



## Legislation Text

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**File #:** 13-0691, **Version:** 1

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Resolution to Approve the Packard Square Brownfield Plan Amendment, 2502 Packard, Ann Arbor, MI 48104 (BRC Recommendation: Approval - 3 Yeas and 0 Nays)

Attached is a resolution to approve the Packard Square Brownfield Plan Amendment.

Approval of this resolution will allow the Packard Square Brownfield Plan Amendment to advance to the Washtenaw County Brownfield Redevelopment Authority (WCBRA) to authorize two additional eligible activities in the approved Brownfield Plan.

### Petition Summary:

- The Packard Square Brownfield Plan was approved by the WCBRA on May 18, 2011.
- The requested amendment to the Brownfield Plan adds underground parking and urban storm water management to the list of eligible activities. Recent amendments to the state statute have added these categories as allowable infrastructure expenses.
- The amendment does not increase the approved maximum amount of eligible activities; the TIF will continue to be limited to \$3.1 million.
- The Brownfield Plan language has been revised to limit the local-only TIF capture to the amounts approved by Council. In the past, actions subsequent to Council approval taken by MEGA and MDEQ that have limited state TIF capture have resulted in increases to local-only TIF capture.
- The proposed amendment does not alter the environmental clean up/remediation standard for the project recommended by the BRC and City Council (Resolution R-11-168) and adopted as part of Brownfield Plan in any way.

All other terms of the Brownfield Plan as approved by City Council and WCBRA remain unchanged and are incorporated into the Amendment.

The Brownfield Redevelopment Committee, at its meeting of May 28, 2013, recommended approval of this request.

Attachment: Amendment to Brownfield Plan, May 22, 2013

Submitted by: Brownfield Review Committee: Councilpersons Higgins, Petersen, and Kunselman

Prepared By: Jeff Kahan, City Planner

Reviewed By: Wendy L. Rampson, Planning Manager  
Sumedh Bahl, Community Services Area Administrator  
Mary Joan Fales, Senior Assistant City Attorney

Whereas, Packard Square, LLC has requested approval of the Packard Square Brownfield Plan Amendment in order to add two infrastructure “eligible activities” that are now eligible for reimbursement under Brownfield Redevelopment Authority Act (P.A. 381 of 1996, as amended, hereafter the “Act”), as part of the Packard Square Redevelopment Project tax increment financing through the Washtenaw County Brownfield Redevelopment Authority;

Whereas, The Washtenaw County Board of Commissioners established the Washtenaw County Brownfield Redevelopment Authority (the "WCBRA") and adopted the Brownfield Redevelopment Plan for Washtenaw County (the "Plan"), which facilitates the implementation of plans relating to the identification and treatment of environmentally-distressed and other areas within the County of Washtenaw, pursuant to and in accordance with the provisions of the Act;

Whereas, The Act requires the explicit consent of each local governmental unit to be included in the Authority Zone, and that the County resolution included a provision that the Proposed Brownfield Redevelopment Zone will include all local governmental units within the County that pass a resolution approving the inclusion of the Brownfield Redevelopment Zone;

Whereas, The Ann Arbor City Council passed Resolution R-24-1-02 to include the City of Ann Arbor in the Washtenaw County Brownfield Redevelopment Authority; and developed the Brownfield Implementation Plan to describe the Brownfield process in the City;

Whereas, The Brownfield Implementation Plan allows for public participation and comment and allows the City of Ann Arbor to use a more restrictive clean up standard for each project based on the Current Part 201 Residential clean up standard of the Natural Resources and Environmental Protection Act ("NREPA") and a  $10^{-6}$  risk level for carcinogens;

Whereas, The Packard Square property was identified as potentially eligible for Brownfield financial Incentives after a finding that the property contained contaminants in the soil exceeding the generic residential cleanup criteria of Part 201;

Whereas, On April 25, 2011, the City Brownfield Plan Review Committee met to review the Developer's proposed Brownfield Plan and its associated agreements and after being fully apprised of the physical condition of the property, intended cleanup and redevelopment and tax capture recommended approval of the application to City Council and WCBRA;

Whereas, On May 2, 2011, City Council approved the Pack Square Redevelopment Project Plan (R-11-168) and forwarded the Plan for action to WCBRA and the Washtenaw County Board of Commissioners for action; which both approved the Brownfield Plan;

Whereas, The Act was amended on December 28, 2012, adding two categories to the reimbursable eligible infrastructure activities, specifically underground parking and urban stormwater management systems, which the Developer wishes to add to the eligible activities expenses under its Brownfield Plan;

Whereas, The proposed Amendment to the approved Packard Square Redevelopment Project Brownfield Plan:

- would enable the Developer to seek tax increment capture a portion of the project, including underground parking and urban stormwater management system.
- would not increase the approved maximum amount of eligible activities reimburseable to the Developer under the Brownfield Plan, only reallocate estimated costs. The TIF will continue to be limited to \$3.1 million.
- would not alter the environmental remediation standards in the Brownfield Plan required by the

City, specifically that the Developer remove contaminated soils to the  $10^{-5}$  level and install a vapor barrier and passive ventilation system.

- would limit the local-only TIF capture to the amounts approved by Council

Whereas, On May 28, 2013, the Brownfield Review Committee ("Committee") met to review the proposed Brownfield Plan Amendment, and being fully apprised of the physical condition of the property, intended cleanup, and redevelopment and tax capture, recommended approval of the proposed amendments to City Council and WCBRA;

Whereas, The reimbursement by the WCBRA is for actual eligible expenses only;

Whereas, The burden is on the developer to build the project and pay taxes in order for tax capture and reimbursement to occur;

Whereas, The City is not liable for any costs associated with this project if the project is not built or if it fails to achieve the estimated taxable value;

Whereas, Local tax increment revenues to be captured for the payment of interest shall not exceed the current proportional share of the total interest figure included in the Plan. Based on the current capturable millage split, the local-only interest portion is projected to be \$271,019;

Whereas, It is understood that neither the initiation of the review process by the WCBRA for the Amendment of the approved Brownfield Plan nor the recommendation of the Amendment to the approved Brownfield Plan to WCBRA by the City is a guarantee that it will be approved by the Washtenaw County Board of Commissioners, the MDEQ or that financial incentives will be obtained; and

Whereas The City Council held a public hearing on June 17, 2013 to receive public comment on the Brownfield Plan Amendment;

RESOLVED, That City Council approve the Packard Square Brownfield Plan Amendment, dated May 22, 2013;

RESOLVED, That the City Clerk be directed to submit a copy of this Resolution to the Washtenaw County Board of Commissioners as documentation of the City's consideration and approval of the Brownfield Plan; and

RESOLVED, That any changes to the Brownfield Plan after the date of this Resolution will require review by the Brownfield Review Committee and approval by City Council.