

ORDINANCE NO. 060942

Authorizing the City Attorney to seek certain relief for the Library Lofts project from the U.S. District Court in *City of Kansas City, Missouri v. HEDFC* and to execute a release of the Receiver from any liability to the City arising from such requested relief and expressing the Council's intent regarding appropriating funds to pay creditor's of HEDFC if harmed by such requested relief.

WHEREAS, on or about July 23, 2001, the Housing and Economic Development Corporation ("HEDFC"), loaned Library Lofts, L.P., the sum of One Million Five Hundred Thousand Dollars (HEDFC Loan No. 01-138) to pay a portion of the cost of acquisition of a multifamily apartment project located at 10th and Baltimore in Kansas City, Missouri and commonly known as Library Lofts; and

WHEREAS, the City provided HEDFC the funds to make this loan from the City's Community Development Block Grant funds to further the elimination of blight in the City's Downtown and to provide affordable housing opportunities; and

WHEREAS, in 2005, the City filed a lawsuit against HEDFC in the U.S. District Court for the Western District of Missouri styled *City of Kansas City, Missouri v. HEDFC*, Case No. 4:05-CV-00368-GAF seeking various relief, including the appointment of a receiver to handle the operations of HEDFC until the Court determined what assets of HEDFC should be transferred to the City; and

WHEREAS, the U.S. District Court appointed David Bahner ("Receiver") to serve as that receiver and, among other duties, ordered him to both service the loans in HEDFC's loan portfolios and collect any amounts due and owing on those loans and to pay out of HEDFC's income and assets any claims of creditors which the Court found to be lawfully owed; and

WHEREAS, because the principal balance of the loan, along with any unpaid accrued interest, comes due on September 30, 2006, the Receiver intends to demand payment of the loan on that date unless otherwise ordered by the Court; and

WHEREAS, Library Lofts, L.P. cannot pay off the principal balance, along with any unpaid accrued interest, on or before September 30, 2006 and seeks a two (2) year extension of that obligation in exchange for certain enhancements of the extended loan; and

WHEREAS, the Library Lofts project was, and still remains, an important and pivotal housing project for the continued revitalization of the City's Downtown; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

ORDINANCE NO. 060942

Section 1. That the City Attorney is hereby authorized to file a joint motion with Library Lofts, L.P. in the lawsuit pending in U.S. District Court for the Western District of Missouri styled *City of Kansas City, Missouri v. HEDFC*, Case No. 4:05-CV-00368-GAF seeking an order authorizing the Receiver, upon receipt from Library Lofts, L.P. of any unpaid accrued interest, to enter into a revision of HEDFC Loan No. 01-138 with Library Lofts, L.P. extending the date on which the principal balance, along with any accrued interest, is to be paid in full to September 1, 2008, increasing the interest that shall accrue thereafter on the unpaid principal and interest balance from one percent (1%) to six percent (6%) percent, continuing monthly installment payments of at least \$4,825.00 and extending its commitment as to the number of affordable housing units through September 1, 2008.

Section 2. That the City Attorney is hereby authorized to execute a release of the Receiver of any and all claims, causes of action or other liabilities of the City that might arise from the Receiver's compliance with any order issued by the Court in response to the City's and the Library Loft, L.P.'s joint motion.

Section 3. That the Council hereby expresses its intent, if necessary, to cause the City Manager to docket for its consideration an ordinance appropriating funds up to One Million Five Hundred Thousand Dollars for use by the Receiver to pay any creditors' claims found by the Court to be lawfully owed, if the income and other assets of HEDFC are otherwise insufficient to do so.

Approved as to form and legality:

Galen Beaufort
City Attorney