MEETING OF THE CITY COUNCIL
CITY HALL, Fifth Floor
6801 Delmar Blvd.
University City, Missouri 63130
Monday, January 14, 2019
6:30 p.m.

A. MEETING CALLED TO ORDER

B. ROLL CALL

C. APPROVAL OF AGENDA

D. PROCLAMATIONS

E. APPROVAL OF MINUTES

1. December 10, 2018 Regular Session minutes

F. APPOINTMENTS to BOARDS & COMMISSIONS

1. Joe Edwards, Mike Alter and Steve Stone are nominated to the Loop Special Business District Board by Mayor Terry Crow.
2. Roger McFarland and John Owens are nominated for **re-appointment** to the Board of Adjustments by Councilmember Bwayne Smotherson.
3. Kevin Taylor is nominated for **re-appointment** to the Park Commission by Councilmember Steve McMahon

G. SWEARING IN to BOARDS & COMMISSIONS

1. Lisa Hummel to be sworn in to the Park Commission
2. Julie Brill Teixeira to be sworn in to the Urban Forestry Commission

H. CITIZEN PARTICIPATION (Total of 15 minutes allowed)

I. PUBLIC HEARINGS

1. Zoning Map Amendment for 1167 Remley Court, University City from “GC” – General Commercial to “SR” – Single Family Residential
2. Text Amendment of Chapter 400 Article 5 Division 10 “Amateur Radio Antennas and Towers, Parabolic Reflector Antennas and Telecommunications Antennas, Towers and Support Structures”
3. Text Amendments to Section 400.3080 in Article VIII, Division 3 (Non-conforming lots of records) and Section 400.1020 in Article V, Division 1 of the University City Zoning Code Text amendment – wireless communication
4. Text Amendment to Section 400.3090 in Article VIII, Division 3 of the University City Zoning Code

J. CONSENT AGENDA – Vote Required

K. CITY MANAGER’S REPORT

1. Stormwater Task Force Report
   (PRESENTATION)
2. Parking Space Agreement with Washington University
   (VOTE REQUIRED)

L. UNFINISHED BUSINESS

BILLS

1. **BILL 9374 –** AN ORDINANCE AMENDING CHAPTER 400 OF THE MUNICIPAL CODE OF THE CITY OF UNIVERSITY CITY, MISSOURI, RELATING TO ZONING DISTRICTS ESTABLISHED PURSUANT TO SECTION 400.070 THEREOF, AND ENACTING IN LIEU THEREOF A NEW OFFICIAL ZONING MAP, THEREBY AMENDING SAID MAP SO AS TO CHANGE THE CLASSIFICATION OF PROPERTY THAT IS LOCATED WITHIN THE CITY LIMITS OF UNIVERSITY CITY AT **1167 REMLEY COURT** FROM "GC" - GENERAL COMMERCIAL DISTRICT, TO "SR" – SINGLE FAMILY RESIDENTIAL.
2. **BILL 9375** – AN ORDINANCE AMENDING CHAPTERS 100 AND 505 OF THE MUNICIPAL CODE OF THE CITY OF UNIVERSITY CITY, MISSOURI RELATED TO REGULATIONS FOR RIGHT-OF-WAY MANAGEMENT AND ENFORCEMENT REGULATIONS.
3. **BILL 9376** – AN ORDINANCE AMENDING CHAPTER 400 OF THE UNIVERSITY CITY MUNICIPAL CODE TO ADOPT REGULATIONS RELATING TO COMMUNICATIONS ANTENNAS AND SUPPORT STRUCTURES.

M. NEW BUSINESS

RESOLUTIONS

BILLS

1. **BILL 9377 –** AN ORDINANCE AMENDING CHAPTER 400 OF THE MUNICIPAL CODE OF THE CITY OF UNIVERSITY CITY, RELATING TO ZONING, BY AMENDING SECTION 400.3080 – NON-CONFORMING LOTS OF RECORD AND SECTION 400.1020 – LOT AREA AND WIDTH EXCEPTIONS, RELATING TO DISTRICT REGULATIONS; CONTAINING A SAVINGS CLAUSE AND PROVIDING A PENALTY.
2. **BILL 9378** – AN ORDINANCE AMENDING CHAPTER 400 OF THE MUNICIPAL CODE OF THE CITY OF UNIVERSITY CITY, RELATING TO ZONING, BY AMENDING SECTION 400. 3090 – NON-CONFORMING STRUCTURES, RELATING TO DISTRICT REGULATIONS; CONTAINING A SAVINGS CLAUSE AND PROVIDING A PENALTY.
3. **BILL 9379** - AN ORDINANCE APPROVING A REDEVELOPMENT AGREEMENT AND DISTRICT PROJECT AGREEMENT IN CONNECTION WITH THE OLIVE BOULEVARD COMMERCIAL CORRIDOR AND RESIDENTIAL CONSERVATION REDEVELOPMENT PLAN

N. COUNCIL REPORTS/BUSINESS

1. Boards and Commission appointments needed
2. Council liaison reports on Boards and Commissions
3. Boards, Commissions and Task Force minutes
4. Other Discussions/Business

O. CITIZEN PARTICIPATION (continued if needed)

P. COUNCIL COMMENTS

Q. Roll-Call vote to go into a Closed Council Session according to RSMo 610.021 (1)Legal actions, causes of action or litigation involving a public governmental body and any confidential or privileged communications between a public governmental body or its representatives and its attorneys.

R. ADJOURNMENT

MEETING OF THE CITY COUNCIL
CITY HALL, Fifth Floor
6801 Delmar Blvd.
University City, Missouri 63130
Monday, December 10, 2018
6:30 p.m.

A. MEETING CALLED TO ORDER

At the Regular Session of the City Council of University City held on the fifth floor of City Hall, on Monday, December 10, 2018, Mayor Terry Crow called the meeting to order at 6:30 p.m.

B. ROLL CALL

In addition to the Mayor, the following members of Council were present:

Councilmember Stacy Clay
Councilmember Paulette Carr
Councilmember Steven McMahon
Councilmember Jeffrey Hales
Councilmember Tim Cusick
Councilmember Bwayne Smotherson

Also in attendance were City Manager, Gregory Rose, and City Attorney, John F. Mulligan, Jr.

C. APPROVAL OF AGENDA

Hearing no amendments, Councilmember McMahon moved to approve the agenda as presented, it was seconded by Councilmember Carr and the motion carried unanimously.

D. PROCLAMATIONS

1. Recognition and Observance of Human Rights Day - A Proclamation proclaiming December 10, 2018, as Human Rights Day in U City, as adopted by the United Nations General Assembly in 1948.

Mayor Crow thanked Mr. Rose for the suggestion to bathe City Hall in a rainbow of lights. And his hope is that everyone will take a moment to acknowledge this effort in observance of Human Rights Day.

E. APPROVAL OF MINUTES

1. November 12, 2018, Study Session Minutes; *(Library Board and Loop Special Business District)*, were moved by Councilmember Carr, it was seconded by Councilmember Clay and the motion carried unanimously.
2. November 13, 2018, Study Session Minutes; *(Washington University)* were moved by Councilmember Hales, it was seconded by Councilmember Carr and the motion carried unanimously.
3. November 26, 2018, Study Session Minutes; *(Legislative Platform)* were moved by Councilmember Carr, it was seconded by Councilmember Smotherson and the motion carried unanimously.

4. November 26, 2018, Regular Session Minutes were moved by Councilmember Smotherson, it was seconded by Councilmember Carr and the motion carried unanimously.

