



Date March 11, 2019

RESOLUTION CLOSING HEARING ON THE PROPOSED SECOND AMENDMENT  
TO THE URBAN RENEWAL PLAN FOR THE MERLE HAY COMMERCIAL AREA  
URBAN RENEWAL AREA AND ADOPTING SAME

WHEREAS, the Merle Hay Commercial Area Urban Renewal Area contains approximately 110 acres that are used or zoned for commercial purposes along Douglas Avenue from about 54th Street westward to the municipal boundary with the City of Urbandale, and along Merle Hay Road from a point slightly north of Ovid Avenue to Aurora Avenue; and,

WHEREAS, on July 14, 2008, by Roll Call No. 08-1240, the City Council approved the Urban Renewal Plan for the Merle Hay Commercial Area Urban Renewal Area (the "Plan") which seeks to enhance private development within the urban renewal area through provision of infrastructure improvements and economic development assistance that is provided, in part, with tax increment revenues generated in the urban renewal area; and,

WHEREAS, on January 28, 2019, by Roll Call No. 19-0151, the City Council approved preliminary terms of agreement with Merle Hay Investors, LLC, for a third phase of improvements to the Merle Hay Mall that will renovate existing spaces within the mall for new tenants and redevelop the existing Sears building to allow for retenanting, in consideration for financial assistance proposed to be provided by the City; and,

WHEREAS, the City's Office of Economic Development has prepared a proposed *Second Amendment to the Urban Renewal Plan for the Merle Hay Commercial Area Urban Renewal Area* (the "Second Amendment") to:

- Amend the text of the Plan to specifically incorporate by reference the contents of Appendix D - Approved Economic Development and Redevelopment Activities.
- Amend Appendix D - Approved Economic Development and Redevelopment Activities which provides a summary of projects receiving or proposed to receive economic development assistance from the tax increment revenues from the Merle Hay Commercial Area Urban Renewal Area, by: i) updating the description of the Merle Hay Mall Phase II Project approved in 2013; and, ii) adding the Merle Hay Mall Phase III project which provides for the renovation of the existing tenant space within the Merle Hay Mall and the former Sears site.
- Delete Map 5 titled *Development Activities Assisted by City With TIF*.
- Update Appendix C- Financial Condition Report to reflect the financial impact of the tax increment assisted projects which are detailed in Appendix D - Approved Economic Development and Redevelopment Activities.



Date March 11, 2019

- Extend the term of the Urban Renewal Plan by 1 year to expire on June 30, 2031.

WHEREAS, on February 11, 2019, by Roll Call No. 19-0204, the City Council resolved that a public hearing on the proposed Second Amendment be held at 5:00 p.m., on March 11, 2019, in the City Council Chambers; and,

WHEREAS, the Urban Design Renewal Board reviewed the proposed Second Amendment at its meeting on February 19, 2019, and voted unanimously in support of a motion to recommend that the proposed Second Amendment be approved; and,

WHEREAS, notice of this public hearing was published in the Des Moines Register on February 21, 2019, which notice sets forth the information required by Section 403.5(3) of the Iowa Code; and,

WHEREAS, notice was given by ordinary mail to the Des Moines Independent School District, Polk County, Des Moines Area Community College, and Des Moines Area Regional Transit Authority of a consultation meeting in OED Room 103, at City Hall, at 2:00 p.m. on February 18, 2019; and,

WHEREAS, the City has received no requests from the Des Moines Independent School District, Polk County, Des Moines Area Community College, or Des Moines Area Regional Transit Authority for any modification of the proposed division of revenue from the tax increment from the Merle Hay Commercial Area Urban Renewal Area; and,

WHEREAS, the public hearing on the Second Amendment has now been opened and all persons or organizations desiring to be heard regarding the proposed Second Amendment have been given the opportunity to be heard; NOW THEREFORE,

BE IT RESOLVED, by the City Council of the City of Des Moines, Iowa, as follows:

1. The public hearing on the proposed Second Amendment is hereby closed.
2. The *Second Amendment to the Urban Renewal Plan for the Merle Hay Commercial Area Urban Renewal Area* is hereby approved and adopted, and shall hereafter be in full force and effect.



