

Redevelopment Authority of the City of Milwaukee

Resolution No.:

Adopted on: April 19, 2012

Project / Area: Bonds

Aldermanic District: 8th

Resolution authorizing and providing for the sale and issuance of revenue bonds for the J.F. Ahern Co. project.

Whereas, the Redevelopment Authority of the City of Milwaukee (the “Authority”) is a redevelopment authority organized by the City of Milwaukee, Wisconsin (the “City”), and existing under and pursuant to Section 66.1333, Wisconsin Statutes, as amended (the “Act”), and is authorized by the Act:

- (a) to carry out redevelopment projects in the City;
- (b) to assist private acquisition, improvement and redevelopment of blighted property;
- (c) to enter into contracts with redevelopers of property in accordance with redevelopment and urban renewal plans; and
- (d) to issue bonds or other indebtedness in furtherance of its purposes; and

Whereas, the Authority has adopted a development plan for the Milwaukee Road Shops Redevelopment Project Area (the “Project Area”); and

Whereas, in an initial resolution adopted by the Authority on October 20, 2011 (the “Initial Resolution”), the Authority expressed its intention to issue its intention to issue revenue bonds to finance the project described herein, subject to final approval by resolution of the Authority; and

Whereas, J.F. Ahern Co. (the “Borrower”) and its affiliate Triony Milwaukee LLC (the “Developer”) have requested that the Authority issue revenue bonds (the “Bonds”) to provide financing for the acquisition of approximately five acres of land located at the corner of West Canal Street and West Roundhouse Road, sometimes referred to as 3201 West Canal Street or as 3340 Roundhouse Road, in the Menomonee Valley Business Park in the City of Milwaukee, Wisconsin (the “Project Site”), and the construction, furnishing, and equipping by the Developer of an approximately 52,000 square foot office and fabrication facility on the Project Site (the “Project”); and

Whereas, appropriate representatives of the Authority have negotiated proposed contracts with the Borrower and the Developer, with respect to the Bonds; and

Whereas, the Bonds will be secured by an irrevocable letter of credit (the “Letter of Credit”) to be issued by National Exchange Bank and Trust (the “Bank”), in an amount sufficient to pay up to 100% of the principal amount of the Bonds and 185 days of interest as the same become due; and

Whereas, the Borrower has presented the Authority with proposed documentation for the Bonds as follows:

(a) a Bond Purchase Agreement (the “Bond Purchase Agreement”) to be entered into by and among the Authority, the Borrower, the Bank, and Robert W. Baird & Co. Incorporated (the “Underwriter”), setting forth the terms and conditions on which the Authority will sell, and the Underwriter will purchase, the Bonds; and

(b) an Indenture of Trust (the “Indenture”), to be entered into between the Authority and the corporate bond trustee designated in Section 4 hereof (the “Trustee”), providing for the creation of the Bonds, the terms thereof, and the security therefor; and

(c) a Loan Agreement (the “Loan Agreement”), to be entered into between the Authority and the Borrower providing for a loan of the Bond proceeds to the Borrower (the “Loan”) on repayment terms scheduled to provide the Authority with revenues sufficient to retire the Bonds in accordance with their terms; and

(d) a Promissory Note (the “Note”), to be issued by the Borrower payable to the order of the Authority, in the principal amount of the Bonds as evidence of the Loan, and to be assigned by the Authority to the Trustee; and

(e) a Tax Compliance Agreement (the “Tax Agreement”), to be dated the date of initial delivery of the Bonds, to be entered into among the Authority, the Borrower, the Developer, and other transaction participants, setting forth certain undertakings in order to ensure compliance under the applicable Code requirements relating to the tax exempt status of the Bonds; and

Whereas, the Loan Agreement provides that the Borrower will cause an amount equal to the net proceeds of the Bonds (after payment of issuance costs and a deposit to pay interest on the Bonds) to be lent to the Developer to finance the Project; and

