

AMENDMENTS TO

CITY OF RED WING, MINNESOTA

**ENABLING RESOLUTION NO. 2226
ESTABLISHING
THE RED WING PORT AUTHORITY,
An Economic Development Agency**

Adopted: July 8, 1985

Amended: February 12, 1996 (Resolution No. 3643)

Amended: March 8, 1999 (Resolution No. 4185)

Amended: July 12, 2010 (Resolution No. 6136)

Amended: August 22, 2011 (Resolution No. 6312)

TABLE OF CONTENTS

		<u>Page</u>
Section 1.	Definitions	3
Section 2.	Establishment	5
Section 3.	Legal Status	5
Section 4.	Name	6
Section 5.	Governing Body	6
Section 6.	Authority Staff	7
Section 7.	Authority Officers	7
Section 8.	Reports	8
Section 9.	Accounting, Budgets and Fiscal Year	8
Section 10.	Powers	9
Section 11.	Levy	11
Section 12.	Influencing Governmental Actions	12
Section 13.	Amendments	12

RESOLUTION NO. 6312

WHEREAS, the Minnesota state legislature has enacted Minnesota Statutes, Section 469.081 authorizing the City of Red Wing to establish a port authority with the same powers as a port authority established under Minnesota Statutes, Section 469.048 to 469.068, or other law, and a housing and redevelopment authority established under Minnesota Statutes, Sections 469.001 through 469.047, or other law, and as an “agency” as defined in Minnesota Statutes, Sections 469.124 through 469.134; and

WHEREAS, the City wishes to establish such a port authority and to define the relationship between it and the Council by adoption of this resolution; and

WHEREAS, it is intended that this resolution be amended from time to time as required to further define or redefine the respective roles of the port authority and the Council regarding development and redevelopment within the City; and

WHEREAS, it is intended that by this resolution and actions taken hereunder, the Council of the City shall establish policies for public-assisted development within the City and that the implementation of such policies be the responsibility of the port authority; and

WHEREAS, it is the desire of the Council that adoption of this resolution and the creation of a port authority will result in a conscientious and coordinated effort to encourage and precipitate future development within the City so as to encourage economic development, increase tax base, promote employment and enhance the health, safety and welfare of City residents; and

WHEREAS, the Council has conducted a public hearing, pursuant to published notice, as required by Minnesota Statutes Section 469.081, Subd. 3(b) ;

NOW, THEREFORE, BE IT RESOLVED AS FOLLOWS:

Section 1. Definitions.

“Annual Budget” means the Authority’s proposed expenditures for staff cost, operations and supplies as provided at Sections 6(4) and 9(B) and which is proposed to be financed

through the “levy” as provided at Section 11 and such other sources as the Authority may identify and indicate to the Council.

“Authority” means the Red Wing Port Authority, an economic development agency.

“Budget Calendar” means a calendar approved by the City Council designed to establish and outline the timetable for the annual City Budgeting process.

“City” means the City of Red Wing, Minnesota.

“Council” means the duly elected governing body of the City.

“Enabling Act” means Minnesota Statutes Section 469.081, authorizing the City of Red Wing to create a port authority.

“Enabling Resolution” means this resolution of the Council establishing the Authority pursuant to the Enabling Act.

“The Development Act” means the Municipal Development District Act, Minnesota Statutes, Sections 469.124 through 469.134.

“Federal Limitation Act” means certain acts of congress which limit the aggregate amount of tax exempt obligations of a specified type which may be issued within the City, as further defined in the Minnesota Bond Allocation Act, Minnesota Statues, Chapter 474A and as may from time to time be defined in other state laws.

“The HRA Act” means the Municipal Housing and Redevelopment Act, Minnesota Statutes, Sections 469.001 through 469.047.

“The Housing Bond Act” means the Municipal Housing Program Act, Minnesota Statutes, Chapter 462C.

“Industrial Bond Act” means the Municipal Industrial Development Act, Minnesota Statutes, Section 469.152 through 469.1651.

“Project Budget” means a financial budget containing the sources and uses of public funds to be expended in carrying out the public costs associated with a Project Plan or Project Area Plan. In the event any or all such public costs are to be paid with tax increment, the Project Budget shall constitute a “tax increment financing plan,” as described in Minnesota Statutes, Section 469.175 of the Tax Increment Act. At such time as the Project Budget or an amendment thereto is approved by the Council, the Authority shall not be required to resubmit the Project Budget to the Council unless the Authority believes or has reason to believe that its activities will cause its estimated expenditures to exceed the amount indicated in the Project Budget or the most recent amendment thereto.

