

MICHIGAN CITY COMMON COUNCIL

RESOLUTION NO. 4797

FILED
NOV 30 2020
GALE A. NEULIEB
CITY CLERK
CITY OF MICHIGAN CITY

AUTHORIZING THE INITIATION OF EMINENT DOMAIN LITIGATION FOR THE ACQUISITION OF STATION BLOCK PROPERTIES NEEDED TO MEET THE CITY'S CONTRACTUAL COMMITMENT TO NICTD TO PROVIDE THOSE PROPERTIES TO NICTD TO BE USED AS PART OF THE DOUBLE TRACK PROJECT AS THE SITE OF THE NEW TRAIN STATION AND PARKING GARAGE

WHEREAS, on or about November 1, 2016, the Michigan City Common Council (Common Council), pursuant to its Resolution Number 4661, approved an Operating Agreement with the Northwest Indiana Commuter Transportation District (NICTD Agreement); and

WHEREAS, within the NICTD Agreement the Common Council committed to, among other things, the City acquiring all of the property located within the square block bordered by Franklin Street, 11th Street, Pine Street and 10th Street (Station Block), which is within a redevelopment project area, to be provided to NICTD for the construction of a train station and parking structure; and

WHEREAS, the Common Council previously adopted Resolution No. 4679 on June 6, 2017, approving (i) the City to be a cash participant in the Double Track Project, pursuant to Indiana Code 36-7.5-4.5-16, in the total amount of \$12,166,666.67, by and through the City's Redevelopment Commission (Commission) making a payment to the Northwest Indiana Regional Development Authority for the Double Track Project (Payment) to contribute to LaPorte County's share of funding as a cash participant and (ii) the issuance of bonds by the Commission in an aggregate principal amount of Five Million Three Hundred Ninety Thousand Dollars (\$5,390,000) to be used as a portion of the Payment; and

WHEREAS, in furtherance of fulfilling the City's commitment to NICTD, the Commission has contracted with the firm of Beam, Longest and Neff, LLC ("BLN") to prepare fair market appraisals of those properties situated within the Station Block and to tender good faith offers to the Station Block property owners in accordance with Federal Regulations, including but not limited to 42 USC Ch. 61: Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs (The "Federal Relocation Act"); and

WHEREAS, all initial offers in the amount of the appraisals tendered to the Station Block property owners by BLN on behalf of the Commission have been rejected to date; and

WHEREAS, in 2014, pursuant to I.C. 36-7-14-12.2 (e), the statutory authority of the Commission to commence eminent domain actions was terminated and the authority was transferred to the Common Council pursuant to I.C. 36-7-14-20 (a); and

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[illegible]

1. The first step is to identify the problem or question that needs to be answered. This involves understanding the context and the specific requirements of the task.

1. The first of these is the fact that the Commission has not yet received any information from the Government of the Republic of China (Taiwan) regarding the situation in the Republic of China (Taiwan) since the end of the Second World War. This is a serious omission, as the Commission is required to provide a comprehensive report on the situation in the Republic of China (Taiwan) to the United Nations. The Commission is therefore unable to provide a complete and accurate report on the situation in the Republic of China (Taiwan) to the United Nations.

WHEREAS, NICTD is anticipating awarding the contracts for the commencement of the construction of the new station and parking structure in June, 2021; and

WHEREAS, in accordance with the terms of the NICTD Agreement, the Station Block has to be conveyed to NICTD in a condition that is “shovel ready.” including, but not limited to, the demolition of certain existing structures and the clean-up of known environmental contaminants that exist within the Station Block; and

WHEREAS, in the event the Commission is unable to successfully reach agreement with any of the Station Block Property owners on the fair market value for the acquisition of any of the six (6) properties within the Station Block, an eminent domain action will be required as to each of those properties to ensure the City’s ability to fulfill its contractual obligations under the NICTD Agreement to provide those properties to NICTD; and

WHEREAS, the estimated timeframe for the initiation of an eminent domain action, a judgment in which the property is awarded to the City on behalf of the Commission, and the corresponding demolition and environmental clean-up activities is anticipated to be in the range of six (6) months; and

WHEREAS, in recognizing that anticipated timeframe for the completion of real property acquisition and other identified requisite tasks to enable the City to convey the Station Block properties to NICTD as the City is required to do pursuant to the terms contained within the NICTD Agreement, commencement of any necessary eminent domain litigation should be commenced as soon as reasonably possible; and


WHEREAS, on November 30, 2020 the Redevelopment Commission adopted its Resolution No. 3-20 requesting the Common Council to commence eminent Domain litigation for the Station Block properties on behalf of the Commission; and


WHEREAS, the Common Council finds that it is in the best interests of the City of Michigan City, its citizens, and for the benefit thereof, and the public good, that the City acquire title to all of the Station Block properties on behalf of the Commission so that they can be transferred to NICTD for use by NICTD to construct a new train station and parking garage in the implementation of its Double Track project.

