



Legislation Text

File #: 230581, Version: 3

[COMMITTEE SUBSTITUTE FOR] ORDINANCE NO. 230581, AS AMENDED

Sponsor: Mayor Quinton Lucas

Consenting to the assignment of certain development rights for Block 124; authorizing the City Manager to execute an Amended and Restated Master Development Financing Agreement among the City of Kansas City, Missouri, the Port Authority of Kansas City, Missouri, and Kansas City Live LLC, a Fifth Amendment to Development Agreement with HRB Tax Group, Inc., and an amendment to the Parking, Operation, Maintenance and Easement Agreement with President Development Group Inc. and President Hotel LC.

WHEREAS, the City Council passed Ordinance No. 040154 on March 3, 2004, which accepted the recommendations of the Tax Increment Financing Commission of Kansas City, Missouri (“TIF Commission”), as to the 1200 Main/South Loop Tax Increment Financing Plan (“1200 Main/South Loop TIF Plan”), approved the 1200 Main/South Loop TIF Plan, designated a Redevelopment Area, and contemplated the completion of multiple Redevelopment Projects for the purposes of remediating blight, including a new office tower; and

WHEREAS, on October 11, 2004, (a) the City and HRB Tax Group, Inc., formerly known as H&R Block Services, Inc. (“HRB”), executed that certain Development Agreement dated October 11, 2004, as subsequently amended by that certain First Amendment to Development Agreement dated October 2, 2017, that certain Second Amendment to Development Agreement dated August 20, 2020, that certain Third Amendment to Development Agreement dated December 18, 2020 and that certain Fourth Amendment to Development Agreement dated December 28, 2022 (collectively, the “HRB Development Agreement”) and (b) the City, as successor in interest to the TIF Commission, and HRB executed that certain Lease with Option, whereby HRB was granted an option to purchase Block 124, Unit 3 (“Option”); and

WHEREAS, the HRB Development Agreement obligates the City to finance the construction of up to 1,333 parking spaces to service the Block 124 Office Tower and the 1200 Main/South Loop TIF Plan Redevelopment Projects, and acquire additional real estate on which to locate such parking spaces, at an estimated cost of \$69,000,000.00; and

WHEREAS, Redevelopment Project 7 of the 1200 Main/South Loop TIF Plan calls for, in part, the new construction of approximately 250,000 to 350,000 square feet of office space (“Block 124 Office Tower”) in the elevated condominium unit over the current retail space located generally on the southwest corner of 13th and Main (“Block 124, Unit 3”); and

WHEREAS, the City Council adopted Second Committee Substitute for Ordinance No. 040161, on February 20, 2014, and activated Redevelopment Project 7 of the 1200 Main/South Loop TIF Plan, so that the developer of Block 124, Unit 3 would be eligible to immediately receive the benefits of tax increment financing to implement Redevelopment Project 7; and

WHEREAS, since executing the HRB Development Agreement, the activation of Redevelopment Project 7, and in anticipation of the Block 124 Office Tower, the City and HRB have made significant financial investments in the Block 124 substructure, to provide structural support to the Block 124 Office Tower and a portion of the required parking garage; and

WHEREAS, in Committee Substitute for Ordinance No. 180982, As Amended, passed January 10, 2019, the City approved an assignment of HRB's development rights for the Block 124 Office Tower to Power Tower Block 124, LP or its affiliates (the "Developer") in which HRB is a partner and consented to the assignment even though its consent may not be required; and

WHEREAS, the Fourth Amendment to Development Agreement between the City and HRB extended the time for HRB to consummate a closing of the exercised Option until December 31, 2023; and

WHEREAS, for the purposes of assisting the City in fulfilling its parking commitment to Developer, as approved assignee of HRB, the City has requested that the Port Authority of Kansas City, Missouri ("Port KC") establish an AIM Zone over Block 124, Unit 3, issue bonds pursuant to Chapter 68 of the Revised Missouri Statutes ("Port KC Bonds") to contribute to the cost of financing the construction of a 750 space parking garage ("Port KC Parking Bonds"), and own the garage following the completion thereof and repayment of the Port KC Parking Bonds, whereby fostering implementation of the 1200 Main/South Loop TIF Plan and the continued development in the Downtown Loop; and

WHEREAS, on January 10, 2019, the Council passed Committee Substitute for Ordinance No. 180982, As Amended, which authorized the City Manager to negotiate a development agreement with the Port Authority of Kansas City, Missouri and the Power Tower Block 124, LP for the development and construction of an office tower and a parking structure within the currently undeveloped airspace currently platted as Unit 3 of Block 124 K.C. Live Condominium; and

WHEREAS, on November 14, 2019, the Council passed Committee Substitute for Ordinance No. 190498, As Amended, which authorized the City Manager to execute a Master Development Financing Agreement among the City, the Port Authority of Kansas City, Missouri and Developer in relation to the construction of a Class A office tower and parking garage in the Power & Light District; and

WHEREAS, on December 18, 2019, the City, Port KC, and Developer executed the authorized Master Development Financing Agreement; and

WHEREAS, Developer, as approved assignee of HRB, has not been able to move forward with consummating the closing of the Option or the construction of the Block 124 Office Tower; and

WHEREAS, the needs of the Downtown area and the City have shifted since the execution of the Development Agreement and Master Development Financing Agreement, such that the need for housing has increased and the need for office space has lessened; and

WHEREAS, the market for office space and conditions for financing that space have shifted over the same period of time; and

WHEREAS, the City, Port KC, HRB, Developer, and Kansas City Live, LLC collectively wish to see the construction of a project on the Block 124 move forward and acknowledge that progress will require the

adjustment of the project, Development Agreement, and Master Development Financing Agreement; and

WHEREAS, Kansas City Live, LLC, acting through an affiliate to be formed, is willing and able to fulfill the responsibilities of HRB and Developer required under the Development Agreement and Master Development Financing Agreement if assigned and contemporaneously amended in certain respects; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. That, provided HRB and Developer agree in their sole discretion to assign their rights set forth in section 25 of the Development Agreement to Kansas City Live LLC, or an affiliate thereof, the City hereby consents to the assignment of such rights.

Section 2. That, provided Developer agrees in its sole discretion to assign its rights set forth in the Master Development Financing Agreement to Kansas City Live LLC, or an affiliate thereof, the City hereby consents to the assignment of such rights.

Section 3. That the City Manager is hereby authorized, if requested by Developer, to negotiate and deliver to HRB and Power Tower written documents evidencing the consents granted in Sections 1 and 2 above.

Section 4. That, provided HRB and Developer agree in their sole discretion to assign their rights as described in Sections 1 and 2 above, the City Manager is hereby authorized to negotiate and execute an Amended and Restated Master Development Financing Agreement among the City of Kansas City, Missouri, the Port Authority of Kansas City, Missouri, and Kansas City Live LLC, or an affiliate thereof. Authorization to execute this agreement is granted provided that the agreement requires compliance with Code § 74-11, Affordable Housing Set Aside, no additional economic development incentives, and that the Payments In Lieu of Taxes payment schedule included in the original development agreement remain unchanged.

Section 5. That the City Manager is hereby authorized to negotiate the Fifth Amendment to Development Agreement with HRB Tax Group, Inc.

Section 6. That the City Manager is hereby authorized to negotiate an amendment to the Parking, Operation, Maintenance and Easement Agreement, dated May 31, 2005, between President Development Group Inc. and President Hotel LC and the City of Kansas City under terms and conditions acceptable to the City Manager and President Hotel LC.

Approved as to form:

Emalea Black
Associate City Attorney