway; and

WHEREAS, it is anticipated that the claims of other creditors of the debtor and certain fees associated with the administration of this bankruptcy proceeding will reduce the City's share of the sales proceeds to approximately \$160,000.00; and

WHEREAS, the City recognizes that there exists a public purpose in development of this previously blighted parcel and in the economic redevelopment of the area between Benton Boulevard and Prospect Avenue; and

WHEREAS, the City recognizes that there are certain circumstances in which such public purposes are furthered by providing public funds to offset extraordinary expenses associated with the site at which such construction and redevelopment is to occur; NOW, THEREFORE,

BE IT RESOLVED BY THE COUNCIL OF KANSAS CITY:

Section 1. That the Council recognizes the existence of a public purpose in the economic redevelopment of the area between Benton Boulevard and Prospect Avenue and on the site of 2715 Swope Parkway in particular.

Section 2. That the Council expresses its intent to identify funds in an amount equal to the amount of proceeds the City receives from the Bankruptcy Court attributable to MAC Healthcare's purchase of this parcel of real property and to make those funds available to offset the costs for extraordinary demolition debris and asbestos removal at the site of 2715 Swope Parkway actually incurred by, or on behalf of, MAC Healthcare, subject to the conditions set out below in Section 3 being first satisfied.

Section 3. That the conditions that MAC Healthcare must satisfy before the funds described above can be paid to MAC Healthcare, if it purchases this parcel, shall be:

- a. That if MAC Healthcare develops this parcel to conform to the current zoning, they may proceed without a development plan; otherwise they must present, and have approved by the City, a development plan for this parcel of property; and
- b. That MAC Healthcare will make application for Brownfield funding for the costs of removal of demolition debris and asbestos at the site and, if approved for those funds for at least \$160,000.00

SECOND COMMITTEE SUBSTITUTE FOR RESOLUTION NO. 100139

in 8 months from the time of their application, they will accept such funds in the lieu of the funds provided by this resolution; and

- c. That MAC Healthcare must have entered into a funding agreement with the City that at least provides that such City funding derived from proceeds the City receives from the Bankruptcy Court attributable to MAC Healthcare's purchase of this parcel of real property will be provided on a documented, reimbursement basis.

Section 4. That, in the event that MAC Healthcare or one of its affiliated entities does not purchase or does purchase but does not subsequently develop this parcel, the amount of proceeds the City receives from the Bankruptcy Court will be deposited into the General Fund as they would have otherwise.