“Project Plan” means an outline for the development or redevelopment of a geographic area or single parcel of Authority activities which contains:

1. A statement of objectives for improvement of the area;
2. A description of public facilities to be constructed;
3. An estimated schedule of the open space to be created;

4. The environmental controls to be applied;
5. The property to be publicly acquired and the condition under which the Authority shall exercise the right of eminent domain, if any;
6. The proposed reuse of private property; and
7. The general standards of the development.

Said plan shall be sufficiently complete to constitute a “development program” pursuant to Minnesota Statutes, Section 469.125, subd. 3 of the Development Act and “redevelopment plan” pursuant to Minnesota Statutes, Section 469.002, subd. 16 of the HRA Act.

“The Port Act” means the Port Authorities Act, Minnesota Statutes, Sections 469.048 through 469.068.

“Port District” means the City of Red Wing.

“Public Activities” means development efforts which would have impacts on the public infrastructure of the City, including, but not limited to, public sidewalks, streets, public parking facilities, sanitary systems and lighting systems, or other such facilities which require any type of direct financial assistance from the City, including, but not limited to, the provision of tax increment financing. Financial assistance from the City does not include any levies which the Authority is granted under state law or any other funds or revenue sources previously established by the Authority, such as the Authority’s Industrial Revolving Loan Fund.

“Tax Increment Act” means the Minnesota Tax Increment Financing Act, Minnesota Statutes, et seq. Sections 469.174 through 469.179.

Section 2. Establishment.

There is hereby created in the City a port authority which, subject to the provisions of the Enabling Resolution, shall have all of the powers, duties and responsibilities of any port authority created pursuant to the Port Act, or other law, and the powers, duties and responsibilities of a housing and redevelopment authority created pursuant to the HRA Act, or other law. The Authority shall constitute an “agency” pursuant to the Development Act. It shall be the role and responsibility of such port authority to carry out economic and industrial development and redevelopment within the City in accordance within such general policies as may be established by the Council.

Section 3. Legal Status.

The Authority shall be a public body politic and corporate and a political subdivision of the State of Minnesota. It shall not be considered a department of the City nor shall the City be liable for its obligations, unless assumed by the City in writing. Its relationship to the Council shall be governed by the Enabling Act, this Enabling Resolution and the various statutes under which the Authority operates, including the Port Act, the HRA Act, the Development Act, the Industrial Bond Act, the Housing Bond Act and the Tax Increment Act; provided that in the

event there is a conflict between the terms of this Enabling Resolution and any other such statute, the Enabling Resolution shall control and in the event there is a conflict between the Port Act and any such statutes, the Port Act shall control; provided further that a statute granting specified authority shall not be deemed to be in conflict with a statute that grants less or no such authority.

Section 4. Name.

The Port Authority created by the Enabling Act and this Enabling Resolution shall be known legally as the Red Wing Port Authority, an economic development agency.

Section 5. Governing Body.

The powers of the Authority shall be vested in the Commissioners thereof in office at any time, a majority of whom shall constitute a quorum for all purposes. Pursuant to Minnesota Statutes, Section 469.050, subd. 3 and subd. 4, such Commissioners shall be seven (7) in number, shall be residents of the City and shall be appointed and serve as follows:

<u>Seat</u>	<u>Status</u>	<u>Appointing and Reappointing Authority</u>
A	Citizen	Mayor
B	Citizen	Mayor
C	Citizen	Mayor
D	Council Member	Council
E	Citizen	Mayor
F	Council Member	Council
G	Citizen	Mayor

Appointments by the Mayor shall be subject to the approval and consent of the Council. Appointments by the Council shall be by Council resolution. A vacancy shall be created whenever a Commissioner who is a council member ends council membership, in which case such vacancy shall be filled by the proper appointment and reappointing authority for that seat, for the balance of the term. If a citizen member of the Commission becomes a member of the Council or Mayor, a vacancy on the Commission shall be thereby created and shall be filled by the proper reappointing authority for that seat. All seven (7) commissioner seats shall be subject to appointment or reappointment by the proper appointing and reappointing authority for the term of three years. Commissioner terms shall expire on the respective third Tuesday following the third Monday in January. Each commissioner shall continue in office until their

successor is duly appointed and qualified, not to exceed 60 days past the expiration of his/her term. The president of the Authority shall not serve more than two (2) consecutive terms of office, each term representing one (1) year.