F. APPOINTMENTS TO BOARDS & COMMISSIONS

1. Lisa Hummel is nominated to the Park Commission replacing Kathleen Standley's expired term (1/21/19) by Councilmember Paulette Carr, it was seconded by Councilmember Cusick and the motion carried unanimously.
2. Julie Brill Teixeira is nominated to the Urban Forestry Commission replacing Tom Sontag's expired term (1/1/19) by Councilmember Paulette Carr, it was seconded by Councilmember McMahon and the motion carried unanimously.
3. Judith Gainer and Margaret Holly are nominated for **reappointment** to the Plan Commission by Councilmember Paulette Carr, it was seconded by Councilmember Hales and the motion carried unanimously.

G. SWEARING IN TO BOARDS & COMMISSIONS

H. CITIZEN PARTICIPATION (Total of 15 minutes allowed)

Yvette Liebesman, 7570 Cornell Avenue, University City, MO

Ms. Liebesman stated more and more Wash U students are choosing to park on City streets as a result of a decision made in 2015 to amend Ordinance 6989 by decreasing the number of parking spaces required to accommodate the construction of Wash U student housing. She stated while it is not possible to un-ring the bell as it relates to this specific housing/parking ratio, the City can prevent further exacerbation of this problem, and therefore, she would encourage Council to rescind Parking Ordinance 6989.

She stated, in spite of the fact that some streets are limited to residents; via permits, Wash U students have been illegally parking on the streets with impunity. So a lack of enforcing the City's Ordinances has increased the problems associated with parking. Ms. Liebesman stated in her opinion, Wash U passively encourages these infractions by limiting the number of available spaces at these housing complexes and charging excessive fees to utilize their parking garages. As a result, her final plea is that the City starts to enforce these parking restrictions by making permit-only areas tow away zones for non-permit users.

Aren Ginsberg, 430 West Point Court, University City, MO

Ms. Ginsberg stated as a Wash U alum and longtime U City resident, she would like to thank this Council for addressing the inequities associated with this longstanding relationship. Therefore, she would echo Ms. Liebesman's appeal to rescind the Ordinance and initiate a stricter code enforcement policy for illegally parked vehicles.

She stated since last addressing Council, U City's Trap and Rescue (T & R) volunteers have partnered with St. Louis Feral Cat Outreach to build 243 winter shelters for city and county cats. These shelters were made at no cost to U City in order to reduce the number of calls to Animal Control by providing safe places for cats to seek warmth from the cold. Other updates include neutering and vaccination of three U City cats and the placement of three cats in no-kill rescue shelters. Ms. Ginsberg stated she and several other volunteers in attendance at tonight's meeting would like to thank Council for their consideration of a T & R Ordinance. *(Ms. Ginsberg noted that one of the recently built cat shelters was available for inspection after the meeting.)*

Tom Sullivan, 751 Syracuse, University City, MO
Mr. Sullivan stated he would like to applaud City Manager, Gregory Rose, for holding the Loop Trolley Company accountable for making sure that everything was in order before they could commence operations. Although sadly, the new barriers for an electric pole located in front of the library does nothing to enhance the area's aesthetics. However, while the City has been spending so much time and effort on the proposed Olive/170 Development, it seems as though the east end of the City has been forgotten.

- There are numerous vacant storefronts and buildings in the Loop which looks bad, especially since one of the top spots in this area; Cicero's, has been vacant for so long.
- There are twelve (12) vacant storefronts on the south and east sides of Delmar, which include HSV Tobacco that closed earlier this year after 46-years of business, and Phoenix Rising which closed after 26-years of business.
- There are two (2) vacant storefronts on the corner of Delmar and Midland.
- The northeast corner of Olive and North and South where a beer garden had been planned, is still vacant. The City spent nearly 1 million dollars assembling the land that was sold for $100,000. Now the developer wants to sell this land back to the City for roughly 1 million dollars, and their contract with the City may warrant such an action. But, if the City can't successfully manage the development on a corner lot, how can it manage a development consisting of 50 acres?
- Further east on Olive there are six (6) vacant storefronts located in the Schnucks Center and across the street.
- The old gas station and adjoining storefront located at Ferguson and Olive have been vacant for some time. And one block east is another vacant building.
- Acres of undeveloped land sits on Olive between Kingsland and Westgate where a development called Kingsland Walk was supposed to be built, but once again, it never materialized.

Mr. Sullivan stated, regardless of the countless vacancies in the eastern part of the City that Council and this administration have failed to do anything about, and the considerable amount of revenue that has been lost, here they are today, anxious to tear down a large section of the western part of the City and kick-out thriving businesses.

Patricia McQueen, 1132 George Street, University City, MO
Ms. McQueen stated although the City has no control over the decisions made by private business owners, she is interested in learning about the hiring status of the Directors for Community Development, Economic Development, and Communications. Because once these positions are filled, her belief is that a lot of questions will be answered and this administration will be able to move forward with its plans for economic development.

She stated another thing she would like to bring to everyone's attention is the definition of gentrification; which has come up over and over again at meetings. After studying this term for several months what she learned is that the term was coined by a person from Britain who talked about the gentry (upper classes) coming into the working class neighborhoods.

So, while the basic meaning of gentrification is not applicable to the 3rd Ward; since it does not represent the type of housing marketing that everyone rushes to move into, the term does have multiple meanings which can be viewed from an economic, sociologic, or displacement perspective.

Ms. McQueen stated while it is true that there will be some displacement associated with the proposed development, proactive measures have been put in place to minimize its impact. However, to enhance these efforts, she would suggest that consideration be given to long-term solutions similar to the initiatives being implemented in Detroit, called *"Greenlining".* With the support of banks and non-profit organizations like Justin Peterson, this effort is aimed at opening the path to jobs and entrepreneurial opportunities that increase investments in disadvantaged neighborhoods and turn renters into homeowners.

Donna McGhee, 7584 Melrose, University City, MO
Ms. McGhee stated even though she still has concerns about the infamous tree in front of her home falling, she would be remiss if she did not take the time to thank Council and staff for being attentive to her pleas for help. The pruning process has started and when she spoke to Mr. Ewald about a limb that was still hanging over the left side of her roof, he was, as he has always been, very respectful and receptive to her conversation. In fact, even the staff at the library has been awesome. So she would like to end this year by saying she is honored to be a homeowner in the 3rd Ward and a resident of U City.

I. PUBLIC HEARINGS

1. Liquor License – New Liling Kitchen – 8423 Olive Blvd.

Mayor Crow opened the Public Hearing at 6:52 p.m., and hearing no requests to speak the hearing was closed at 6:52 p.m.

J. CONSENT AGENDA – Vote Required

1. Liquor License Approval –New Liling Kitchen – 8423 Olive Blvd.
2. Community Development Block Grant Contract Approval – Project #1409 – Concrete Sidewalk Spot Repairs
3. Capital Improvement Project Amendment– K9 Vehicle Purchase
4. Capital Improvement Project Amendment - Window Replacement - Fire House #2
5. Emerald Ash Borer Tree Removal FY19 – Contract Approval
6. Transfer Station Ejector (Grinder) Pump Upgrade/Project 1256 – Contract Award
7. In-Car Police Cameras Contract Approval

Councilmember Hales moved to approve all seven items, it was seconded by Councilmember Carr and the motion carried unanimously.

K. CITY MANAGER'S REPORT

1. Conditional Use Permit (CUP) Approval –To allow for “office use” in a PA - Public Activity District- 6403 Clemens Ave.

Mr. Rose stated staff is recommending that Council approve a Conditional Use Permit for 6403 Clemens. This permit will allow Coalition for Life-St. Louis, to maintain an office at All Saints Church, rather than the Church of Scientology, as previously mentioned in error.