Whereas, development of the Project will result in substantial public benefits, including, but not limited to, the furtherance of the redevelopment plan for the Project Area;

Now, therefore be it resolved that:

Section 1. Authorization to Borrow and to Lend. The Authority shall borrow, but only in the manner herein recited, the aggregate sum of not to exceed \$7,900,000 for the purpose of (i) financing the costs of providing the Project, (ii) paying the costs of selling and issuing the Bonds, (iii) paying a portion of interest to accrue on the Bonds, and (iv) paying such other costs related thereto as are permitted to be paid with Bond proceeds. Said borrowing shall be accomplished through the sale of the Bonds issued pursuant to the Act. The Authority shall lend the bond proceeds to the Borrower pursuant to the terms of the Loan Agreement, which Loan shall be evidenced by the Note and secured as provided in the Loan Agreement.

Section 2. Designation, Denomination, Tenor, and Maturity of Bonds Created for Issuance. The Bonds shall be issued in the aggregate principal amount of not to exceed \$7,900,000 and shall be designated:

Redevelopment Authority of the City of Milwaukee (Wisconsin)
Fixed Rate Redevelopment Revenue Bonds, Series 2012
(J.F. Ahern Co. Project)

The Bonds shall be substantially in the form set forth in the Indenture, with such insertions therein as shall be necessary to comply with the terms of this resolution and with such corrections therein or additions thereto, if any, as bond counsel may require for conformity with the terms of this resolution, the

Indenture, and the Act. The Bonds shall be dated as of the date of their initial issuance and delivery. The Bonds shall mature on the respective dates and in the respective principal amounts set forth in the Indenture and shall bear interest from their initial issuance date, payable on June 1 and December 1 of each year, commencing December 1, 2012, at the interest rates set forth in the Indenture; *provided that* (i) the final maturity of the Bonds shall be no later than June 1, 2033, (ii) the Bonds shall provide for amortization through serial maturities or sinking fund redemptions on June 1 of each year from 2014 through the final maturity, (iii) the interest rate for any maturity shall not exceed 5% per annum, and (iv) the Underwriter shall represent that such rates reflect the then current market yields for bonds similar to the Bonds which are sold to the public.

The Bonds shall be issuable as fully registered bonds without coupons in denominations of \$5,000 and multiples thereof. The Bonds shall be registered in the name of The Depository Trust Company (or its nominee) (the "Depository") and ownership of the beneficial interests in the Bonds shall be by book entry in the book entry system maintained and operated by the Depository. Bonds shall be transferable by the registered owners thereof in the manner and with the effect provided in the Indenture. The principal of and interest on the Bonds shall be payable in lawful money of the United States of America at the designated corporate trust office of the Trustee, as provided in the Indenture.

Each Bond shall be dated, as its registration date, the date of its authentication.

Section 3. Execution and Authentication of Bonds. The Bonds shall be executed on behalf of the Authority with the facsimile or manual signature of its Chairperson or Vice Chairperson, countersigned with the facsimile or manual signature of its Executive Director/Secretary or Assistant Executive Director/Secretary and shall have impressed, imprinted or otherwise reproduced thereon an official seal of the Authority or a facsimile thereof, if any. No Bond shall be issued unless first authenticated by the Trustee (as fiscal agent and bond registrar), to be evidenced by the manual signature of an authorized signatory of the Trustee on each Bond.

Section 4. Designation of Trustee. The Authority hereby designates and appoints U.S. Bank National Association to perform the functions of the Trustee, fiscal agent, bond registrar, and paying agent under the Indenture.

Section 5. Bonds as Limited Obligations. The Bonds shall be limited obligations of the Authority, payable by it solely from the Pledged Revenues (as defined in the Indenture), and shall not constitute a general or moral obligation or a pledge of the faith or credit or any taxing power of the Authority or the City. The Bonds and the interest thereon shall not be a debt of the City, the State of Wisconsin, or any subdivision thereof nor shall any of them be liable thereon. The Bonds shall not in any event be payable out of any funds or property other than Pledged Revenues. The Bonds shall not constitute or give rise to any personal liability of any member of the governing body of the Authority or any officers or employees of the Authority on the Bonds or for any act or omission related to the authorization or issuance of the Bonds.

