



Legislation Text

File #: 18-0552, Version: 1

Resolution to Amend the Budget and Appropriate Funds Not to exceed \$4,200,000.00 from the General Fund Balance to Effect the City’s Ownership of 350 South Fifth Avenue **(\$4,200,000.00) (8 Votes Required)**

On April 2, 2014, the City executed a deed (“Deed”) to Fifth Fourth, LLC (“Fifth Fourth”) for the property commonly known as 350 South Fifth Avenue, Ann Arbor, MI 48104 (“Property”). The Deed provides that Fifth Fourth’s interest in the Property is conditioned on, among other things, its acquisition of a certificate of occupancy for Deed-prescribed improvements prior to January 1, 2018 (administratively extended to by April 2, 2018, at Fifth Fourth’s request). If Fifth Fourth fails to satisfy this (and all other) conditions, the Deed provides that title to the Property returns to the City with its payment of the lesser of \$4.2 million or the appraised value of the Property.

The City executed the Deed (and related purchase agreement) with these conditions because it wanted certain development on the Property. To date, Fifth Fourth has not developed the Property. Fifth Fourth will not acquire a certificate of occupancy for the Property by the end of the day.

The City obtained an appraisal of the Property from Alcock & Williams, LLC. Below is the appraisal based on the assumed Floor Area Ratio (“FAR”):

FAR Market Value Conclusions

FAR	Site Sq.Ft.	Est. Building Sq.Ft.		Value Indicator	Market Value Conclusion
550%	34,848	191,664	x	\$40	\$7,700,000
600%	34,848	209,088	x	\$40	\$8,400,000
700%	34,848	243,936	x	\$40	\$9,800,000
800%	34,848	278,784	x	\$40	\$11,200,000
900%	34,848	313,632	x	\$40	\$12,500,000

Because all of these values are significantly above the \$4.2 million maximum price listed in the Deed, staff recommends that the City: (1) pay the \$4.2 million to Fifth Fourth as soon as possible to return the Property to the City ownership in accordance with the Deed; (2) amend the budget and appropriate funds from the General Fund for such payment; and (3) pursue financing options to repay the General Fund.

Prepared by: Tom Crawford, Chief Financial Officer
Approved by: Howard S. Lazarus, City Administrator
Sponsored by: Mayor Taylor

Whereas, On April 2, 2014, the City executed a deed (“Deed”) to Fifth Fourth, LLC (“Fifth Fourth”) for the property commonly known as 350 South Fifth Avenue, Ann Arbor, Michigan 48104 (“Property”);

Whereas, Pursuant to the Deed, Fifth Fourth’s interest in the Property is conditioned on, among other things, its acquisition of a certificate of occupancy for Deed-prescribed improvements (“Certificate of

Occupancy”) prior to January 1, 2018 (administratively extended to April 2, 2018, at Fifth Fourth’s request);

Whereas, The Deed provides that if Fifth Fourth failed to satisfy all conditions, including obtaining a Certificate of Occupancy within the required time period, title to the Property returns to the City with the City’s payment of the lesser of \$4.2 million or an appraised value of the Property;

Whereas, Fifth Fourth will not obtain the Certificate of Occupancy by the end of the day and has not developed the Property to-date;

Whereas, Alcock & Williams, LLC appraised the Property, as of August 22, 2017, at substantially above the \$4.2 million maximum price;

Whereas, The City can pay the \$4.2 million from the General Fund and reimburse such Fund at a later date through bond issuance, proceeds from the sale of the development rights for the area above the library lane parking structure, assistance from the Ann Arbor Downtown Development Authority, and/or the sale of the Property;

Whereas, If the City issues bonds to reimburse the General Fund, the City’s financial advisor has recommended a financing structure payable over not more than 15 years with the ability to pre-pay;

Whereas, The sale of bonds requires publication of a notice of intent to issue limited tax general obligation bonds and the passage of 45 days thereafter without referendum petitions being filed by 10% or more of the City’s registered voters;

Whereas, If the bonds are not sold for any reason by June 30, 2018, the unassigned General Fund’s fund balance would be reduced by the full cost to fund the \$4.2 million expense, resulting in an unassigned fund balance of approximately \$11 million (13% of expenditures); and

Whereas, The City’s Fund Balance Policy requires that if the unassigned General Fund’s fund balance falls below 15%, the City must approve and adopt a plan to restore this balance to the targeted level within a specific period of time;

RESOLVED, That City Council directs staff to tender the \$4.2 million payment to effect its ownership interest in the Property;

RESOLVED, That the General Fund Non-Departmental revenue and expenditure budgets be amended and increased by \$4,200,000.00 without regard to fiscal year to appropriate funds for the purpose of making such payment;

RESOLVED, That if the implementation of the above direction results in an unassigned General Fund balance lower than 15%, that the City Administrator return to Council with a plan to restore the fund balance; and

RESOLVED, That the City Administrator and the City Attorney are authorized and directed to take all necessary administrative actions to prepare, submit for execution by the Mayor and City Clerk subject to approval as to substance by the City Administrator and approval as to form by the City Attorney, any documents necessary to exercise the City’s rights in the Property.