Councilmember Carr moved to approve, it was seconded by Councilmember Cusick and the motion carried unanimously.

2. Approval for Wireless Communications New Pole in Public Right-of-Way Rear of 7206 Pershing Ave. also per its impact on the historic character of Maryland Terrace National Historic District.

Mr. Rose stated staff is recommending that Council approve the removal of a 33 foot, 6-inch pole and the installation of a new 38 foot, 6-inch pole, in the public right-of-way located at the rear of 7206 Pershing Avenue; per its impact on the historic character of the Maryland Terrace National Historic District.

He stated staff's belief is that this request would be considered a minor approval that could be handled administratively should Council opt to approve the legislation being presented later this evening.

Councilmember Cusick moved to approve, it was seconded by Councilmember McMahon and the motion carried unanimously.

3. Wireless Communications New Pole in Public Right-of-Way Side of 7491 Amherst Ave. also per its impact on the historic character of Maryland Terrace National Historic District

Mr. Rose stated staff is recommending that Council approve a similar request for the removal of a 33 foot, 4-inch pole and the installation of a new 38 foot, 6-inch pole, in the public right-of-way located at 7491 Amherst Avenue; per its impact on the historic character of the Maryland Terrace National Historic District.

Councilmember Cusick moved to approve, it was seconded by Councilmember McMahon and the motion carried unanimously.

4. Legislative Platform 2019 - Approval

Mr. Rose stated staff is recommending that Council approve the 2019 Legislative Platform crafted to provide staff with the authority to articulate Council's position on legislative issues; specifically with respect to revenue, finance, governance, quality services, and infrastructure, to the applicable federal or state delegation.

Councilmember Carr moved to approve, it was seconded by Councilmember Clay.

Councilmember Carr asked Mr. Rose how Council should address issues that might arise prior to the effective date of this platform? Mr. Rose stated directions for staff to effectuate any legislative changes being sought prior to the enactment of this platform would come from the Mayor and Council.

Voice vote on Councilmember Carr's motion carried unanimously.

L. UNFINISHED BUSINESS

BILLS

M. NEW BUSINESS

RESOLUTIONS

BILLS

Introduced by Councilmember Smotherson

1. **BILL 9374 –** AN ORDINANCE AMENDING CHAPTER 400 OF THE MUNICIPAL CODE OF THE CITY OF UNIVERSITY CITY, MISSOURI, RELATING TO ZONING DISTRICTS ESTABLISHED PURSUANT TO SECTION 400.070 THEREOF, AND ENACTING IN LIEU THEREOF A NEW OFFICIAL ZONING MAP, THEREBY AMENDING SAID MAP SO AS TO CHANGE THE CLASSIFICATION OF PROPERTY THAT IS LOCATED WITHIN THE CITY LIMITS OF UNIVERSITY CITY AT **1167 REMLEY COURT** FROM "GC" - GENERAL COMMERCIAL DISTRICT, TO "SR" – SINGLE FAMILY RESIDENTIAL. Bill 9374 was read for the first time.

Introduced by Councilmember Hales

2. **BILL 9375** – AN ORDINANCE AMENDING CHAPTERS 100 AND 505 OF THE MUNICIPAL CODE OF THE CITY OF UNIVERSITY CITY, MISSOURI RELATED TO REGULATIONS FOR RIGHT-OF-WAY MANAGEMENT AND ENFORCEMENT REGULATIONS. Bill Number 9375 was read for the first time.

Introduced by Councilmember Carr

3. **BILL 9376** – AN ORDINANCE AMENDING CHAPTER 400 OF THE UNIVERSITY CITY MUNICIPAL CODE TO ADOPT REGULATIONS RELATING TO COMMUNICATIONS ANTENNAS AND SUPPORT STRUCTURES. Bill Number 9376 was read for the first time.

N. COUNCIL REPORTS/BUSINESS

1. Boards and Commission appointments needed
2. <u>Council liaison reports on Boards and Commissions</u>

Councilmember McMahon stated he would like to provide a brief explanation of the process undertaken by the Parks Commission with respect to the list of priorities recently provided to Council and staff.

A survey detailing anticipated projects for the upcoming year was developed and distributed to residents and staff. The results of this survey; *(found on page 8)*, were then used to establish criteria for each project and a ranking in their perceived degree of importance. The Commission conducted a vote on the final results and forwarded their recommendations to Council for review and consideration within the Capital Improvement budget.

Councilmember McMahon stated he would like to commend the Parks Commission for taking the initiative to develop and perform this exceptional plan for submitting these improvements to the City's parks system. *(Councilmember McMahon provided a copy of the recommendations to the City Clerk and asked that they be included in the minutes.)*

Councilmember Hales stated he would like to recognize and thank Tom Sontag for his service on the Urban Forestry Commission. Mr. Sontag; who also served as the Chair of this Commission, will be leaving after serving two terms, and he appreciates the opportunity to make his acquaintance and get to know him better over the last few months.

3. Boards, Commissions, and Task Force minutes

4. Other Discussions/Business

a) Council Rules Revisions

(Requested by Sub-Committee (Mayor Crow, Councilmembers Carr, Hales, and Smotherson)

Proposed Revisions to Rules:

3-A, 10, 15, 24, 28, 29, 30, 37, 38-A, 38-B, 38-C, 39 and 40

Per the Subcommittee's recommendations, Mayor Crow provided the following substantive changes to the rules:

- Rule 3-A allows members of Council to participate and vote in Closed or Executive Sessions via video conferencing.
- Rule 10 adds a second *"Council Comments"* section to the agenda subsequent to the first set of citizen's comments. This amendment allows Council to immediately address comments made by the public.
- Rule 24 amends the previous rule prohibiting members from revisiting items that have been voted down until after one-year by allowing items to be revisited at any point in time without restrictions.
- The rule on partisanship was rewritten to continue the practice that all members of Council remain nonpartisan and eliminate the 30-day appointment limitation for rotations.
- Rule 40 was amended to clarify the rights and responsibilities of members serving as liaison on the City's Boards and Commissions.

Mayor Crow welcomed any questions or comments on the proposed amendments.

Councilmember McMahon asked whether there was a need to establish any parameters for Rule 3-A to ensure that all communications discussed within these meetings remain confidential.

Mayor Crow stated his belief is that every member of Council anticipates that anyone utilizing this method would be in a secure environment. However, since no one can be certain about anyone's intentions, some type of reassurance could be built into the process.

Councilmember McMahon stated while he would expect the same, his thinking is that to be on the safe side, it wouldn't hurt to have a formalized process.

Mayor Crow stated he is not sure that a formalized process would even be necessary since this is probably not going to occur very often. And while the most challenging aspect of this process may be Council's inability to determine whether anyone else is in the room, at this point, he would prefer to wait and see before taking any further action. However, he does think that Council should be made fully aware that any breach of confidentiality would be deemed inappropriate.

Councilmember McMahon stated the problem with waiting is that once the cat is out of the bag it could be to the City's detriment.

Councilmember Clay stated there are other organizations that utilize this practice and more than likely, a precedent has already been established. So he would suggest that research be conducted to investigate how this is being handled by others.

Councilmember Carr asked Councilmember McMahon if he had a suggestion for codifying the security of these meetings?

Councilmember McMahon stated he thinks at a minimum, the guidelines for this process should be spelled out; that the participating member should be asked to articulate their understanding of the process, and that both of these actions should be conducted on the record.

