

ORDINANCE NO. 70816

BOARD BILL NO. 90

INTRODUCED BY ALDERMAN JACK COATAR

An Ordinance Amending Ordinance Nos. 69146 and 69153; authorizing other related actions; and containing a Severability Clause.

WHEREAS, the Board of Aldermen adopted, and on March 28, 2012, the Mayor approved Ordinance No. 69145, which Ordinance adopted and approved the Third Amendment to the City Hospital TIF Redevelopment Plan (the “Redevelopment Plan”) and the redevelopment project described therein (the “Redevelopment Project”) with respect to the redevelopment project area identified as “Redevelopment Project Area 2” or “RPA 2”; and

WHEREAS, the Board of Aldermen adopted, and on March 28, 2012, the Mayor approved Ordinance No. 69146, which Ordinance authorized the City to enter into a redevelopment agreement (the “Redevelopment Agreement”) with St. Louis Food Hub TIF, Inc. (the “Original Developer”) with respect to a portion of the Redevelopment Project described in such Redevelopment Agreement as “Phase 2B-1” (“Phase 2B-1”); and

WHEREAS, the Board of Aldermen adopted, and on May 8, 2012, the Mayor approved Ordinance No. 69153, which Ordinance authorized the City to issue tax increment financing revenue notes with respect to Phase 2B-1 of the Redevelopment Project; and

WHEREAS, Section 3.4 of the Redevelopment Agreement as authorized by the City provides that, the Developer shall substantially complete or cause the Work to be substantially complete, as those terms are defined therein, not later than December 31, 2015 absent any event of Force Majeure and not later than December 31, 2016 in the event of a delay caused by an event of Force Majeure; and

WHEREAS, Original Developer has assigned its rights and interests in and to the Redevelopment Project to HG Pearl Georgian, LLC (“New Developer”); and

WHEREAS, the City has determined that it is necessary to amend Ordinance Nos. 69146 and 69153 in order to amend the Redevelopment Agreement as it concerns the date by which the Work must be complete or substantially complete and to permit the City to enter into the Redevelopment Agreement with New Developer.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

SECTION ONE. Ordinance No. 69146 is hereby amended as follows:

1. The definition of “Developer” is amended to mean HG Pearl Georgian, LLC, an Indiana limited liability company.
2. Section 3.4 of Exhibit A to Ordinance No. 69146 is amended to state that the Developer shall substantially complete or cause the Work to be substantially complete (as evidenced by the City’s acceptance or deemed acceptance of the Certificate of Substantial Completion) not later than December 31, 2019, absent an event of Force Majeure and not later than December 31, 2020 in the event of a delay caused by an event of Force Majeure.

SECTION TWO. Ordinance No. 69153 is hereby amended as follows:

1. The definition of “Developer” is amended to mean HG Pearl Georgian, LLC, an Indiana limited liability company.
2. Section 7.9 of Ordinance No. 69153 is hereby deleted.

SECTION THREE. The Mayor and Comptroller of the City or their designated representatives are hereby authorized and directed to take any and all actions to execute and deliver for and on behalf of the City any and all additional certificates, documents, agreements or other instruments as may be necessary and appropriate in order to carry out the matters herein authorized, with no such further action of the Board of Aldermen necessary to authorize such action by the Mayor and the Comptroller or their designated representatives.

SECTION FOUR. The Mayor and the Comptroller or their designated representatives, with the advice and concurrence of the City Counselor and after approval by the Board of Estimate and Apportionment, are hereby further authorized and directed to make any changes to the documents, agreements and instruments approved and authorized by this Ordinance as may be consistent with the intent of this Ordinance and necessary and appropriate in order to carry out the matters herein authorized, with no such further action of the Board of Aldermen necessary to authorize such changes by the Mayor and the Comptroller or their designated representatives.

SECTION FIVE. It is hereby declared to be the intention of the Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part, section or subsection of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect, unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.

SECTION SIX. After adoption of this Ordinance by the Board of Aldermen, this Ordinance shall become effective on the 30th day after its approval by the Mayor or adoption over her veto; *provided that* if, within ninety (90) days after the effective date of the Ordinance, the Developer has not (i) executed the Redevelopment Agreement and (ii) paid all fees due to the City and the St. Louis Development Corporation in accordance with the terms of the Redevelopment Agreement, the provisions of this Ordinance shall be deemed null and void and of no effect and all rights conferred by this Ordinance on the Developer shall terminate, *provided further,* however, that prior to any such termination, the Developer may seek an extension of time in which to execute the Redevelopment Agreement from the Board of Estimate and Apportionment, which extension may be granted in the sole discretion of the Board of Estimate and Apportionment.