



Legislation Text

File #: RES PH 22-297, **Version:** 1

Approving the adoption of a spending plan under Minnesota Statutes, Section 469.176, Subd 4n.

WHEREAS, the City Council of the City of Saint Paul, Minnesota (the "City") has the statutory responsibility under Minnesota Statutes, Section 469.176, Subd 4n, to approve a spending plan of the Housing and Redevelopment Authority of the City of Saint Paul, Minnesota (the "HRA"), after a public hearing thereon;

WHEREAS, various private entities have requested or identified the need for financial assistance from the HRA for various housing and redevelopment projects;

WHEREAS, the HRA and the City have previously established the following tax increment financing districts located in the City (collectively, the "TIF Districts"), and adopted tax increment financing plans therefor, pursuant to Minnesota Statutes, Sections 469.001 through 469.047, as amended, and Minnesota Statutes, Sections 469.174 through 469.1794, as amended (collectively, the "TIF Act"): (1) Block 4/MN Mutual Redevelopment; (2) North Quadrant Housing; (3) Riverfront Renaissance Redevelopment; (4) Emerald Park Redevelopment; (5) Straus Building-Housing; (6) Phalen Village Redevelopment; (7) Osceola Park Housing; (8) Bridgecreek Senior Place Housing (aka Parkway Gardens); (9) Shepard Davern Redevelopment No. 1 (Owner Occupied Housing); (10) Shepard Davern Housing No. 2 (Rental Housing); (11) Shepard Davern Housing No. 3 (Senior Rental Housing); (12) Koch Mobil Redevelopment; (13) Carlton Lofts Housing; (14) Highland Pointe Lofts Housing (aka Riverpointe Lofts); (15) Minnesota Building Housing; (16) Pioneer Endicott Redevelopment; (17) Schmidt Brewery Housing; (18) West Side Flats Phase I Housing; (19) Custom House/Post Office Redevelopment; (20) East 7th & Bates Senior Housing; (21) 2700 University at Westgate Station Housing;

WHEREAS, Section 469.176, subdivision 4n of the TIF Act ("Subd. 4n") authorizes the HRA to spend available tax increment from any existing tax increment financing district, notwithstanding any other law to the contrary, to provide improvements, loans, interest rate subsidies, or assistance in any form to private development consisting of construction or substantial rehabilitation of buildings and ancillary facilities, if the following conditions exist:

- (1) Such assistance will create or retain jobs in the State of Minnesota, including construction jobs;
- (2) Construction commences before December 31, 2025;
- (3) The construction would not have commenced before December 31, 2025 without the assistance;
- (4) Tax increments under the spending plan are spent by December 31, 2025; and
- (5) The City Council of the City (the "Council") approves a written spending plan (after a duly noticed public hearing) that specifically authorizes the HRA to take such actions;

WHEREAS, the HRA holds regularly scheduled meetings on the 2nd and 4th Wednesdays of each month and the schedule of such meetings is posted on the HRA's website and is maintained on file, beginning of January of each year. In addition, the City Council holds regularly scheduled meetings on the 1st, 2nd, 3rd and 4th Wednesdays of each month and the schedule of such meetings is posted on the City's website and is maintained on file, beginning of January of each year.

WHEREAS, the HRA and the City Council scheduled consideration of the proposed adoption of resolutions approving that certain Spending Plan for Various Tax Increment Financing Districts Adopted Pursuant to Minnesota Statutes, Section 469.176, Subd 4n (the "Spending Plan") which authorizes the use of tax increments from the TIF Districts to provide improvements, loans or assistance for private development that will create or retain jobs in this state to be heard before the HRA on June 22, 2022, to be immediately followed, if approved, by a public hearing and consideration before the City Council later on June 22, 2022.

WHEREAS, in anticipation of the public hearing on resolution RES 22-955 before City Council, the City delivered to Pioneer Press on June 10, 2022 for publication in the Sunday Edition of Legal Notices on June 12, 2022 a notice of a public hearing to be held on the Spending Plan.

WHEREAS, on June 10, 2022, Pioneer Press confirmed its intention to publish the Notice of Public Hearing on June 12, 2022. The City further caused the Notice of Public Hearing to be published on the City's website on June 10, 2022 wherein said Notice contained the date, time and place of the public hearing and instructions for obtaining a copy of the Spending Plan.

WHEREAS, on June 15, 2022, the Pioneer Press published the Notice of Public Hearing that it had failed to publish on June 12, 2022, through no fault of the City.

WHEREAS, Minnesota Statute section 331A.05, subdivision 7 provides: "If through no fault of the political subdivision, an error occurs in the publication of a public notice, the error shall have no effect on the validity of the event, action, or proceeding to which the public notice relates."

WHEREAS, in accordance with the regular meeting schedule, the HRA placed on the Agenda for the June 22, 2022 regular meeting the proposed adoption of RES 22-955 approving a Spending Plan. In addition to the notice of regular meeting posted pursuant to the schedule, the Agenda for the meeting containing a link to the Resolution and Spending Plan to be taken up was posted to the public five days in advance of the meeting (on June 17, 2022) by: (1) Early Notification System (ENS), an electronic email delivery system in which members of the public can sign up for emails and alerts for HRA-related notifications, (2) publication on Legistar, an internet and cloud based system that posts and tracks legislative activities of the HRA, and (3) on the City's Calendar.