Mr. Mulligan stated to address Councilmember McMahon's concern; he thinks it would be incumbent upon members of Council to make sure they are communicating from a secure location. Rule 37 specifically states, "*All confidential information shall be kept confidential. All closed meetings shall remain closed as provided in the Code"*. Therefore, each member of Council should act in accordance with Rule 37 to ensure that the meeting remains closed; meaning no information shall be made available to the public. The mechanics of how to determine if you are communicating from a secure location would depend upon the location.

Mr. Mulligan stated all votes cast during a closed session must be made by a roll call vote, so one benefit of changing the rule to allow video conferencing is that the participating member can vote. The Sunshine Law prohibits members from casting a vote via telephone, and as the rule stands today, a member can participate by telephone but not by video conferencing.

Mr. Mulligan directed Council's attention to the redlined version in the first paragraph of Rule 37, which reads, *"All closed meeting records and votes shall remain closed as provided in the Code, Chapter 150".* This same language is repeated in the second paragraph, so for clarification purposes, the first paragraph should be stricken and the entirety of Rule 37 shall be comprised of the second paragraph.

Councilmember McMahon stated based on Mr. Mulligan's explanation, his assumption is that Council must rely on the integrity of the participating member and hope for the best.

Mr. Mulligan stated during the meeting Council has the discretion to inquire about the participating member's environment to make certain that the entire body is satisfied that the connection is secure.

Mayor Crow stated he would be amenable to executing Councilmember Clay's suggestion to research what other organizations are doing in this regard, and if necessary, this rule can be revisited and amended accordingly.

Councilmember Carr moved to approve, it was seconded by Councilmember Hales and the motion carried unanimously.

O. CITIZEN PARTICIPATION (continued if needed)

Sonya Pointer, 8039 Canton, University City, MO

Ms. Pointer stated that in spite of her opposition to the Olive/170 Redevelopment Project, she would like to thank Council and staff for acknowledging Human Rights Day because incorporated within this legislation is sustainable development goals to achieve human rights. One goal is to make cities inclusive, safe, resilient and sustainable, by providing opportunities to all, with access to basic services, energy, housing, and transportation. So her hope is that if U City is going to proclaim December 10th as Human Rights Day that it will also take its goals into consideration during the planning process for this redevelopment.

Ms. Pointer stated she would also like to bring Council's attention to the EPA's views on equitable development and environmental justice as it relates to low income and minority populations. Their position is, *"Equitable development is driven by priorities and values, as well as clear expectations and that the outcomes from development need to be responsive to underserved populations and vulnerable groups, in addition to using innovative design strategies and sustainable policies. Acknowledging and understanding both is necessary for sustaining environmental justice."* The 3rd Ward is an environmental justice community. And as such, repeated requests have been made to work with the 3rd Ward in order to understand their needs and incorporate those desires into the redevelopment project. Yet, Council and this administration have remained silent and failed to honor those requests. So once again, she would ask that the Olive/170 Project be placed on hold until the appropriate due diligence has been conducted to ensure that everyone within this community has been included in the process.

Tom Jennings, 7055 Forsyth, University City, MO

Mr. Jennings stated the leaf pickup on Forsyth was scheduled for last Friday, so the City came out, posted no parking/tow away notices, and as far as he can tell, cars that failed to abide by these notices were not towed, and there definitely were no tickets issued. As a result, the leaves could only be removed from one side of the street while these cars with out-of-state plates; obviously belonging to University students, sat there in blatant disregard. Therefore, his question is; why is money being wasted sending employees out to post these notices if they are not going to be enforced?

On the other hand, he would like to thank Councilmember Smotherson for his great idea to have handicap parking signs installed. One of his neighbors was really in need of this added service, so he appreciates the way this was handled.

Joe Adams, 924 Wild Cherry Lane, University City, MO

Representative Adams presented Council with new flags for some of its flagpoles, to include a State flag exclusive only to U City. Representative Adams expressed his love for the City and his desire to see it keep moving forward.

Mayor Crow thanked Representative Adams for his service to this community, as its Mayor, Councilmember, and State Representative.

P. COUNCIL COMMENTS

Councilmember Carr stated she would like to respond to some of the comments by noting that Council is aware of the parking problems that exist for residents who live near Wash U, as well as those residents who live in the eastern section of Ward 2. And she anticipates that within the next 60 to 90 days, legislation will be brought before Council to hopefully, address some of these problems. Councilmember Carr stated the process of reevaluating the City's Ordinances and the passage of new Ordinances, will probably not resolve everything right away, so there may need to be a few tweaks or amendments along the way. But she wanted to let this audience, as well as those residents who have contacted her on a regular basis, know that this is an issue Council will be taking a look at.

Councilmember Clay stated the holiday season is upon us and many will be gathering with family and friends. But if you happen to be someone who delights in conversations about the fact that 250 square feet of retail space necessitates one parking spot, or speed deterrents for neighborhoods, or the City's various traffic Ordinances, you might find yourself dining alone.

However, should you find yourself falling into this category, do not be dismayed because he has the perfect community for those traffic-oriented conversations; the Traffic Commission.

Now, some of you may be saying why is Stacy dangling this succulent carrot in front of our eyes, when surely there are no vacancies on such a tantalizing commission. And if there is, there's probably a waiting list a mile long. But you would be mistaken, because not only is there a vacancy on the Commission, he is the member of Council charged with filling it. So, if you yearn to mingle with likeminded traffic officiators, *"Tis the Season"* to contact the City Clerk for an application. Councilmember Clay encouraged interested parties to make the call tomorrow because as soon as the application is received, he will gladly submit that name as a nominee to start working on this commission. Friends, you need not be alone anymore, there is a place for you.

Councilmember Smotherson stated he would like to thank Ms. Pettiford for the invite, and his colleagues, Councilmembers Clay and Hales, for attending Sunday's street naming service for Rev. Joe Lewis Middleton Avenue. He stated he would also like to thank Council and staff for their support and hard work in making this dedication possible.

He stated while attending an alumni function last night, one of his colleagues mentioned her job at a prominent company here in St. Louis where a part of her responsibilities involved the construction of new developments in St. Louis County. And that based on the nature of their business; which includes building additions at or near to the proposed site, they have been closely watching as U City's redevelopment plans evolve. Councilmember Smotherson stated as someone who is new to this process, he was happy to learn of their interest and wanted to let Council and the City know that others are paying attention to what happens here. Councilmember Smotherson wished everyone in attendance a happy holiday season.

Councilmember Cusick stated last week he received an email from a resident concerned about a site that was being demolished without the required protective fencing. The email was immediately forwarded to Mr. Rose, the company was cited, and a fence was erected today. So while he certainly would like to thank this resident for alerting him to this violation and for being the eyes and ears of this Council, he would also encourage others to exercise that same vigilance and contact Council or staff regarding any issues that need to be addressed.

Councilmember Cusick stated Council held a Study Session on November 13th to discuss some of the issues involving the City's relationship with Wash U, and parking was one of the topics discussed. So he would like to thank those residents who expressed concerns about parking and encourage anyone with ideas or comments, to forward them to the subcommittee formed to address the City's Parking and Zoning Ordinances so that they can be considered. Councilmember Cusick wished everyone a happy and safe holiday**.**

Mayor Crow stated the U.S. Census will be taken next year and every community within Missouri has been asked to put together a *"Complete Count Commission"*. Therefore, he is very humbled and pleased to announce that former Mayors Joe Adams and Shelley Welsch have agreed to be the honorary co-chairs of this Commission. Mayor Crow stated as most of you know, the more folks counted, the better this community will bode with respect to the distribution of federal funds. So this is an opportunity for the City to engage in outreach efforts with community organizations, faith-based groups, local businesses, and the media to increase participation.