Roll Call Number

Agenda Item Number

60

-3-

Date March 11, 2019

- 3. The City Clerk is hereby authorized and directed to file a certified copy of the Second Amendment and of this Resolution in the office of the Polk County Recorder.

( Council Communication No. 19- 107 )

MOVED by \_\_\_\_\_ to adopt.

FORM APPROVED:

*Roger K. Brown*

Roger K. Brown, Assistant City Attorney

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COUNCIL ACTION	YEAS	NAYS	PASS	ABSENT
COWNIE				
BOESEN				
COLEMAN				
GATTO				
GRAY				
MANDELBAUM				
WESTERGAARD				
TOTAL				

MOTION CARRIED APPROVED

CERTIFICATE

I, DIANE RAUH, City Clerk of said City hereby certify that at a meeting of the City Council of said City of Des Moines, held on the above date, among other proceedings the above was adopted.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my seal the day and year first above written.

Mayor

City Clerk

*After Recording Return To:*

City of Des Moines  
Office of Economic Development  
400 Robert D. Ray Drive  
Des Moines, Iowa 50309

*Prepared by:* Naomi A. Hamlett

City Hall - Office of Economic Development, 400 Robert D. Ray Drive, Des  
Moines, Iowa 50310 Phone: 515-283-4015



**Second Amendment to the  
Urban Renewal Plan for the  
Merle Hay Commercial Area Urban Renewal Area**

Taxing Entities Consultation:	February 18, 2019
Urban Design Review Board Action:	February 19, 2019
City Council Approval:	March 11, 2019

## HISTORY

The Urban Renewal Plan for the Merle Hay Commercial Area Urban Renewal Area (the "Merle Hay Urban Renewal Plan") was adopted on July 14, 2008, by Roll Call No. 08-1240. The Merle Hay Urban Renewal Plan and its subsequent amendments have been recorded in the land records of the Polk County Recorder as follows:

<i>Action</i>	<i>Date</i>	<i>Roll Call</i>	<i>Book-Page</i>
Urban Renewal Plan	07-14-2008	08-1240	12835-47
1st Amendment	06-24-2013	13-1029	14858-37

The Merle Hay Commercial Area Urban Renewal Plan as previously amended is hereinafter referred to as the "Plan".

## **PURPOSE**

The purpose of this Second Amendment to the Plan is to:

- Amend the text of the Plan to incorporate by reference the contents of Appendix D - Approved Economic Development and Redevelopment Activities.
- Amend Appendix D - Approved Economic Development and Redevelopment Activities which provides a summary of projects receiving or proposed to receive economic development assistance from the tax increment revenues from the Merle Hay Commercial Area Urban Renewal Area, by: i) updating the description of the Merle Hay Mall Phase II Project approved in 2013; and, ii) adding the Merle Hay Mall Phase III project which provides for the renovation of the existing tenant space within the Merle Hay Mall and the former Sears site.
- Delete Map 5 titled *Development Activities Assisted by City With TIF*.
- Update Appendix C- Financial Condition Report to reflect the financial impact of the tax increment assisted projects which are detailed in Appendix D - Approved Economic Development and Redevelopment Activities.
- Extend the term of the Plan by one year, to expire on June 30, 2031.

**FIRST AMENDMENT TO THE MERLE HAY COMMERCIAL  
URBAN RENEWAL PLAN**

1. Amend paragraph 9, of Section B, of Article III of the Plan to read as follows:
  9. Economic Development Loans and Grants. Financial assistance in the form of loans or grants may be provided to private entities to assist in the development of commercial and mixed-use projects in compliance with this Plan. Appendix D - Approved Economic Development and Redevelopment Activities contains a summary of urban renewal projects that have been approved, or are under consideration, for receipt of tax increment funding in accordance with the terms and conditions in the specific project development agreement.

