

# City of South St. Paul

## Economic Development Authority Agenda

SPECIAL MEETING

Monday, August 28, 2023

Immediately Following the 6:45 PM Special Meeting of the City Council  
Training Room – City Hall

**1. CALL TO ORDER:**

**2. ROLL CALL:**

**3. AGENDA:**

*A. Approval of Agenda*

*Action – Motion to Approve*

*Action – Motion to Approve as Amended*

**4. GENERAL BUSINESS:**

*General communications of the President and Commissioners are provided and may be considered for inclusion on a future agenda. There will be no discussion or decisions made related to these items at this meeting.*

**A. Beard Group – The Yards**

**i. First Amendment to Development Agreement**

**ii. First Amendment to Escrow Agreement**

**5. ADJOURNMENT:**

Respectfully Submitted,

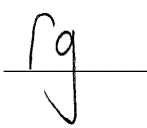


Ryan Garcia, EDA Executive Director



**EDA AGENDA ITEM REPORT**

Date: August 28, 2023

EDA Executive Director: 

4-A

**AGENDA ITEM:** First Amendment to Development Agreement and First Amendment to Escrow Agreement (The Yards)

**ACTION TO BE CONSIDERED:**

Following discussion, two separate motions:

Motion to approve the First Amendment to Development Agreement with the City of South St. Paul and SSP QOZB LLC, SSP SPE I LLC and SSP SPE II LLC

Motion to approve the First Amendment to Phase II Improvements Escrow Agreement with SSP QOZB LLC and SSP SPE II LLC

**OVERVIEW:**

In December 2020, the EDA (and City) approved a Development Agreement with entities affiliated with the Beard Group, the developer of the Yards and Backyards Apartments. The Developer has been in discussions with Staff about completing the streetscape improvements along Concord Exchange, which they were required to do according to the definition of “Minimum Improvements” in their Development Agreement. Beard and the City worked closely through the design and planning process for these streetscape improvements over the course of the past two years, but ultimately the developer struggled to get competitive bids and effectively manage that component of the project. Beard has requested, and staff supports, the forfeit of their escrow for Streetscape on this project (\$625,000) and to have the City do the work as part of the Streetscape Project identified in our 2024 Capital Improvement Plan. The Amendment to the Development Agreement and Escrow Agreement, as presented, eliminates the developer’s obligation to complete the portion of the streetscape that is not immediately adjacent to their property, as well as the financial escrow related to streetscape work. These agreements require both EDA and City Council approval.

**FUNDING SOURCES AND OTHER FISCAL CONSIDERATIONS:**

The Developer has agreed to release the \$625,000 escrow to the City for the Concord Exchange Streetscape. The remaining escrow per the amendment (\$320,350) is held in escrow until the Phase II improvements to Concord Exchange – namely sidewalk, angle parking, curb – are complete.

**ATTACHMENTS:**

First Amendment to Development Agreement  
First Amendment to Escrow Agreement

**FIRST AMENDMENT TO DEVELOPMENT AGREEMENT BY AND BETWEEN  
SOUTH ST. PAUL ECONOMIC DEVELOPMENT AUTHORITY AND THE CITY OF  
SOUT ST. PAUL AND SSP QOZB LLC, SSP SPE I LLC AND SSP SPE II LLC**

THIS FIRST AMENDMENT (this “Amendment”) made effective as of \_\_\_\_\_, 2023, by and among the South St. Paul Economic Development Authority, a public body corporate and politic under the laws of Minnesota (“EDA”), the City of South St. Paul, a municipal corporation (“City”), and SSP QOZB LLC, a Minnesota limited liability company (“Developer”), SSP SPE I LLC (“Phase I Owner”), and SSP SPE II LLC, a Minnesota limited liability company (“Phase II Owner”).

WITNESSETH:

WHEREAS, the Authority, City, Developer, Phase I Owner and Phase II Owner (collectively, the “Parties”) entered into that certain Development Agreement, dated March 22, 2021 (the “Development Agreement”), which is evidenced by a Memorandum of Development Agreement recorded in the records of the Dakota County Recorder and Registrar of Titles on April 30, 2021, as Documents Nos. 3459245 (abstract) and 842623 (Torrens);

WHEREAS, the Parties desire to amend certain terms and conditions of the Development Agreement;

NOW, THEREFORE, in consideration of the covenants and the mutual obligations contained herein, the Parties hereby covenant and agree that the following sections of the Development Agreement are hereby amended and revised as follows:

Section 1.1. Definitions. The following definitions in Section 1 of the Development Agreement are hereby deleted in their entirety and replaced as follows:

“Minimum Improvements” means the improvements depicted on the plan sets submitted to the City as of February 24, 2021, as amended by the Building Permit Set dated October 27, 2021, but excluding the Deleted Phase II Public Improvements .

“Phase II” or “Phase II Minimum Improvements” means the improvements described in the Building Permit Set dated October 27, 2021, but excluding the Deleted Phase II Public Improvements attached hereto as Exhibit L.

Section 1.2. Definitions. The following definition in Section 1 of the Development Agreement is hereby added:

“Deleted Phase II Public Improvements” means those Phase II Minimum Improvements being removed from the Phase II Public Improvements and are depicted in the area outlined on Exhibit L, attached hereto and incorporated herein.

Section 1.3 Amendments.