WHEREAS, in accordance with the regular meeting schedule, the City placed on its Agenda for the June 22, 2022 regular meeting the public hearing and proposed adoption of RES PH 22-172 approving a Spending Plan. In addition to the notice of regular meeting posted pursuant to the schedule, the Agenda for the meeting, including the public hearing, and containing a link to the Resolution and Spending Plan to be taken up was posted to the public: (1) on June 16, 2022 by Early Notification System (ENS), an electronic email delivery system in which members of the public can sign up for emails and alerts for City Council-related notifications, (2) on June 16, 2022 by publication on Legistar, an internet and cloud based system that posts and tracks legislative activities of the City, and (3) on June 17, 2022 by publication in the Pioneer Press.

WHEREAS, pursuant to Subd. 4n, on June 22, 2022, at its regularly scheduled meeting open to the public, the HRA adopted RES 22-955 approving a Spending Plan.

WHEREAS, on June 22, 2022, the City Council conducted a public hearing on the adoption of the Spending Plan, at its regularly scheduled meeting. At said public hearing all interested parties were provided a reasonable opportunity to express their views on the Spending Plan which had been approved by the HRA earlier in the day at its regularly scheduled public meeting subject to the notices above-mentioned.

WHEREAS, on June 22, 2022, following the closure of the public hearing, the City Council considered the findings and determinations of the HRA respecting the Spending Plan and considered the documentation submitted in support of the same and took into account the information and knowledge gained in the public

hearing and thereafter, in reliance on Minnesota Statutes, Section 331A.05, subd. 7, and for other good reason set forth in the record and resolution, adopted RES PH 22-172 approving the Spending Plan.

WHEREAS, on August 31, 2022, the City received a summons and complaint, in *H A B, Inc. d/b/a Heppner's Auto Body, et. al. v. City of St. Paul, et. al.*, Court File No. 62-CV-22-4915 claiming in part, that the June 22, 2022 public hearing and resulting resolution RES PH22-172, is procedurally defective because notice of the public hearing was not published in the Pioneer Press on or before June 12, 2022.

WHEREAS, Minnesota case law recognizes the inherent authority of law-making authorities such as the City to correct any alleged deficiencies existing in legislative acts and law making for purposes of responding to claims in litigation or otherwise.

WHEREAS, it is intent of the City to cure for now and all times the alleged procedural defect for purposes of resolving an issue in litigation without an admission of wrongdoing or defectiveness. Thus, the City Council determined to conduct a supplemental public hearing on the date hereof on the Spending Plan, concluding that it is in the interest of public as a whole to avoid the further costs and burdens of litigation and for other good reason to give the Plaintiffs in the above-stated litigation as well as any other interested persons, an additional opportunity to be heard.

WHEREAS, on this date, the City Council conducted a public hearing on the efficacy of the Spending Plan, following published notice on the City's public website on September 16, 2022 and in the Pioneer Press, a newspaper of general circulation in the City, on September 18, 2022, in accordance with applicable law.

WHEREAS, at said public hearing all interested parties were provided a reasonable opportunity to express their views on the Spending Plan. And,

WHEREAS, the City Council has considered the findings and determinations of the HRA respecting the Spending Plan and considered the documentation submitted in support of the same and has taken into account the information and knowledge gained as summarized above and in the public hearing.

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

Section 1. Approval of the Spending Plan.

1.01 The Council further finds the Spending Plan is intended and, in the judgment of the Council, its effect will be, to create an impetus for development and redevelopment activities in the City, including, but not limited to, developing or redeveloping blighted or underutilized sites, lands or areas within the City, providing necessary public improvements for private development in the City, and otherwise promoting certain public purposes and accomplishing certain objectives as specified in the Spending Plan. The Council finds that the projects described in the Spending Plan would not have commenced by December 31, 2025 without the assistance being offered by the HRA as permitted by Subd. 4n and that assistance will stimulate private development and the creation or retention of jobs in the state, including construction jobs. The Council makes all the findings set forth in the Spending Plan, which are incorporated herein by reference.

1.02 The Council finds that the tax increments to be transferred under the Spending Plan are not needed to pay obligations of the applicable Tax Increment Financing Districts due within the six months following such transfer and are not improperly retained, received, spent, or transferred.

1.03 The Spending Plan is hereby approved and adopted and the Spending Plan shall be placed on file in the office of the Executive Director of the HRA. The City authorizes transferring all tax increments under the Spending Plan to a segregated account by December 31, 2022 and spending tax

increments under the Spending Plan by December 31, 2025 for projects which commence construction by December 31, 2025.

1.04 The HRA's staff, advisors and legal counsel are authorized and directed to identify potential uses which are in accordance with the Spending Plan for projects that are likely to result in the most efficient and effective use of the identified funds, to proceed with the implementation of the Spending Plan and to negotiate, draft, and prepare all further plans, resolutions, documents and contracts necessary for this purpose for future approval by the HRA Board.

1.05 The staff of the HRA is hereby directed to file a copy of the Spending Plan with the Office of the State Auditor.