Section 6. Source of Payment; Pledge of Revenues. The Bonds shall be limited obligations of the Authority, payable by it solely from revenues and income derived by or for the account of the Authority from or for the account of the Borrower pursuant to the terms of the Loan Agreement, the Note, and the Indenture, including, without limitation, (i) all amounts derived pursuant to the Letter of Credit; (ii) all payments by the Borrower on the Note or pursuant to the terms of the Loan Agreement, and (iii) all amounts held from time to time in the Trust Funds, and the investment earnings thereon.

As security for the payment of the principal of and interest on the Bonds, the Authority shall pledge and assign to the Trustee all of its right, title, and interest in and to the property described in the Indenture.

Section 7. Redemption of Bonds Prior to Maturity. The Bonds shall be subject to redemption prior to maturity at the prices and on the dates provided in the Indenture.

Section 8. Trust Funds. The Trust Funds described in the Indenture shall be created under the Indenture to be held in the custody of the Trustee and applied for the uses and purposes provided in the Indenture.

Section 9. Investment of Trust Funds. Any moneys held as a part of the trust funds held by the Trustee under the Indenture may be invested and reinvested by the Trustee upon request by the Borrower (except as otherwise provided in the Indenture and the Loan Agreement) in certain “Qualified Investments” as defined in the Indenture.

Section 10. Determination of Revenue Payment. The amount necessary in each year to pay the principal of and interest on the Bonds is the sum of (i) the amount of interest on the Bonds becoming due in such year, plus (ii) the amount of principal becoming due in such year in accordance with Section 2 of this resolution (as reduced from time to time by reason of redemptions and open market purchases of Bonds in accordance with the Indenture).

In expressing the Borrower’s obligation to make the necessary revenue payments, it shall suffice herein and in the Loan Agreement to state that the Borrower shall be obligated to pay the Authority (or the Trustee for the account of the Authority) amounts sufficient to pay when due the principal of and interest on the Bonds.

Section 11. Award of Bonds; Execution and Delivery of the Bond Purchase Agreement. The Borrower has negotiated for the sale of the Bonds to the Underwriter at a price of not less than 98% of the principal amount of the Bonds, there being no accrued interest thereon. In addition, either the purchase price will include an Underwriter discount, or the Borrower will pay an Underwriter fee, in an amount not to exceed \$175,000. Given the purposes of the financing and the involvement of the Authority therewith, it is the determination of this body that the Bonds shall be and hereby are awarded to the Underwriter at the price aforesaid with delivery to follow in the manner, at the time and subject to the conditions set forth in the Bond Purchase Agreement and this resolution. As evidence thereof, the Chairperson or Vice Chairperson and the Executive Director/Secretary or Assistant Executive Director/Secretary are hereby authorized and directed for and in the name of the Authority to execute and deliver the Bond Purchase Agreement in the form presented herewith, or with such insertions therein or corrections thereto as shall be approved by them consistent with this resolution and the terms of the Act, their execution thereof to constitute conclusive evidence of their approval of any such insertions and corrections.

Section 12. Execution and Delivery of the Indenture, the Loan Agreement, the Tax Agreement, and the Assignment of the Note. The terms and provisions of the Indenture, the Loan Agreement, the Note, and the Tax Agreement, are hereby approved. The Chairperson or Vice Chairperson acting alone or together with the Executive Director/Secretary or Assistant Executive Director/Secretary are hereby authorized for and in the name of the Authority to execute and deliver the Indenture, the Loan Agreement, the Tax Agreement, and the assignment of the Note in the respective forms thereof presented herewith, or with such insertions therein or corrections thereto as shall be approved by them consistent with this resolution and the terms of the Act, their execution thereof to constitute conclusive evidence of their approval of any such insertions and corrections.