Section 6. Authority Staff.

The Commissioners of the Authority shall be empowered to hire such employees, agents and consultants as they deem proper and as further provided in the Port Act, including the appointment of an Executive Director of the Authority who shall have the following powers and duties:

1. To see that all resolutions, rules, regulations, or orders of the Authority are enforced.
2. To appoint and remove upon the basis of merit and fitness, all subordinate officers and regular employees of the Authority.
3. To present to the Authority plans, studies, and reports prepared for Authority purposes and recommend to the Commissioners for adoption such measures as are deemed necessary to enforce or carry out the powers and duties of the Authority or the efficient administration of the affairs of the Authority.
4. To keep the Commissioners fully advised as to the financial condition of the Authority, and to prepare and submit to the commissioners the annual budget and such other financial information as requested.
5. To recommend to the Commissioners for adoption such rules and regulations as are deemed necessary for the efficient operation of the Authority's functions.
6. To perform such other duties as may be prescribed by the Commissioners.
7. To make necessary purchases and supplies for the operation of the Authority in accordance with State and City regulations (City Code).
8. To establish and maintain a system of filing and indexing records and reports.
9. To be responsible for the proper maintenance of all Authority property and equipment.

Section 7. Authority Officers.

The Commissioners of the Authority shall elect officers as provided in Minnesota Statutes, Section 469.051 of the Port Act. The Council Administrator shall be an ex-officio member of the Authority without the right to vote, make motions, or be counted for purposes of determining a quorum.

Section 8. Reports.

- A. At least once annually by September 6, the Authority shall submit to the City Council a report stating whether and how the Enabling Resolution should be modified pursuant to Subd. 2 of the Enabling Act.**
- B. At least once annually by April 1, the Authority shall appear at a regularly scheduled Council meeting and report to the Council, Mayor and members of the public regarding the operational status of the Authority. Such report shall comply with Minnesota Statutes, Section 469.055, Subd. 2 of the Port Act and shall include a description of current and proposed projects as well as general development goals for the City.**
- C. The Authority shall be responsible for all filings and reports required by the various statutes under which it operates. Copies of all such reports shall be provided to the Council and Mayor and shall be available to members of the public unless otherwise permitted or required by law.**

Section 9. Accounting, Budgets and Fiscal Year.

- A. The accounting, maintenance of books and records, establishment and maintenance of funds and accounts, investment of cash surpluses, disbursement of monies and other necessary financial matters of the Authority shall be the responsibility of the Finance Director. Direction of and control over the Finance Director with respect to such Authority financial matters shall reside in the commissioners and the Authority Executive Director; provided, however, that Authority accounting, investment, fund maintenance and disbursement shall be consistent with City procedures. Any conflict between the Authority or its Executive Director and the Finance Director with respect to the appropriate interpretation of this paragraph shall be resolved by the Council.**
- B. Each year, by the date established in the City's budget calendar as approved by the City Council, the Authority shall submit its Annual Budget (the "Budget") to the Council Administrator in a form prescribed by the Council Administrator. Such budget shall include a detailed written estimate of the amount of money that the Authority expects to need from the City for Authority business during the next fiscal year and shall otherwise comply with Minnesota Statutes, Section 469.053 of the Port Act. The Council may impose such conditions upon the approval of the transfer of City funds as it may determine. The Council Administrator shall submit such budget to the Council for review and approval as part of the City budgetary process. The commissioners and staff of the Authority shall appear before the Council as requested to explain and discuss the content of the proposed Authority budget. Upon approval of such budget, the Authority shall not exceed total budgeted expenditures without approval of corresponding budget amendments by the Council; provided, however, that this provision shall not preclude the Authority from unilaterally making such line-item changes as it deems appropriate.**
- C. The fiscal year of the Authority shall be the same of that of the City.**

Section 10. Powers.