NOW, THEREFORE, BE IT RESOLVED BY THE COMMON COUNCIL OF THE CITY OF MICHIGAN CITY that, for the public good and in order to ensure that the City will be able to fulfill the City’s prior binding contractual commitments to NICTD to provide NICTD with title to the properties located within the square block bordered by Franklin Street, 11th Street, Pine Street and 10th Street (Station Block) , to be used for the site of the new public train station and parking garage constructed as part of NICTD’s Double Track project that, pursuant to IC 36-7-14-20(a), the appropriate petition to acquire the Station Block properties by eminent domain be filed forthwith in the name of the City, on behalf of its Redevelopment Department, in the Circuit or Superior Court of LaPorte County, Indiana.

This Resolution to be effective upon its adoption and approval of the Mayor.

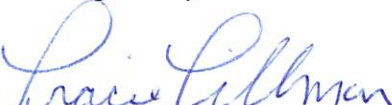
INTRODUCED BY:


Angie Nelson Deutch, Member
Michigan City Common Council

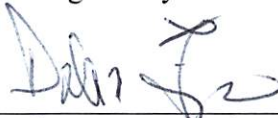

Bryant Dabney, Member
Michigan City Common Council


Michael Mack, Member
Michigan City Common Council



Gene Simmons, Member
Michigan City Common Council


Tracie Tillman, Member
Michigan City Common Council

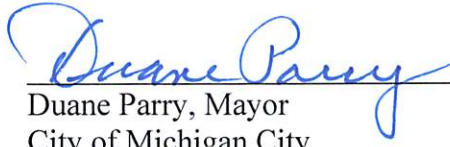

Sean Fitzpatrick, President
Michigan City Common Council


Dalia Zygas, Member
Michigan City Common Council

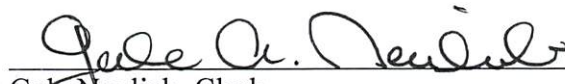
Adopted by the Common Council of the City of Michigan City, Indiana on the 1ST day of
December, 2020 by a vote of 7 Yays and 2 Nays.


Sean Fitzpatrick, President
Michigan City Common Council

Approved by me on the 7th day of December, 2020.


Duane Parry, Mayor
City of Michigan City

ATTEST:


Gale Neulieb, Clerk
City of Michigan City

James D. [unclear]

James D. [unclear]



FILED

DEC 01 2020

GALE A. NEULIEB
CITY CLERK
CITY OF MICHIGAN CITY

RESOLUTION NO. 3-20

**A RESOLUTION BY THE
MICHIGAN CITY REDEVELOPMENT COMMISSION
REQUESTING THE MICHIGAN CITY COMMON COUNCIL
EXERCISE ITS EMINENT DOMAIN AUTHORITY AS NECESSARY
IN FULFILLING THE CITY OF MICHIGAN CITY'S OBLIGATION
AND PREVIOUS COMMITMENTS IN FURTHERANCE OF THE
CORE CAPACTY PROJECT REFERRED TO AS THE
DOUBLE TRACK NWI PROJECT**

WHEREAS, the Michigan City Redevelopment Commission (the "Commission") governing body of the City of Michigan City Department of Redevelopment (the "Department") and the Redevelopment District of the City of Michigan City, Indiana (the "Redevelopment District"), exists and operates under the provisions of the Redevelopment of Cities and Towns Act of 1953 which has been codified in I.C. 36-7-14, as amended from time to time (the "Act"); and

WHEREAS, the Commission has historically and continues to demonstrate support for the commuter rail operations of the South Shore Line; and

WHEREAS, the Commission, in cooperation with Lake, Porter, LaPorte and St. Joseph Counties has previously committed funding for the preliminary engineering and environmental analysis necessary to advance the Core Capacity Project (The "Double Track Project") which will reduce travel time, increase train frequency, reliability and safety for the economic benefit of Michigan City residents and the region as a whole; and

WHEREAS, on or about November 1, 2016, the Michigan City Common Council (The "City Council"), pursuant to Resolution Number 4661 approved an Operating Agreement with the Northwest Indiana Commuter Transportation District (The "NICTD Agreement"); and

WHEREAS, within the NICTD Agreement the City Council committed to, inter alia, the acquisition of certain real estate located in the city square block bordered by Franklin Street, 11th Street, Pine Street and 10th Street (The "Station Block Property"), which is within a redevelopment project area, to be provided to NICTD for the construction of a train station and parking structure; and