Section 13. Execution and Delivery of the Bonds. The Chairperson or Vice Chairperson and the Executive Director/Secretary or Assistant Executive Director/Secretary are hereby authorized for and in the name of the Authority to execute the Bonds in the manner authorized by Section 3 hereof. Subject to the terms and conditions of the Bond Purchase Agreement, the Authority shall deliver the Bonds to the Underwriter.

Section 14. Publication of Notice. Notice of the sale of the Bonds, in the form attached hereto as Exhibit A, shall be published promptly after the adoption of this resolution in the official newspaper of the City as a class 1 notice under Chapter 985 of the Wisconsin Statutes. The Assistant Executive Director/Secretary shall obtain proof, in affidavit form, of such publication, and shall compare the Notice as printed with the form attached hereto as Exhibit A to ascertain that no mistake has been made therein.

Section 15. General Authorizations. The Chairperson, Vice Chairperson, the Executive Director/Secretary and Assistant Executive Director/Secretary and the appropriate deputies and officials of the Authority in accordance with their assigned responsibilities are hereby each authorized and directed to execute, publish, file and record such other documents, instruments, notices (including Internal Revenue Form 8038), and records, and to take such other actions as shall be necessary or desirable to accomplish the purposes of this resolution and to comply with and perform the obligations of the Authority under the Bonds, the Loan Agreement, the Bond Purchase Agreement, the Tax Agreement, the Indenture, and any related documents.

In the event that the current officers of the Authority are unable by reason of death, disability, absence, or vacancy of office to perform in timely fashion any of the duties specified herein (such as the execution of Bonds, the Bond Purchase Agreement, the Loan Agreement, the Indenture, the Tax Agreement, the Security Agreement, or the assignment of the Note), such duties shall be performed by the officer or official succeeding to such duties in accordance with law and the rules of the Authority.

Section 16. Authority Fee. Issuance of the Bonds is expressly conditioned on the Authority being paid, upon issuance, a fee equal to 0.75% percent of the principal amount of the Bonds issued.

Section 17. Effective Date; Conformity. This resolution shall be effective immediately upon its passage and approval and shall expire on the one year anniversary date of the effective date if the Bonds shall not have been issued prior to such anniversary date. To the extent that any prior resolutions of this body are inconsistent with the provisions hereof, this resolution shall control and such prior resolutions shall be deemed amended to such extent as may be necessary to bring them in conformity with this resolution.

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EXHIBIT A

**NOTICE TO THE ELECTORS
OF THE CITY OF MILWAUKEE
RELATING TO BOND SALE**

On April 19, 2012, a resolution was offered, read, approved, and adopted by the Redevelopment Authority of the City of Milwaukee (the "Authority"), whereby the Authority authorized a contract to sell fixed rate redevelopment revenue bonds in a principal amount not to exceed \$7,900,000 to finance a project owned by Triony Milwaukee LLC and operated by J.F. Ahern Co. It is anticipated that the closing of this bond financing will be held on or about May 15, 2012. A copy of all proceedings had to date with respect to the authorization and sale of said bonds is on file and may be examined in the office of the Assistant Executive Director of the Authority, 809 North Broadway, Milwaukee, Wisconsin.

This notice is given pursuant to Section 893.77, Wisconsin Statutes, which provides that an action or proceeding to contest the validity of such municipal financing, for other than constitutional reasons, must be commenced within 30 days after the date of publication of this Notice.

/s/ David P. Misky _____
Assistant Executive Director

Publication Date: April __, 2012

CERTIFICATION

I certify that the forgoing is a true and exact copy of a resolution adopted by the Redevelopment Authority of the City of Milwaukee, WI on the date set forth above.

(seal)

David P. Misky
Assistant Executive Director – Secretary