- A. The Authority may exercise all of the powers contained in the Port Act, provided that:**
- 1. No Council approval is needed for a project for which no public activities are undertaken by the Authority.**
 - 2. Before undertaking public activities with respect to an industrial development district, as defined in Minnesota Statutes, Section 469.058 of the Port Act, the Authority shall submit a Project Plan and Project Budget to the Council for approval. Such Project Plan shall be submitted to the Planning Commission of the City for its review and comment regarding the consistency of said plan with the City's comprehensive plan. Consideration by the Council shall be made at a public hearing upon 10 days published notice in the official newspaper of the City. The Council may impose such conditions upon its approval as it determines.**
 - 3. Before undertaking public activities within the Port District, but outside an industrial development district, the Authority shall submit a Project Plan and Project Budget to the Council for approval. Consideration by the Council shall be made at a public hearing upon 10 days published notice in the official newspaper of the City. The Council may impose such conditions upon its approval as it determines.**
 - 4. The Authority shall not issue obligations under the Port Act which are subject to a Federal Limitation Act without the prior approval of the Council.**
- B. The Authority may exercise all of the powers contained in the HRA Act, provided that:**
- 1. No Council approval is needed for a project for which no public activities are undertaken by the Authority.**
 - 2. Before establishing the boundaries of and undertaking public activities with respect to a redevelopment project, as defined in Minnesota Statutes, Section 469.002, subd. 14 of the HRA Act, the Authority shall submit a Project Plan and Project Budget to the Council for approval. Such Project Plan shall constitute a "redevelopment plan" pursuant to Minnesota Statutes, Section 469.002, subd. 16 and Section 469.027 of the HRA Act and shall be submitted to the Planning Commission of the City for its review and comment regarding the consistency of said plan with the City's comprehensive plan. Consideration by the Council shall be made at a public hearing upon 10 days published notice in the official newspaper of the City. The Council may impose such conditions upon its approval as it determines.**
 - 3. Before undertaking public activities outside of a "redevelopment project", the Authority shall submit a Project Plan and Project Budget to the Council for approval. Consideration by the Council shall be made at a public hearing upon 10 days published notice in the official newspaper of the City. The Council may impose such conditions upon its approval as it determines.**
 - 4. The Authority shall not issue obligations under the HRA Act which are subject to a Federal Limitation Act without the prior approval of the Council.**

C. The Authority is hereby appointed Administrator of City of Red Wing Development Districts as previously established by the Council.

1. Pursuant to the Development Act, the Authority shall have the following powers:

- a. To acquire property or easements through negotiation.
- b. To enter into operating contracts on behalf of the city for operation of any of the facilities authorized to be constructed under the terms of the Development Act.
- c. To lease space to private individuals or corporations within the buildings constructed under terms of the Development Act.
- d. To lease or sell land and to lease or sell air rights over structures constructed under the authority of the Development Act
- e. To enter into contracts for construction of the several facilities or portion thereof authorized under the Development Act.
- f. Contract with the housing and redevelopment authority of the City of Red Wing for the administration of any or all of the provisions of the Development Act.
- g. Certify to the Council for acquisition through eminent domain of property that cannot be acquired by negotiation, but is required for implementation of the development programs.
- h. Certify to the Council the amount of funds, if any, which must be raised through sale of bonds to finance the program for development districts.
- i. Apply for grants from the United States of America.
- j. Apply for grants from other sources.

2. The Authority shall have the power to establish a budget for and approve expenses for Development Districts in accordance with Section 9.

- D. The Authority may exercise all of the powers of a redevelopment agency contained in the Industrial Bond Act; provided, however, that obligations which are subject to a Federal Limitation Act shall not be issued without the prior approval of the Council.
- E. The Authority may exercise all of the powers of a Development Agency contained in the Industrial Bond Act; provided, however, that obligations, which are subject to a Federal Limitation Act, shall not be issued without the prior approval of the Council.
- F. The Authority may exercise all of the powers of an authority contained in the Tax Increment Act, provided that obligations which are subject to a Federal Limitation Act shall not be issued without the prior approval of the Council.
- G. The Authority may exercise such powers as may be contained in other laws applicable to port authorities or housing and redevelopment authorities not specifically described herein.

Section 11. Levy.