This Commission; and hopefully, a number of our residents, will specifically be charged with enhancing participation for those hard to count demographics like veterans, the homeless, people with disabilities, renters, college students, immigrants, seniors, those with language constraints, and low-income populations.

As a procedural matter, Mayor Crow stated notice was given to conduct an Executive Session commencing at 5:45 p.m. Council initiated that session and then took a recess to open the public session. So at the conclusion of this meeting, he would ask Council to move back into Executive Session.

Q. ADJOURNMENT

Mayor Crow wished everyone a happy holiday and closed the Regular City Council meeting at 7:30 p.m. to go into an Executive Session on the second floor. The Executive Session reconvened at 7:37 p.m. and was adjourned at 8:45 p.m.

LaRette Reese,
City Clerk

Council Agenda Item Cover

MEETING DATE: January 14, 2019

AGENDA ITEM TITLE: Zoning Map Amendment for 1167 Remley Court, University City from “GC” – General Commercial to “SR” – Single Family Residential

AGENDA SECTION: Public Hearing

CAN THIS ITEM BE RESCHEDULED? Yes

BACKGROUND REVIEW:
The proposed Zoning Map Amendment would rezone 1167 Remley Court to “SR” – Single Family Residential from “GC” - General Commercial.

More information on this Zoning Map Amendment is provided in the City Council packet for December 10, 2018.

Council Agenda Item Cover

MEETING DATE: January 14, 2019

AGENDA ITEM TITLE: Text Amendment of Chapter 400 Article 5 Division 10 "Amateur Radio Antennas and Towers, Parabolic Reflector Antennas and Telecommunications Antennas, Towers and Support Structures"

AGENDA SECTION: Public Hearing

CAN THIS ITEM BE RESCHEDULED? Yes

BACKGROUND REVIEW: The amended Division 10 will be retitled the "Wireless Communications Facilities Code" and will govern how wireless communications facilities and infrastructure are deployed ***in all Districts*** throughout the City. These proposed Code amendments were precipitated by recent changes in Missouri and federal law, including the Uniform Small Wireless Facility Deployment Act (§§ 67.5110-67.5121 RSMo.; the "Act"), that set certain boundaries and limitations on the City's authority as it relates to the installation of certain wireless communications facilities and infrastructure.

These Code amendments are meant to address the limitations that the Act places on the City's authority, as well as to clarify and streamline when, where, and how these wireless communications installations are approved in all Districts. The Division has general requirements that apply to all wireless facilities and is designed to allow these installations, either as a permitted use, administratively approved, or conditionally approved through the City's Conditional Use Permit ("CUP") procedures, depending on the specifications (such as volumetric, height, among other specifications) of the installation. Specifically, in certain districts where the Act preempts the City's zoning, "small wireless facilities" as defined by the Act are permitted uses. In districts where the Act does not preempt the City's zoning authority (i.e., areas zoned Single-Family Residential or Historic on/before August 28, 2018), we have drafted two separate uses with differing processes for approval. These procedures are:

1. An administratively approved use of a "Fast-Track" Small Wireless Facility, which meets smaller volumetric requirements than those found in the Act, among other aesthetic and safety requirements and Disguised Support Structures, which are truly disguised structures (similar to the code provisions passed last December via Ordinance 7067); and
2. Requiring installations that do not meet the "Fast-Track" requirements or Disguised Support Structures to go through the City's CUP procedure.

In addition, the Commission will be considering an amendment which repeals individual references throughout the City's District Regulations that are inconsistent with the revised changes to Division 10, as the amended Division 10 will govern this Installations City-wide rather than needing individual District regulations. These zoning amendments have a high-priority, as the Act places certain timing requirements on when the City must have terms that comply with the Act, and that such mandated terms must be passed via ordinance.

Council Agenda Item Cover

MEETING DATE: January 14, 2019

AGENDA ITEM TITLE: Text Amendments to Section 400.3080 in Article VIII, Division 3 (Non-conforming lots of records) and Section 400.1020 in Article V, Division 1 of the University City Zoning Code

AGENDA SECTION: Public Hearing

CAN THIS ITEM BE RESCHEDULED? Yes

BACKGROUND REVIEW:
The proposed Text Amendment would allow for more infill development in the older areas of University City by modifying the minimum dimensional requirements for qualifying subdivisions platted prior to 1926. The intention of these Text Amendments is to encourage development in University City that is consistent with the prevailing pattern and character of each subdivision and to simplify the regulations for non-conforming lots so that the District regulations prevail.

More information on this text amendment is provided in the City Council packet under “New Business” for January 14, 2019.

Council Agenda Item Cover

MEETING DATE: January 14, 2019

AGENDA ITEM TITLE: Text Amendment to Section 400.3090 in Article VIII, Division 3 of the University City Zoning Code

AGENDA SECTION: Public Hearing

CAN THIS ITEM BE RESCHEDULED? Yes

BACKGROUND REVIEW:
The proposed Text Amendment would allow residential property owners to reconstruct their dimensionally non-conforming, existing accessory structures so long as the reconstruction does not increase the degree of dimensional non-conformity.

More information on this Text Amendment is provided in the City Council packet under “New Business” for January 14, 2019.

Council Agenda Item Cover

MEETING DATE: January 14, 2019

AGENDA ITEM TITLE: Stormwater Taskforce Update

AGENDA SECTION: City Manager's Report

CAN THIS ITEM BE RESCHEDULED?: Yes

BACKGROUND REVIEW:

The City of University City created the Stormwater Taskforce in the fall of 2017. The group has met monthly for the past 14 months. The attached information and presentation is an update of the progress made by the Taskforce.

ATTACHMENTS:

- Stormwater Task Force Report

Storm Water Task Force
6801 Delmar Boulevard, University City, Missouri 63130
Phone: (314) 505-8560, Fax: (314) 862-0694

Storm Water Task Force Status Report
January 2019

Abstract

The Storm Water Task Force, authorized by City Council in June 2017, contains 15 citizens appointed by the Council. The appointed members are knowledgeable citizens impacted by storm water and engineers and scientist who bring technical insight to the Task Force.

To comply with the authorizing resolution, the Task Force has focused on storm water *quantity* (flooding) problems rather than storm water quality (ecological) problems. We are now engaged in the first of two authorized phases: collecting, evaluating, and prioritizing storm water problems in University City. To be efficient and timely in Phase 1, we have subdivided the Task Force into six focused subcommittees:

- Survey of residents,
- Historical U. City Storm Water Data,
- Review of Neighboring Community Storm Water Approaches,
- Review of Storm Water Ordinances and Codes,
- Flood Early Warning System,
- Funding for Storm Water projects.

Through two efforts, we have obtained approximately 200 survey responses. Evaluation of the results is on-going. Survey results indicate that the public is concerned with:

- stormwater entering houses;
- street and yard ponding;
- stream flooding and stream bank erosion.

We will combine the survey data with the historical data, site visits, and public open house meetings to evaluate and prioritize the storm water problems and then develop a range of recommended improvements. We anticipate that the open house public meetings will be crucial to our work.

The preparation of a report to the Council is our second phase. At this time, we anticipate that the improvements will involve public works projects, buyouts, building code changes, and an early warning system for residents who live close to River Des Peres and Engelholm Creek. We will also examine funding such as grants, city-wide taxes, and special neighborhood taxes to implement the recommendations.

We expect that the evaluation and preparation of our report will take the next four to six months.

