



Legislation Text

File #: RES PH 23-172, **Version:** 1

Approving the adoption of a Fifth Amendment to the Tax Increment Financing Plan for the Ford Site Redevelopment Tax Increment Financing District and authorizing the execution of related amendments to documents, including a redevelopment agreement and minimum assessment agreement.

WHEREAS, the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota (the "HRA") has heretofore established the Ford Site Redevelopment Project Area (the "Project Area") and has adopted a redevelopment plan therefor (the "Redevelopment Plan") pursuant to Minnesota Statutes, Sections 469.001 to 469.047, inclusive, as amended (the "HRA Act");

WHEREAS, the Redevelopment Plan contains an identification of need and statement of objectives and program of the HRA for carrying out a redevelopment project, including property to be acquired, public improvements to be provided, development and redevelopment to occur, and sources of revenue to pay redevelopment costs within the Project Area;

WHEREAS, the HRA has asked the City Council of the City of Saint Paul (the "Council") to approve a Fifth Amendment to the Tax Increment Financing Plan (the "5th Amendment to TIF Plan") for the Ford Site Redevelopment Tax Increment Financing District (the "TIF District"), which is located within the Project Area and was heretofore created as a redevelopment tax increment financing district under Minnesota Statutes, Section 469.174, Subdivision 10, all pursuant to and in accordance with the HRA Act and Minnesota Statutes, Sections 469.174 through 469.1794, as amended (the "TIF Act");

WHEREAS, the HRA has investigated the facts and has caused to be prepared a Fifth Amendment to the Tax Increment Financing Plan (the "5th Amendment to TIF Plan") in connection with the removal of certain real property from the TIF District, pursuant to Section 469.175, Subdivision 4(b)(1) of the TIF Act;

WHEREAS, the HRA or the Council has performed all actions required by law to be performed prior to the approval of the 5th Amendment to TIF Plan including, but not limited to, notification of the Ramsey County Commissioner representing the area of Ramsey County (the "County") in which the TIF District is located and delivering a copy of the 5th Amendment to TIF Plan to the County and Independent School District Number 625, both of which have taxing jurisdiction over the properties included in the TIF District. The HRA has requested that the Council approve the 5th Amendment to TIF Plan following the holding of a public hearing upon published notice as required by law;

WHEREAS, on this date, the Council conducted a public hearing on the 5th Amendment to TIF Plan, after duly published notice thereof;

WHEREAS, at said public hearing all interested parties were provided a reasonable opportunity to express their views on the 5th Amendment to TIF Plan; and

WHEREAS, the Council has considered the findings and determinations of the HRA respecting the 5th Amendment to TIF Plan and considered the documentation submitted in support of the same and has taken into account the information and knowledge gained in hearings upon and during consideration of other matters relating to the development proposed within the Project Area; and

WHEREAS, in connection with the removal of real property from the TIF District in accordance with the 5th Amendment to TIF Plan, Project Paul, LLC, a Delaware limited liability company (the "Developer") has

proposed certain amendments to various documents related to the development of the property in the TIF District including without limitation that certain Redevelopment Agreement dated December 18, 2019 between the City, the HRA, and the Developer (the "Original RDA"), and that certain Minimum Assessment Agreement dated as of December 18, 2019 between the City, the HRA, and the Developer (the "Original MAA") pursuant to a First Amendment to Redevelopment Agreement and Other Agreements (Highland Bridge -Block 33, Block 34, Park D) between the City, the HRA, and the Developer (the "Amendment to RDA") and a First Amendment to Minimum Assessment Agreement (Highland Bridge -Block 33, Block 34) between the City, the HRA, and the Developer (the "Amendment to MAA").

NOW, THEREFORE, BE IT RESOLVED by the City Council of the City of Saint Paul, Minnesota (the "City") as follows:

Section 1. Findings for the Approval of 5th Amendment to TIF Plan.

1.01 The Council hereby finds that the 5th Amendment to TIF Plan is intended and, in the judgment of the Council, its effect will be, to carry out the objectives of the Redevelopment Plan and to create an impetus for development and redevelopment activities in the Project Area, including, but not limited to, developing or redeveloping sites, lands or areas within the Project Area, providing necessary public improvements in the Project Area, and otherwise promoting certain public purposes and accomplishing certain objectives as specified in the Redevelopment Plan and the TIF Plan, as amended.

1.02 The Council hereby ratifies and confirms the findings made in connection with the establishment of the TIF District, including without limitation that the TIF District qualifies as a redevelopment district that meets the criteria of section 469.174, subdivision 10.

1.03 The Council hereby makes the following additional findings, the specific facts that form the basis for which are in the TIF Plan, and the resolutions previously adopted with respect to the TIF District are hereby incorporated by reference into and made a part of this resolution as supplemented herein:

(a) The Council further finds that the proposed developments and redevelopments to be assisted from tax increments of the TIF District, in the opinion of the Council, would not occur solely through private investment within the reasonably foreseeable future and, as set forth in Section 13 of the original Tax Increment Financing Plan, the increased market value of property in the Project Area that could reasonably be expected to occur without the use of tax increment financing would be less than the increase in the market value estimated to result from the proposed development after subtracting the present value of the projected tax increments for the maximum duration of the district permitted by the plan and, therefore, the use of tax increment financing is deemed necessary. The specific basis for such finding being:

As found by the Council on March 16, 2016, the property on which the proposed redevelopment of the Ford Site into a mix of housing and commercial uses (the "Development") will occur had not been redeveloped or occupied for several years and the prior use was functionally obsolete. The costs of clearing the site and providing the necessary infrastructure for development in the TIF District are higher than for new development and it would not be economically feasible for private development to proceed with the Development without tax increment assistance. The 5th Amendment to TIF Plan, among other things, enables development adjacent to the TIF District which stimulates and supports the Development within the TIF District.