- A. Base Levy:** Pursuant to Section 469.053 of the Port Act, the Authority may request that the Council levy annually, as a Base Levy, up to .01813 percent of the market value of taxable property within the City. The Council retains the authority to approve, disapprove, or establish a reduced Base Levy. The Base Levy shall not be subject to the reverse referendum procedures in Minn. Stat. § 469.053
- B. Increased Levy:** If the Authority wishes to increase its Base Levy pursuant to MN Stat. 469.058 (Industrial Development District) beyond the amount authorized under Subsection A above, it may request that the Council approve such an Increased Levy utilizing the following procedure:
- 1. On or before May 1, the Authority shall submit the proposed Increased Levy to the Council.**
 - 2. On or before June 1, the Council may adopt a resolution stating the amount of the proposed Increased Levy.**
 - 3. The resolution shall be published together with a Notice of Public Hearing for two successive weeks in the City's official newspaper.**
 - 4. The hearing shall be held two-four weeks after the first publication.**
 - 5. After the hearing, the Council may either take no action or adopt a resolution approving and authorizing in whole or in part the Increased Levy.**
 - 6. Any resolution authorizing an Increased Levy shall be published in the City's official newspaper.**
 - 7. The Increased Levy Resolution shall become effective unless a petition requesting a referendum on the Increased Levy is filed with the City Clerk within 30 days of publication of the resolution. The petition must be signed by voters equal to 5 percent of the votes cast in the City in the last general election.**
 - 8. A referendum must be held before October 1. The resolution is effective if approved by a majority of those voting in the last general election.**

Section 12. Influencing Government Actions.

Neither the Commissioners or the staff of the Authority shall present to Congress, the state legislature, any federal or state agency, or any member thereof, proposals regarding the structure and organization of the Authority or any matter of

policy affecting the City of Red Wing generally without the prior approval of the Council. It is the intention of this section that the Authority be prohibited from representing to these or similar governmental entities policy positions which might be in conflict with those by the Council or Mayor.

Section 13. Amendments.

Amendments to this resolution shall be by written resolution and upon notice and hearing in accordance with Section 3(b) of the Enabling Act.

Resolution No. 2226, Enabling Resolution Establishing the Red Wing Port Authority, a Development Agency, was adopted by the Red Wing City Council at their meeting held on July 8, 1985.

Councilmembers voting aye: Sandquist, Kilbride, Cyr, Thomforde, Rinker, Regelman, Anderson, Irvin, and Greenberg.

Councilmembers voting nay: None

Adopted by the Red Wing City Council on July 8, 1985

Resolution No. 3643, Amending the Enabling Resolution Establishing the Red Wing Port Authority, a Development Agency, was amended by the Red Wing City Council at their meeting held on February 12, 1996.

Councilmembers voting aye: Walsh, Carlson, Grosso, Newlin, McKinley, Selkirk, Baringer, Hall, and Mikitta.

Councilmembers voting nay: None

Adopted by the Red Wing City Council on February 12, 1996.

Resolution No. 4185, Amending the Enabling Resolution Establishing the Red Wing Port Authority, a Development Agency, was amended by the Red Wing City Council at their meeting held on March 8, 1999.

Councilmembers voting aye: Byrne, Hall, McKinley, Grosso, Key, Cook, Wiech, and Castner.

Councilmembers voting nay: None.

Adopted by the Red Wing City Council on March 8, 1999.

Resolution No. 6136, Amending the Enabling Resolution Establishing the Red Wing Port Authority, a Development Agency, was amended by the Red Wing City Council at their meeting held on July 12, , 2010.

Council Members voting aye: Rauterkus, Cook, Bayley, Schultz, Hove, Bender, Duff

Council Members voting nay: None

Adopted by the Red Wing City Council this 12th day of July, 2010.

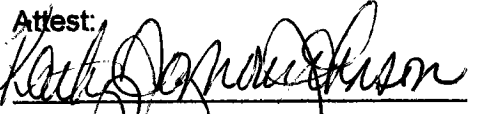
Resolution No. 6312, Amending the Enabling Resolution Establishing the Red Wing Port Authority, a Development Agency, was amended by the Red Wing City Council at their meeting held on August 22, 2011.

Council Members voting aye: Rauterkus, Bayley, Bender, Rehder, Meinke, Schultz

Council Members voting nay: Hove (absent)

Adopted by the Red Wing City Council this 22nd day of August, 2011.

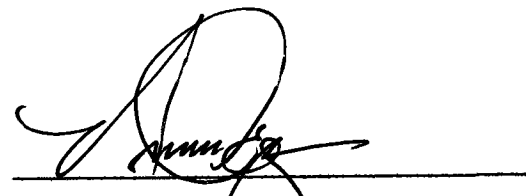

Ralph Rauterkus , Council President

Attest:

Kathy Seymour Johnson, City Clerk

(seal

Presented to the Mayor at 12:02 p.m. on this 23rd day of August 2011.

Approved this 23rd day of August, 2011.


Dennis Egan , Mayor