Storm Water Task Force
6801 Delmar Boulevard, University City, Missouri 63130
Phone: (314) 505-8560, Fax: (314) 862-0694

1. Introduction

The University City Storm Water Task Force (Task Force) presents this status report.

The Task Force was authorized on June 26, 2017 by City Council Resolution 2017-10. Our examination of storm water concerns follows closely the charges of the Resolution. The Task Force was charged to work under the direction of the City Council but be citizen-led. The recital portion of the resolution mentions storm water quantity (flooding) problems but is silent on water quality (ecological) problems. Therefore, the Task Force and this status report are focused on storm water *quantity* problems.

The resolution identified two phases:

Phase 1: Collect data to identify, evaluate, and prioritize storm water problems;
Phase 2: Develop a Storm Water Master Plan of conceptual solutions and costs of prioritized problems.

The resolution charges that solutions and costs of prioritized problems should be based on data gathered by the Task Force including citizen input. Further, written and oral reports should be submitted at the end of each phase. The Storm Water Task Force has not yet completed Phase I. Nevertheless, enough time has passed that this interim status report is appropriate to summarize the data gathered, preliminary evaluation, and future work.

2. Organization of the Storm Water Task Force

The Task Force has 15 appointed members[1]. In addition, two members of the City Council[2] and two members of the City staff[3] provide important insight and coordination with the City Council and City Staff. The Task Force established six subcommittees to gather data and examine issues in detail and report to the Task Force:

- *Survey*: Develop a questionnaire to learn the storm water concerns of the community;
- *Identify Stormwater Problems*: Examine historical data to learn about storm water problems and causes in University City;
- *Neighboring Communities Data*: Identify and learn what our neighbors are doing;
- *Stormwater Ordinances*: Evaluate storm water codes from neighboring communities and identify improvements for our codes;
- *Early Warning:* Evaluate the feasibility of establishing an early warning system for flash floods;
- *Funding*: Identify funding for mitigation of storm water problems.

[1] The Task Force meets as *if* in a Committee of the Whole. A quorum for meetings is eight of the appointed members. The Task Force generally meets on the first Tuesday of each month at the Heman Park Community Center. Appointed citizen members are Garry Aronberg, Bob Criss, Tim Cusick, Mark Holly, Eric Karch, Irv Logan, Angelika Mueller, Gloria Nickerson, Bobette Patton, Linda Sharpe-Taylor, Eric Stein, Todd Thompson, John Tieman, Michael Warford, Rosalind Williams. Todd Thompson and John Tieman were elected as co-chairs.

[2] City Council members who work with the Task Force are Paulette Carr and Bwayne Smotherson.

[3] City Staff working with the Task Force are Chris Kalter (Public Works), Mark Zaiontz (Community Development).

Storm Water Task Force
6801 Delmar Boulevard, University City, Missouri 63130
Phone: (314) 505-8560, Fax: (314) 862-0694

3. Subcommittee Reports

3.1. *Survey*

University City has anecdotal storm water data divided among long-time staff and City Council members but no detailed records of storm water complaints. Therefore, as part of the effort to identify storm water problems in University City, the Task Force identified a need to gather a full inventory of storm water problems. The task force identified a thorough survey as an important tool to fill the data gap.

A subcommittee prepared a draft of a survey that was discussed and edited during Task Force meetings. The survey availability was announced in "Roars" and other University City notices such as City Council newsletters. The survey, as an insert, was later added to another issue of the "Roars". Approximately 200 responses have been received.

Evaluation of the results is on-going. Preliminary results, summarized below, indicate concerns with stream flooding, stream bank erosion, stormwater entering houses, and street and yard ponding.

Problem Identified	Number or Residents Reporting Problem
Ponding in yard	81
Ponding in street	59
Flooding in street	62
Flash Flooding	46
Water entering home through walls, windows, doors, floor drain	82
Storm water enter house after intense rain	58
Stream Flooding near home	18
Stream bank erosion	15

Survey results will be combined with other sources of information such as MSD records, anecdotal information, and site visits.

3.2. *Identify Storm Water Problem*

A subcommittee was established to research historical data on storm water problems to complement the Survey results. The subcommittee examined anecdotal information, MSD list of backups and other complaints, Corps of Engineers (USACE) reports, and FEMA documents. The work is on-going, but the committee has identified an extensive list of basement backups, FEMA flooding data for River Des Peres and Engleholm Creek, and anecdotal information about regional and local flooding. The information had been scattered. So previously, the historical information had been considered in isolation. The Task Force will combine the historical data with the survey results. The Task Force will evaluate all of the data to recommend well-coordinated City action such as ordinances updates, public works improvements, coordination with MSD, FEMA, Corps of Engineers, and funding sources.

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3.3. *Neighboring Communities Data*

To learn how other communities have handled storm water problems and to identify good ideas, the Neighboring Communities subcommittee considered urban-like and suburban communities:

- Urban-like: MSD, Brentwood, Clayton, Creve Coeur, St. Charles, Webster Groves;
- Suburban: or exurban-like: Ladue, Town & Country, and St. Peters.

Most of these communities had ordinances very similar to University City Ordinances. That is, those communities relied on MSD to address storm water *quantity*. The exceptions were Webster Groves and the suburban-like communities of Creve Coeur, Ladue, and Town & Country. Each of those communities have adopted slightly more stringent detention requirements than MSD.

The most common complaints have been stream flooding, stream bank erosion, and basement backups. University City and Brentwood have fewer open streams than the suburban-like communities. Nevertheless, both University City and Brentwood have occasional but severe stream flooding. Basement backups are more often reported problems in inner-ring urban-like communities of University City, Maplewood, and Brentwood than the suburban-like communities because combined sewers are common in the inner-ring urban-like communities.

Similar to University City, at least three of the comparison communities had adopted a 0.4 to 0.5-cent sales tax for a park and storm water improvement fund. The comparison communities appeared to use the funds for pay-as-you-go rather than to pay-off bonds. The pay-as-you-go program differs from University City which purchased bonds for parks improvements. The comparison communities have identified tens of millions of dollars of storm water problems but can fund only some of them with the current dedicated taxes.

The suburban-like communities have developed detailed prioritization plans to address 40 to 100 storm water projects. Most of those projects address improvements to detention basins, streambank erosion near houses, and backyard ponding that enters basements.

3.4. *Storm water Ordinances*

The Storm Water Ordinance subcommittee has been examining University City Ordinances to make improvements to address identified problems. The subcommittee has been examining good models from other communities. The work is on-going but the draft recommendations for ordinance improvements are ready for City Staff review. Ultimately, improvements to ordinances will likely address early coordination with developers, more stringent detention storm water, discharge point setbacks, maximum allowable impervious area on residential lots, limits on increasing stormwater rates or volumes, and prohibition on changing the direction of stormwater flow. An important focus is to address new development such as infill and additions to existing homes.

3.5. *Early Warning*

Task Force discussions identified a keen interest in early warning of flash floods along the River Des Peres and Engelholm Creek. A subcommittee has been established to identify the feasibility of early warning. The feasibility evaluation is focused on four items:

- components needed for an early warning system,
- systems used by other communities,
- resources already available,
- costs and operational challenges to establishing an early warning system for residents.

The subcommittee has identified many important existing resources for an early warning system:

- nearby USGS gaging stations,
- nearby rainfall stations,
- connection with the MSD rainfall network.

Early warning work continues in four areas:

- Determine whether a correlation exists between rainfall and water surface elevation in the streams,
- Determine whether the correlation would be an adequate predictor of flash floods,
- Determine whether additional resources such as another gaging station and more rainfall stations are needed for an effective early warning system,
- Identify appropriate funding and operation.