WHEREAS, on or about May 31, 2017 the Commission pursuant to Resolution 8-17 approved the cash participation in the Double Track Project in accordance with I.C. 36-7.5-4.5-16 in an amount of \$12,166,166.67; and

WHEREAS, the City Council previously adopted Resolution No. 4679 on June 6, 2017, approving (i) for the City to be a cash participant pursuant to Indiana Code 36-7.5-4.5-16 in the Double Track Project in the total amount of \$12,166,666.67 by and through the Commission making a payment to the Northwest Indiana Regional Development Authority for the Double Track Project (the "Payment") to contribute to LaPorte County's share of funding as a cash participant and (ii) of the issuance of bonds by the District in an aggregate principal amount of

Five Million Three Hundred Ninety Thousand Dollars (\$5,390,000) for the purpose of paying a portion of the Payment; and

WHEREAS, the Commission has contracted with the firm of Beam, Longest and Neff, LLC (“BLN”) to undertake fair market appraisals of those parcels situated within the Station Block and to tender good faith offers to Station Block property owners in accordance with Federal Regulations, including but not limited to 42 USC Ch. 61: Uniform Relocation Assistance and Real Property Acquisition Policies for Federal and Federally Assisted Programs (The “Federal Relocation Act”); and

WHEREAS, all initial offers as tendered by BLN on behalf of the Commission to property owners have been rejected to date, however negotiations continue; and

WHEREAS, in 2014, the Indiana General Assembly vis-à-vis, I.C. 36-7-14-12.2 (e), removed the statutory authority of the Commission to commence actions of eminent domain and transferred same to the legislative body of the municipality pursuant to I.C. 36-7-14-20 (a); and

WHEREAS, NICTD is anticipating the awarding of contracts for the commencement for the construction of the station and parking structure in June, 2021; and

WHEREAS, in accordance with the NICTD Agreement, the Station Block Property that shall be conveyed in a condition that is “shovel ready”, including but not limited to the demolition of certain existing structures and the clean-up of known environmental contaminants that exist on the Station Block Property; and

WHEREAS, in the event the Commission is unable to successfully reach agreement with any of the Station Block Property owners on the fair market value for the acquisition of the six (6) parcels, an eminent domain action will be required to ensure the City’s fulfillment of its contractual obligations under the NICTD Agreement; and

WHEREAS, the estimated timeframe for the initiation of an eminent domain action, a judgment in which the property is awarded to the Commission and the corresponding demolition and environmental clean-up activities is anticipated to be in the range of four to five (4 – 5) months; and

WHEREAS, in recognizing the anticipated timeframe for the completion of real property acquisition and other identified requisite tasks to ensure conveyance of the Station Block Property pursuant to the City’s obligations as contained within the NICTD Agreement, commencement of those necessary procedures as contained within the City’s eminent domain authority should be commenced instantaneously; and

WHEREAS, the Commission reaffirms its belief in and support of prior findings and resolutions that the City’s involvement with and implementation of all associated tasks as necessary to ensure the successful realization of the Double Track Project is for the public good of Michigan City, Indiana.

**NOW, THEREFORE, BE IT RESOLVED BY THE MICHIGAN CITY
REDEVELOPMENT COMMISSION, GOVERNING BODY OF THE MICHIGAN CITY
DEPARTMENT OF REDEVELOPMENT AS FOLLOWS:**

That the aforementioned findings as contained herein are recognized, approved and adopted and incorporated herein.

The Commission hereby requests the Michigan City Common Council pursuant to the authority granted to it in I.C. 36-7-14-20 (a) to authorize the commencement of eminent domain actions as may be necessary for the acquisition of any and all parcels in the Station Block so as to be able to meet the collective obligation of the City and Commission pursuant to the terms of the NICTD Agreement to provide NICTD with the properties in the Station Block thereby ensuring the successful realization of the Double Track Project for the City of Michigan City, Indiana.

This Resolution shall be in full force and effect upon its adoption by the Commission.

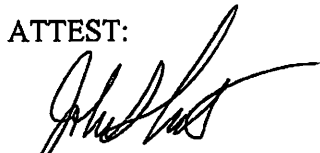
ALL OF WHICH IS RESOLVED this 30th day of November, 2020.

CITY OF MICHIGAN CITY, INDIANA
DEPARTMENT OF REDEVELOPMENT



By: Ken Behrendt, President

ATTEST:



By: John Sheets, Secretary

12-8-20 EMAILS COUNCIL / DEPT HEARD / AMBER / KIM
MAYOR / CHRIS / JANET / YVONNE / MARY LYNN / TAMIKO
LILLIANA / GALE / KRISTINA