2. Amend Article IV of the Plan to read as follows:

**IV. DURATION OF URBAN RENEWAL PLAN**

The Urban Renewal Plan for the Merle Hay Commercial Area shall expire on June 30, 2031.

3. Delete Map No. 5 – Development Activities Assisted with TIF.
4. Replace Appendix C - Financial Condition Report (First Amendment) with the accompanying Appendix C - Financial Condition Report (Second Amendment).
5. Replace Appendix D - Approved Economic Development and Redevelopment Activities with the accompanying Appendix D (Rev. 1) - Approved Economic Development and Redevelopment Activities.

**Appendix C: Financial Condition Report**  
**Urban Renewal Plan for the Merle Hay Commercial Area Urban Renewal Area**  
**(2<sup>nd</sup> Amendment)**

The City has, by Ordinance No. 14,783 passed July 14, 2008, designated the Merle Hay Commercial Area Urban Renewal Area as a 'Tax Increment Finance District' as permitted by Chapter 403, Code of Iowa. The expected financial undertakings and tax increment revenue with regard to this urban renewal area are discussed in this Financial Condition Report

**Introduction**

Urban renewal is one of the few ways an Iowa municipality can undertake and financially assist community revitalization and economic development. In Des Moines, especially in the older areas with limited redevelopment opportunities, urban renewal is an important way cities can assist the private sector in the creation and retention of jobs and in the development and redevelopment of blighted, vacant and underutilized parcels that would not occur without the City's assistance.

Urban renewal can provide flexibility in phasing development over a long-term period. In Iowa, a city may designate an "urban renewal area" by following the requirements specified in Chapter 403, Code of Iowa, upon finding that the area qualifies for designation as a slum area, a blighted area or an economic development area as those terms are defined in Iowa Code §403.17. The Merle Hay Commercial Area Renewal Plan Area was designated by the City as an urban renewal area upon a finding by the City Council that the area qualified as an economic development area appropriate for redevelopment for commercial use.

As part of the designation of an urban renewal area, the city council must adopt an urban renewal plan. The plan text includes a legal description and map of the area; a description of existing land uses and conditions; the actions the city proposes to undertake in the area such as public improvements, public services, the sale or purchase of property; and any conditions the city may want to impose on the development projects. On July 14, 2008, the Des Moines City Council adopted the original Urban Renewal Plan for the Merle Hay Commercial Area Urban Renewal Area.

If the city wants to undertake an action not specified in the urban renewal plan, it must adopt the proposed change by an amendment. Before the urban renewal plan or any amendment can be adopted by the city council, notice of a public hearing on the plan or amendment must be published in the newspaper.

In addition, if the urban renewal area uses tax increment financing, a consultation and comment period with other taxing entities is offered prior to the public hearing. This document has been prepared in response to this consultation requirement.

### **Tax Increment Financing**

Tax increment financing ("TIF") is a financing tool that is only available in designated urban renewal areas. It allows the use of a portion of the future property tax revenues of all taxing jurisdictions (the "Tax Increment Revenue") created by an increase in the total assessed value of all the taxable property within the urban renewal area, to be used to fund obligations incurred by the city in implementing the urban renewal plan.

The Tax Increment Revenue can only be used for the activities or items authorized in the urban renewal plan. If the Tax Increment Revenue is not used to pay eligible expenses incurred in the implementation of the urban renewal plan, the revenue is released back to general revenues of the local taxing jurisdictions. On March 24, 1997, the Des Moines City Council adopted a policy that commencing in FY1997/98, the City will use, and has used, no more than 75% of the total annual Tax Increment Revenues generated by all urban renewal areas. This assures that the local taxing entities receive the benefit of at least 25% any future growth in the valuation of taxable properties in the urban renewal areas utilizing tax increment financing.