3.6. *Funding*

The Task Force recognized that funding of some actions such as buyouts and public works improvements would require extensive funding. A subcommittee was established to identify a wide range of funding. Sources identified are summarized below.

- A sales tax for parks and storm water improvements already exists but it is currently committed to retiring park improvement bonds.
- Neighborhood improvement districts (NID) allow special property tax collections in small areas to retire loans.
- State revolving loans is another source of borrowed money. A City match must be provided.
- Four applicable grants were identified and require a City match. Section 319 is a state program which currently has little funding or legislative support. University City has previously used FEMA grants to address repetitive loss (buyouts), but these are increasingly competitive. Tiger and HUD Block grants are federal programs that also apply to flooding issues.

Storm Water Task Force
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4. Future Work

The Task Force plans the following tasks over the next four to six months.

- Evaluate recent survey responses.
- Combine survey responses with other sources of storm water complaints such as MSD, anecdotal, and City.
- Site visits to assess storm water problems.
- Identify a range of responses and mitigation.
- Open house or public meetings to discuss sources and the range of responses and mitigation and learn the preferences of City residents and business community.
- Update responses based on open house input to conclude Phase 1.
- Prepare a Storm Water Master Plan and report to the City Council to conclude Phase 2.

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Council Agenda Item Cover

MEETING DATE: January 14, 2019

AGENDA ITEM TITLE: Parking Space Agreement with Washington University

AGENDA SECTION: City Manager's Report

CAN THIS ITEM BE RESCHEDULED? : Yes

BACKGROUND REVIEW:

On January 28, 2013, the City Council approved the Final Development Plan (Plan) for Washington University's Loop Student Living Initiative Project (Project) at 6241, 6251, 6255 and 6263 Delmar; 609, 701 and 707 Eastgate; 6236 and 6322 Enright; and 700 Limit. The Project is in a Planned Development-Mixed Use Zoning District.

The Plan provides for parking at Municipal Garage #2 at 6319 Delmar, for the commercial uses. Zoning Code Section 400.2130 authorizes the City Council to reduce the number of on-site parking spaces required when the building served by such parking is located within 1,000 feet of a public parking facility provided a fee is paid to the City for the pro rata share of the cost of constructing and maintaining the facility.

The Plan reduced the required number of parking spaces for the commercial uses to 44 spaces provided that Washington University complied with Zoning Code Section 400.2130, but Washington University decided to make other arrangements for parking for the commercial uses by entering into a January 25, 2013 Shared Parking Agreement with Eastgate Investments, Inc. for 42 non-restricted parking spaces at 616 Eastgate, and by filing a Restriction dated June 25, 2013 with the St. Louis Recorder of Deeds on August 9, 2013 and the St. Louis County Recorder of Deeds on August 22, 2013 for 43 parking spaces on lots Washington University University owns at 621 and 633-35 Skinker.

Washington University now desires to use Municipal Garage #2 for parking for the commercial uses because it has entered into an agreement to sell the two Skinker lots to redevelop as a mid-rise office building with street level retail space, to include a national pharmacy.

Staff and Washington University have negotiated the terms of a Parking Space Agreement (Agreement) for the City Council's consideration. The Agreement grants Washington University the use of up to 44 parking spaces, for passenger vehicle parking only, for use by staff, patrons and invitees of the commercial uses. Washington University's use of the parking spaces will be on a first-come, first-serve basis, in common with other authorized parkers. There will be no designation, identification, or other marking of parking spaces for Washington University's use. Washington University will pay $7,700 per month, which will be increased annually by the lesser of the increase in the Consumer Price Index or 3%. The initial term will be 10 years and there is no right to cancel. Washington University may renew for two additional terms, each of 5 years, and it may cancel a renewal term at any time on notice to the City of not less than 60 days.

As additional consideration, Washington University will revise it policy applicable to residents of the residential portion of the Project, whereby students who reside there for any fall or spring semester will pay a housing fee that entitles them to park in the underground parking garage at the Project during such semester, without any additional parking charge.

Washington University may request approval of an alternative parking arrangement that satisfies the Zoning Code and Planned Development ordinance. In the event the City approves such an arrangement during the initial 10-year term, Washington University's obligations will nonetheless continue for the remainder of the ten years, including but not limited to payment of the monthly fee and the Lofts resident parking policy.

The Agreement will commence February 1, 2019. The City will receive a total of $92,400 during the first year. The amount will thereafter increase annually for 9 years in an amount not to exceed 3% as discussed above. Because the Agreement cannot be terminated by Washington University during the initial term, the City will be guaranteed $924,000 plus the annual increases. Washington University and the City acknowledge and agree in the Agreement that it satisfies Zoning Code Section 400.2130.

RECOMMENDATION:

The City Manager recommends approval.

ATTACHMENTS:

- Parking Space Agreement

PARKING SPACE AGREEMENT

The CITY OF UNIVERSITY CITY, MISSOURI ("City") and THE WASHINGTON UNIVERSITY ("University"), hereby enter into this Parking Space Agreement (this "Agreement") this ____ day of January, 2019 (the "Effective Date").

1. RECITALS.

A. The City owns and operates a garage for public parking, which contains 120 public parking spaces, at 6319 Delmar Boulevard, University City, Missouri 63130 (the "Facility");

B. The University has constructed a PD-M Planned Development Mixed-Use project (the "Project") as approved by the City Council through City Ordinance No. 6909;

C. To meet the parking requirements for the commercial space, the University has requested a waiver to the on-site parking requirement by utilizing 44 Facility parking spaces, for which the University qualifies, as provided in Section 400.2130.E (previously codified as Section 34-94.1(5)) of the University City Municipal Code;

D. The parties desire to enter into this Agreement memorializing the terms of the University's use of the Facility and the required consideration.

2. USE.

A. The City hereby grants the University the use of up to forty-four (44) non-exclusive Facility parking spaces, for passenger vehicle parking only, for use by staff, patrons and invitees of the commercial space at the Project. The University's use of the spaces shall be on a first-come, first-serve basis, in common with other authorized parkers. There shall be no designation, identification, or other marking of parking spaces for the University's use. The City and the University mutually acknowledge and agree the monthly fee satisfies the requirement in Zoning Code Section 400.2130.E that the University pay the City the pro rata share of the cost of constructing and maintaining the parking garage.

B. The City shall not be responsible for damage or loss to: (i) any vehicle parked in the Facility as a result of this Agreement, or any possessions or items left in any such vehicle, whether or not such damage is caused by other vehicle(s) or person(s) in the Facility or the surrounding area. The University acknowledges that the City shall not provide parking attendants.

C. The University covenants and agrees that the University will comply with all laws, statutes, ordinances and regulations applicable to the Facility or relating to the use thereof pursuant to this Agreement.

2. FEES. The University shall pay the following fee to the City in consideration of the use of the Facility:

A. A monthly fee initially at the rate of $175.00 per space, for a total of $7,700.00 per month, to be paid by the first day of each month, commencing February 1, 2019. On February 1, 2020, and on each February 1 thereafter during the term of this Agreement, including any renewal periods, the fee shall increase by the lesser of (i) the increase in the Consumer Price Index for the preceding twelve (12) months, and (ii) three percent (3.00%). In no event shall the fee decrease by reason of any such adjustment. City will be solely responsible for all costs of maintenance and repair (capital or otherwise), utilities, taxes (if any), insurance, and in general all other costs of ownership and operation of the garage.