A. Section 1(Y) of the Development Agreement is hereby deleted in its entirety and replaced as follows:

“Minimum Improvements” means the improvements depicted on the plan sets submitted to the City as of February 24, 2021, as may be amended, to be described by reference on attached Exhibit D, and shall specifically apply to the applicable Phase:

- (1) Phase I Minimum Improvements; and
- (2) Phase II Minimum Improvements; and
- (3) Construction of public parking on the west side of Concord Exchange (Phase I); and
- (4) Construction and installation of the streetscape improvements included in the Phase II Minimum Improvements, excluding the Deleted Phase II Public Improvements. City assumes any and all responsibility, if any, to complete the Deleted Phase II Public Improvements and any additional streetscape improvements not included in the Phase II Minimum Improvements. The Parties agree that Developer and Phase II Owner are hereby released from all obligations related to the Deleted Phase II Public Improvements.
- (5) Exhibit D of the Development Agreement and any references thereto and references to the Minimum Improvements or Phase II Minimum Improvements are hereby amended to exclude the Deleted Phase II Public Improvements.
- (6) Exhibit I of the Development Agreement is deleted and replaced by in its entirety by the Amended Exhibit I attached hereto.

Section 1.3. Ratification. Except as specifically amended herein, all terms and conditions of the Development Agreement and Escrow Agreement shall remain in full force and effect.

*[Signature Pages Follow]*

**IN AGREEMENT**, the parties hereto have hereunto set their hands as of the date hereinbefore first written.

**SOUTH ST. PAUL ECONOMIC  
DEVELOPMENT AUTHORITY**

By \_\_\_\_\_  
James P. Francis  
Its President

By \_\_\_\_\_  
Ryan Garcia  
Its Executive Director

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF DAKOTA    )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2023, by James P. Francis and Ryan Garcia, the President and Executive Director respectively, of the South St. Paul Economic Development Authority, a public body corporate and politic organized and existing under the Constitution and laws of Minnesota, on behalf of the EDA.

\_\_\_\_\_  
Notary Public







**SSP SPE I LLC**

By: \_\_\_\_\_  
Benjamin H. Beard  
Its Vice President

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2023, by Benjamin H. Beard, the Vice President of SSP SPE I LLC, a Minnesota limited liability company, on behalf of the limited liability company.

\_\_\_\_\_  
Notary Public

**SSP SPE II LLC**

By: \_\_\_\_\_  
Benjamin H. Beard  
Its Vice President

STATE OF MINNESOTA    )  
  ) ss.  
COUNTY OF \_\_\_\_\_ )

The foregoing instrument was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2023, by Benjamin H. Beard, the Vice President of SSP SPE II LLC, a Minnesota limited liability company, on behalf of the limited liability company.

\_\_\_\_\_  
Notary Public



**AMENDED EXHIBIT I**  
**DEVELOPER FEES PHASE II**

**CASH REQUIREMENTS**

<b>City Fees</b>	<b>Qty</b>	<b>Unit Cost</b>	<b>Total</b>
Water/Sewer Connection Charge Fee (Residential)	109 units	\$2,485	\$270,865
<b>Total Fees</b>			<b>\$270,865</b>

**PUBLIC SITE IMPROVEMENTS**  
**LOC OR CASH ESCROW**

<b>Public Site Improvement Escrow</b>	<b>Estimated Construction Cost</b>
Concord Exchange	\$256,310
x 125%	
<b>Total Site Improvement Escrow:</b>	<b>\$320,350</b>

**FIRST AMENDMENT TO  
PHASE II IMPROVEMENTS ESCROW AGREEMENT**

THIS FIRST AMENDMENT TO PHASE II IMPROVEMENTS ESCROW AGREEMENT (the “First Amendment”) made and entered into as of \_\_\_\_\_, 2023, by and among the City of South St. Paul, a municipal corporation (“City”), SSP QOZB LLC, a Minnesota limited liability company (“QOZB”), SSP SPE II LLC, a Minnesota limited liability company (“Phase II Owner”) (QOZB and the Phase II Owner together referred to as the “Developer”), and Guaranty Commercial Title, Inc., a Minnesota corporation (“Escrow Agent”).

RECITALS

WHEREAS, City and Developer entered into that certain Development Agreement, dated March 22, 2021 (the “Development Agreement”). Pursuant to the Development Agreement, the Developer has agreed to escrow certain Developer Fees and Public Site Improvement Costs (collectively, the “Improvements”) pursuant to Exhibit I of the Development Agreement in the amount of \$945,350 (the “Escrow Funds”) with the Escrow Agent to ensure the completion of the Improvements.

WHEREAS, the City and Developer have removed a portion of the Improvements and have agreed to reduce the escrow accordingly.

NOW, THEREFORE, in consideration of the covenants hereinafter set forth, and other good and valuable consideration, the receipt, adequacy and sufficiency of which are hereby acknowledged, the parties hereto do hereby agree as follows:

1. The escrow amount is hereby reduced to reflect the amended amount on Amended Exhibit I to the Development Agreement, which is \$320,350.
2. Ratification. Except as specifically amended herein, all terms and conditions of the Escrow Agreement shall remain in full force and effect.

*[Signature page follows]*

IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

**CITY:**

City of South St. Paul

By \_\_\_\_\_  
James P. Francis  
Its Mayor

By \_\_\_\_\_  
Deanna Werner  
Its City Clerk

**DEVELOPER:**

SSP QOZB LLC

By B Squared Management LLC, a  
Minnesota limited liability company  
Its Manager

By \_\_\_\_\_  
Benjamin H. Beard  
Its: Vice President

SSP SPE II LLC, a Minnesota limited liability  
company

By B Squared Management LLC, a  
Minnesota limited liability company  
Its Manager

By \_\_\_\_\_  
Benjamin H. Beard  
Its: Vice President

**ESCROW AGENT:**

Guaranty Commercial Title, Inc.

By \_\_\_\_\_  
Wendy Ethen

Its: \_\_\_\_\_