### **Current TIF Bonding and Outstanding Indebtedness**

Overall, as of June 30, 2018, the City of Des Moines has about \$394 million in general obligation debt. Of this debt, approximately \$77 million is being serviced with tax increment revenues from specific urban renewal areas. The Merle Hay Commercial Area Urban Renewal Area is not funding the repayment of any of the general obligation debt. The State of Iowa Constitutional debt-ceiling limit for general debt obligations by the City of Des Moines is about \$577 million.

### **Property Tax Assessments and Revenues**

The City of Des Moines first certified debt in the fall of 2010 for payment in FY2011-12 from the Merle Hay Commercial Area Urban Renewal Area. That action established January 1, 2009, as the base valuation date for purposes of the TIF District. The assessed base valuation is approximately \$83.7 million. Any future increase in the total assessed value of all taxable property within the urban renewal area above the base value may be "captured" for use in the TIF District by the City. The total assessed value of all taxable property within the urban renewal area on January 1, 2018, was approximately \$106.6 million, producing an incremental assessed value above the base of approximately \$22.9 million.

### **Future Financial Condition**

Shown below is a table that projects estimated property tax revenues and expenditures from the Merle Hay Commercial Area Urban Renewal Area. In this Financial Condition Report, the estimated property tax revenues are based on a property tax levy rate of \$40 /\$1,000. This levy rate reflects the tax levy rate after subtracting payment of the 'protected debt levy' (various mandated debt expenses collected as part of the property tax levy.)

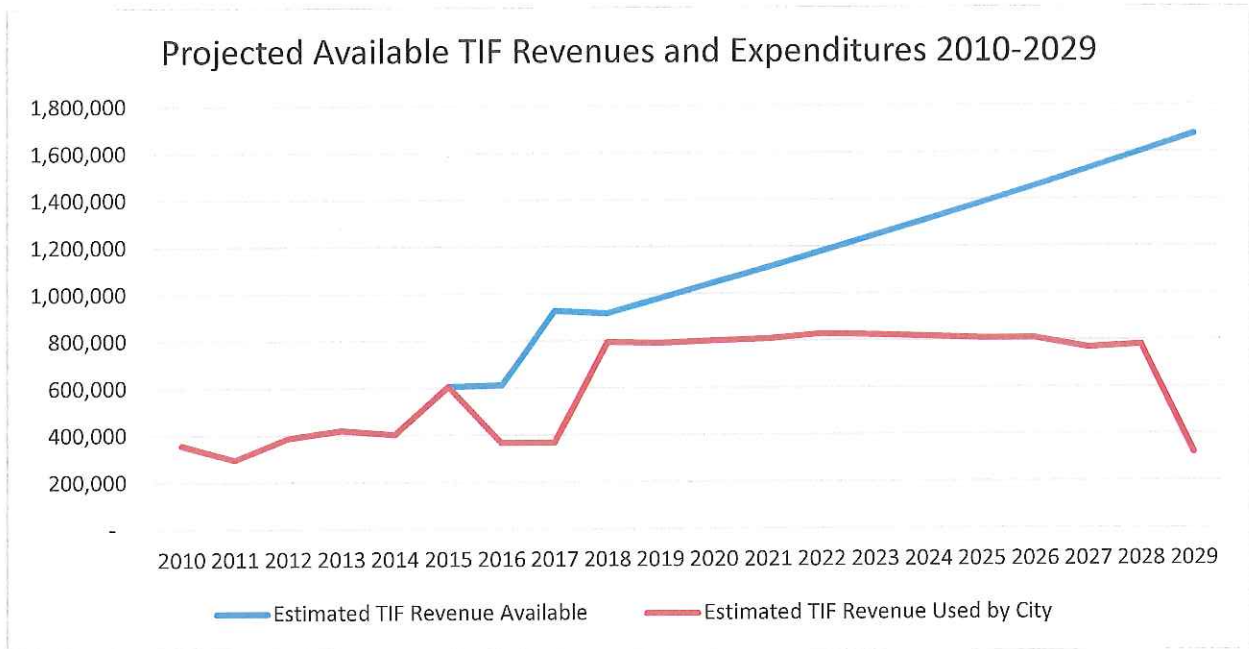


The revenue projections shown are based on increases in property tax revenues conservatively estimated with an annual growth rate of 1.5%.