(b) The Council further finds that the 5th Amendment to TIF Plan conforms to the general plan for the development or redevelopment of the City as a whole. The specific basis for such finding

being:

The 5th Amendment to TIF Plan will generally compliment and serve to implement policies adopted in the City's comprehensive plan. The development and redevelopment contemplated by the 5th Amendment to TIF Plan is in accordance with the City's comprehensive plan.

(c) The Council further finds that the 5th Amendment to TIF Plan will afford maximum opportunity consistent with the sound needs of the City as a whole for the development and redevelopment of the Project Area by private enterprise. The specific basis for such finding being:

The proposed Development to occur within the TIF District is commercial and housing and is consistent with other uses in the area. The Development will increase the taxable market valuation of the City. The 5th Amendment to TIF Plan is consistent with the Development.

Section 2. Approval of the 5th Amendment to TIF Plan.

2.01. The 5th Amendment to TIF Plan is hereby approved.

2.02. The Council hereby ratifies and confirms all elections made in connection with the establishment of the TIF District, including without limitation elections regarding the amount of captured tax capacity to be retained and the applicable fiscal disparities computation.

2.03. Upon approval by the City Council of the City of the 5th Amendment to TIF Plan and recording of the plat attached as Exhibit A thereto, the Council hereby authorizes the staff of the HRA and City and the HRA's and City's advisors and legal counsel to proceed with the implementation of this resolution and the 5th Amendment to TIF Plan and to negotiate, draft, and prepare all further plans, resolutions, documents and contracts necessary for this purpose.

Section 3. Approval and Execution of Documents.

3.01. Approval of Development Documents. The Council hereby approves the Amendment to RDA and the Amendment to MAA, in substantially the forms on file with the Director, Department of Planning and Economic Development, together with any related documents necessary in connection therewith, including, without limitation, all documents, exhibits, certifications or consents referenced therein or attached thereto (collectively, the "Development Documents").

3.02. Execution of Documents. The Mayor, or designee, and the Director, Office of Financial Services of the City, and either the Director, Department of Human Rights & Equal Economic Opportunity (the "Authorized Officers") are hereby authorized in their discretion and at such time, if any, as they may deem appropriate, to execute, on behalf of the City, the Development Documents and to carry out, on behalf of the City, directly or through one or more appointed designees, the City's obligations thereunder when all conditions precedent thereto have been satisfied. The approval hereby given to the Development Documents includes approval of such additional details therein as may be necessary and appropriate and such modifications thereof, deletions therefrom and additions thereto as may be necessary and appropriate and approved by the Saint Paul City Attorney, the appropriate City staff person(s) or by the Authorized Officers authorized herein to execute or accept, as the case may be, said documents prior to their execution; and said Authorized Officers or staff members are hereby authorized to approve said changes on behalf of the City. The execution of any instrument by the Authorized Officers shall be conclusive evidence of the approval of such document in accordance with the terms hereof. This Resolution shall not constitute an offer and the Development Documents shall not be effective until the date of execution thereof as provided herein. In the

event of absence or disability of any of the Authorized Officers, any of the Development Documents authorized by this Resolution to be executed may be executed without further act or authorization of the Board by any member of the Board or any duly designated acting official, or by such other officer or officers of the Board as, in the opinion of the Saint Paul City Attorney, may act in their behalf. The electronic signature of a party to the Development Documents, including all acknowledgements, authorizations, directions, waivers and consents thereto (or any amendment or supplement thereto) shall be as valid as an original signature of such party and shall be effective to bind such party to the Development Documents. Any electronically signed Development Documents shall be deemed (i) to be "written" or "in writing," (ii) to have been signed, and (iii) to constitute a record established and maintained in the ordinary course of business and an original written record when printed from electronic files. For purposes hereof, "electronic signature" means a manually-signed original signature that is then transmitted by electronic means; "transmitted by electronic means" means sent in the form of a facsimile or sent via the Internet as a pdf (portable document format) or other replicating image attached to an e-mail message; and, "electronically signed document" means a document transmitted by electronic means and containing, or to which there is affixed, an electronic signature.

3.03. Future Amendments. The authority to approve, execute and deliver future amendments to the Development Documents entered into by the City and consents required under the Development Documents is hereby delegated to the Authorized Officers of the City, subject to the following conditions: (a) such amendments or consents do not materially adversely affect the interests of the City; (b) such amendments or consents do not contravene or violate any policy of the City, and (c) such amendments or consents are acceptable in form and substance to the Saint Paul City Attorney or the counsel retained by the City to review such amendments. The authorization hereby given shall be further construed as authorization for the execution and delivery of such certificates and related items as may be required to demonstrate compliance with the agreements being amended and the terms of this Resolution. The execution of any instrument by the Authorized Officers of the City shall be conclusive evidence of the approval of such instruments in accordance with the terms hereof. In the event of absence or disability of the Authorized Officers, any of the documents authorized by this Resolution to be executed may be executed without further act or authorization of the Council by any member of the Board or any duly designated acting official, or by such other officer or officers of the City as, in the opinion of the Saint Paul City Attorney, may act in their behalf.