



Legislation Text

File #: 19-0850R, **Version:** 1

RESOLUTION AUTHORIZING AGREEMENT AMENDMENT TO THE LINE OF CREDIT PROMISSORY NOTE FOR THE ARROWHEAD ZOOLOGICAL SOCIETY

CITY PROPOSAL:

The proper city officials approve the agreement amendment to the line of credit promissory note for the Arrowhead Zoological Society.

WHEREAS, in 2013 pursuant to City Council Resolution No. 13-0481, the Maker executed a Line of Credit Promissory Note in favor of the Lender in substantially the form of that attached to said resolution, in the amount of not to exceed \$300,000 to assist Maker in funding fees and expenses incurred by Maker in connection with the operation of the Duluth zoo; and,

WHEREAS, the Maker has drawn down the entire amount it was authorized to draw against as set forth above; and

WHEREAS, the Term of said LOC was extended to October 1, 2020 by City Council resolutions 16-0767, 17-0738 and 18-07-9 and by amendments to the LOC authorized thereby, which Line of Credit Promissory Note as so extended and amended is hereinafter referred to as the "LOC"; and

WHEREAS, the amount outstanding and currently owed to the Lender under the LOC is currently \$300,000 plus accrued, unpaid interest in the amount of \$12,694.63 as of October 16, 2019; and

WHEREAS, between May 1, 2009 and November 1, 2018, in the course of performing its services pursuant to the Zoo Management Agreement between the parties, the Lender erroneously paid sales tax to the State of Minnesota on the sales made by Maker in the amount of \$129,702, which taxes had been properly paid by Maker, causing a double payment to have been made to the State; and

WHEREAS, because of the statute of limitations applicable to tax payment, Lender was only able to recover \$52,603 of the overpayment amount which the Lender has received and currently holds.

NOW THEREFORE, the proper city officials are authorized to execute an agreement amendment and the parties hereto hereby agree that the LOC is hereby modified as referenced in Exhibit A.

STATEMENT OF PURPOSE: This resolution authorizes an amendment to the \$300,000 line of credit promissory note for the Arrowhead Zoological Society to address the inadvertent overpayment of state sales tax on Zoo revenue by the City in the amount of \$129,702 over the period 2009 to 2018. Because of a statutory limitation, only a portion of the overpayment could be recovered from the State.

The Society initially requested that the City reimburse it for the entire overpayment. The city demurred on the basis that the city effectively repaid the sum with \$400,000 in emergency grants awarded to the Society in 2017 and 2018. The partners agreed on a compromise whereby the \$52,603 recovered from the state would be immediately credited to the Society's debt and the remainder would be credited to the LOC obligation if the

Society pays the remaining balance of the LOC obligation of \$187,926 prior to October 1, 2020. The agreement also forgives accumulated interest on the line of credit and eliminates future interest charges.