The following table and graphic represent new and updated information formulated for this amendment.

Assessment Year	Base Valuation	Total Assessed Valuation	New Increment Valuation	TIF Valuation Used	Estimated TIF Revenue Available	Estimated TIF Revenue Used by City	% Valuation Used
2010	83,651,600	92,501,150	8,849,550	8,849,550	358,390	358,390	100%
2011	83,652,400	90,930,450	7,278,050	7,278,050	296,493	296,493	100%
2012	83,652,400	93,506,650	9,854,250	9,854,250	388,126	388,126	100%
2013	83,652,400	94,315,450	10,663,050	10,663,050	421,026	421,026	100%
2014	83,652,400	93,731,250	10,078,850	10,078,850	403,696	403,696	100%
2015	83,652,400	98,894,040	15,241,640	15,241,640	606,396	606,396	100%
2016	83,652,400	98,950,840	15,298,440	9,161,354	613,187	367,202	60%
2017	83,652,400	106,350,800	22,698,400	8,999,997	928,377	368,105	40%
2018	83,652,400	106,591,300	22,938,900	19,858,988	917,556	794,360	87%
2019	83,652,400	108,190,170	24,537,770	19,750,000	981,511	790,000	80%
2020	83,652,400	109,813,022	26,160,622	20,000,000	1,046,425	800,000	76%
2021	83,652,400	111,460,217	27,807,817	20,200,000	1,112,313	808,000	73%
2022	83,652,400	113,132,121	29,479,721	20,700,000	1,179,189	828,000	70%
2023	83,652,400	114,829,102	31,176,702	20,600,000	1,247,068	824,000	66%
2024	83,652,400	116,551,539	32,899,139	20,400,000	1,315,966	816,000	62%
2025	83,652,400	118,299,812	34,647,412	20,200,000	1,385,896	808,000	58%
2026	83,652,400	120,074,309	36,421,909	20,200,000	1,456,876	808,000	55%
2027	83,652,400	121,875,424	38,223,024	19,200,000	1,528,921	768,000	50%
2028	83,652,400	123,703,555	40,051,155	19,500,000	1,602,046	780,000	49%
2029	83,652,400	125,559,109	41,906,709	8,000,000	1,676,268	320,000	19%

The next graphic shows the projected property tax revenues and expenditure estimates detailed in the table above.



NOTE: The taxes levied on, and the TIF revenue generated by the New Increment Value existing on January 1st of each assessment year shown in the table above is not actually collected or available until the fiscal year commencing 18 months later. For example, TIF revenue from the New Increment Valuation of about \$22.9 million existing on January 1st of assessment year 2018, but will not be collected or available for use by the City until the fiscal year commencing July 1, 2019.

This information will change as future projects, subject to the urban renewal amendment process with the individual review of each amendment and projects by the City Council and other authorities as directed by the Code of Iowa, are approved.

## **Appendix D: Approved Economic Development and Redevelopment Activities (Rev. 1)**

*New or amended text highlighted in gray*

The following chronological listing provides a summary of projects approved or under consideration by the Des Moines City Council for receipt of tax increment funding in accordance with the terms and conditions contained in the specific project development agreement.

### Merle Hay Mall – Phase I at 3850 Merle Hay Road (First Project)

Extensive interior and exterior renovation of the portion of the Merle Hay Mall facing Merle Hall Road at 3850 Merle Hay Road pursuant to a Development Agreement with Merle Hay Mall Limited Partnership approved on July 14, 2008, by Roll Call No. 08-1243 and amended on February 8, 2010, by Roll Call 10-206. This agreement provides for a Minimum Assessment Agreement which establishes the minimum assessed value of the affected tax parcel at \$18,686,000. The City will pay an Economic Development Grant to the developer in 30 semi-annual installments of up to \$200,000 (or \$400,000 annually), with the first payments commencing in FY2011/12 and the last payments to be made in FY2025/26.

### 3801 Merle Hay Road (Second Project)

Construction of a multi-tenant in-line commercial shell building of at least 15,300 square feet with a finished exterior and ready for installation of leasehold improvements with the associated stormwater, landscaping and parking facilities pursuant to a Development Agreement with 3801 LLC approved by the City Council on July 25, 2011, by Roll Call No. 11-1326. This agreement provides for a Minimum Assessment Agreement which establishes the minimum assessed value of the affected tax parcels, exclusive of land, at \$2,000,000. The City will pay an Economic Development Grant to the developer in 30 semi-annual installments equal to 50% of the new tax increment revenues generated by the project commencing in FY2013/14 and with the last payments to be made in FY2027/28. It is estimated the total amount to be paid over the 15-year term will total approximately \$510,000 (or about \$30,000/year initially) Any portion of an installment which cannot be paid from the tax increment revenue generated by the Merle Hay Commercial Area Urban Renewal Area remaining after payment of the installment due for the First Project identified above, is deferred and added to the next installment. Any portion of the Economic Development Grant which cannot be paid prior to termination of the division of revenues for the Merle Hay Commercial Area Urban Renewal Area shall be forgiven.

### Merle Hay Mall Phase II (Third Project)

Renovation of the portion of the Merle Hay Mall at 3850 Merle Hay Road known as the western corridor that connects the Merle Hay Road-facing portion of the mall to the food court and major anchor tenants to the west, and demolition of the southern parking ramp facing Douglas Avenue pursuant to a Development Agreement with Merle Hay Mall Limited Partnership approved by the City Council on June 24, 2013, by Roll Call No. 13-1030. The

Agreement provides for an Economic Development Grant to be paid by the City in 8 semi-annual installments of \$200,000 (or up to \$400,000 annually), commencing in FY2026/27 and with the last payments to be made in FY2029/30. Any portion of an installment which cannot be paid from the tax increment revenue generated by the Merle Hay Commercial Area Urban Renewal Area remaining after payment of the installments due for the First and Second Projects identified above, is deferred and added to the next installment. Any portion of the Economic Development Grant which cannot be paid prior to termination of the division of revenues for the Merle Hay Commercial Area Urban Renewal Area shall be forgiven.

#### Merle Hay Mall Phase III (Fourth Project)

Renovation of the existing tenant space within the Merle Hay Mall and redevelopment of the former Sears site pursuant to a Development Agreement with Merle Hay Investors, LLC approved by the City Council on March \_\_\_, 2019, by Roll Call No. 19-\_\_\_\_\_. The Agreement provides for an Economic Development Grant to be paid in semi-annual installments of \$200,000 (up to \$400,000 annually) for the remainder of the life of this Plan (12 years, for a total of \$4.8 million).

- The first six semi-annual installments shall be used for reimbursement of documented project costs paid to third party providers for the renovation of the existing mall.
- The 7th and all subsequent semi-annual installments (in years 4-12) would be disbursed only if Merle Hay Investors, LLC or a related entity has acquired the Sears building and site. Up to the first \$37,500 of each such semi-annual payment may be used for reimbursement of documented project costs paid to third party providers for the renovation of the existing mall, and the balance must be used for reimbursement of documented project costs paid to third party providers for redevelopment of the Sears site.
- Each semi-annual installment is subject to the availability of tax increment in that fiscal year from the Merle Hay Mall Commercial Area Urban Renewal Area, after payment of the installments due in that fiscal year on the First, Second and Third Projects identified above.

This Fourth Project does not include the portions of the Merle Hay Mall located in the City of Urbandale, which includes the Kohl's building and the former Younkers building.