3. TERM AND TERMINATION.

A. This Agreement shall continue in force and effect for a period of ten (10) years, commencing February 1, 2019.

B. This Agreement will renew for two (2) additional periods, each of five (5) years, unless the University gives notice of nonrenewal to the City not less than sixty (60) days prior to commencement of the option period; provided, that during either option period, the University shall have the option to cancel and terminate this Agreement at any time on notice of not less than sixty (60) days to the City.

4. LOFTS RESIDENT PARKING. The University will revise its policy applicable to residents of the residential portion of the Project, whereby students who reside there for any fall or spring semester will pay a housing fee that entitles them to park in the underground parking garage at the Project during such semester, without any additional parking charge.

5. ZONING CONFIRMATION. The City hereby confirms to the University that this Agreement fully satisfies all parking requirements applicable to the commercial space at the Project under the zoning code and the planned development ordinance, without the need for any further approvals by the City Council or any other municipal authority. The City agrees not to unreasonably withhold, delay or condition its consent to any one or more future proposals by the University to meet such parking requirements through an alternate arrangement, provided such alternate arrangement complies with the then applicable provisions of the zoning code; for this purpose, loss or diminution of fee revenue payable by the University for use of the municipal garage shall not be a reasonable basis for the City to withhold consent. For avoidance of doubt, in the event an alternative parking arrangement is approved, this Agreement shall remain in force and effect and the University's obligations shall continue, including but not limited to payment of the monthly fee in Section 2.A and the Lofts resident parking policy in Section 4, during the initial term of ten (10) years, and during any option period, if

exercised hereunder, unless and until the University exercises its right to terminate the Agreement as provided in Section 3.B.

6. ASSIGNMENT. The University may not assign or sublease this Agreement without the prior written consent of the City.

7. NOTICE. Any notices given pursuant to this Agreement shall be made in writing to the undersigned, or their successor upon notice, at the address shown below and shall be deemed to have been given the day delivered personally or one business day after delivery by a nationally recognized overnight courier service (such as Federal Express).

City:

City Manager
City of University City, Missouri
6801 Delmar Boulevard
University City, Missouri 63130

University:

The Washington University
Campus Box 1058
One Brookings Drive
St. Louis, Missouri 63130

8. LAW. This Agreement is made and delivered in the State of Missouri and shall be construed and enforced in accordance with the laws of the State of Missouri.

9. MISCELLANEOUS. This Agreement shall be binding upon and shall inure to the benefit of the parties hereto and their respective successors and assigns subject to the provisions contained herein. No amendment of this Agreement shall be effective or binding on the parties unless in writing signed by an authorized representative of both parties. This Agreement is the entire agreement between the parties, and incorporates and replaces all prior communications between the parties, oral or in writing.

10. The City is authorized to enter into this Agreement pursuant to Ordinance No. _____.

[balance of this page intentionally left blank]

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their respective authorized officers as of the day and year first above written.

University:
THE WASHINGTON UNIVERSITY

By: _____
Name: Mark Amiri
Title: Associate Vice Chancellor for Finance and Treasurer

ATTEST:

_____
Secretary

City:
CITY OF UNIVERSITY CITY, MISSOURI

By: _____
Name: Gregory Rose
Title: City Manager

ATTEST:

_____
City Clerk

Council Agenda Item Cover

MEETING DATE: January 14, 2019

AGENDA ITEM TITLE: Zoning Map Amendment – Re-zoning of 1167 Remley Ct. from GC – General Commercial to SR – Single Family Residential.

AGENDA SECTION: Unfinished Business

COUNCIL ACTION: Passage of Ordinance required for Approval

CAN THIS ITEM BE RESCHEDULED? : Yes

BACKGROUND REVIEW: The Plan Commission recommended approval of the proposed Map Amendment at their September 12, 2018 meeting. This agenda item requires a public hearing at the City Council level and consideration for the passage of an ordinance. The first reading and public hearing should take place on December 10, 2018. The second and third readings and passage of the ordinance could occur at the first meeting in the New Year in January of 2019.

RECOMMENDATION: The City Manager recommends approval of the zoning map amendment

Attachments

1. Ordinance and Map Exhibits
2. Transmittal Letter from Plan Commission
3. Re-zoning Application
4. Staff Report
5. Attachment A

INTRODUCED BY: Councilmember Bwayne Smotherson DATE: December 10, 2018

BILL NO. 9374 ORDINANCE NO._____

AN ORDINANCE AMENDING CHAPTER 400 OF THE MUNICIPAL CODE OF THE CITY OF UNIVERSITY CITY, MISSOURI, RELATING TO ZONING DISTRICTS ESTABLISHED PURSUANT TO SECTION 400.070 THEREOF, AND ENACTING IN LIEU THEREOF A NEW OFFICIAL ZONING MAP, THEREBY AMENDING SAID MAP SO AS TO CHANGE THE CLASSIFICATION OF PROPERTY THAT IS LOCATED WITHIN THE CITY LIMITS OF UNIVERSITY CITY AT 1167 REMLEY COURT FROM "GC" - GENERAL COMMERCIAL DISTRICT, TO "SR" – SINGLE FAMILY RESIDENTIAL.

WHEREAS, Chapter 400 of the Municipal Code of the City of University City (University City Zoning Code) divides the City into several zoning districts, and regulates the character of buildings which may be erected in each of said districts, and the uses to which the buildings and premises located therein may be put; and

WHEREAS, the City Plan Commission examined an amendment of the Official Zoning Map of the City which changes the classification of property that is located within the city limits of University City at 1167 Remley Court from General Commercial District ("GC") to Single Family Residential District ("SR"); and

WHEREAS, the City Plan Commission, in a meeting at City Hall on September 12, 2018, approved said amendment and recommended to the City Council that it be enacted into an ordinance; and

WHEREAS, due notice of a public hearing to be held by the City Council in the City Council Chambers at City Hall at 6:30 p.m., December 10, 2018, was duly published in the St. Louis Countian, a newspaper of general circulation within said City on November 19th, 2018; and

WHEREAS, said public hearing was held at the time and place specified in said notice, and all suggestions or objections concerning said amendment of the Official Zoning Map of the City were duly heard and considered by the City Council.

NOW THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF UNIVERSITY CITY, MISSOURI, AS FOLLOWS:

Section 1. Chapter 400 of the Municipal Code of the City of University City, Missouri, relating to zoning is hereby amended by repealing the Official Zoning Map illustrating the zoning districts established pursuant to Section 400.070 thereof, and enacting in lieu thereof a new Official Zoning Map, thereby amending the Official Zoning Map so as to change the classification of property that is located within the city limits of University City at 1167 Remley Court, General Commercial District ("GC") to Single Family Residential ("SR").

Section 2. Said property at 1167 Remley Court, University City, MO totaling 0.12 acres, is more fully described with legal descriptions, attached hereto, marked Exhibit “B” and mode a part hereof.

The above described tract having St. Louis County locator number of 17K621010

Section 3. The new Official Zoning Map of the City is attached hereto, marked Exhibit "A", and made a part hereof.

Section 4. This ordinance shall not be construed so as to relieve any person, firm or corporation from any penalty incurred by the violation of Chapter 400, nor bar the prosecution of any such violation.

Section 5. Any person, firm, or corporation violating any of the provisions of this ordinance shall, upon conviction thereof, be subject to the penalties provided in Chapter 400, Article 9, Division 5 of the Municipal Code of the City of University City.

Section 6. This ordinance shall take effect and be in force from and after its passage as provided by law.

PASSED this _____ day of _____, 2018.

_____
MAYOR

ATTEST:

_____
CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:

_____
CITY ATTORNEY

EXHIBIT A

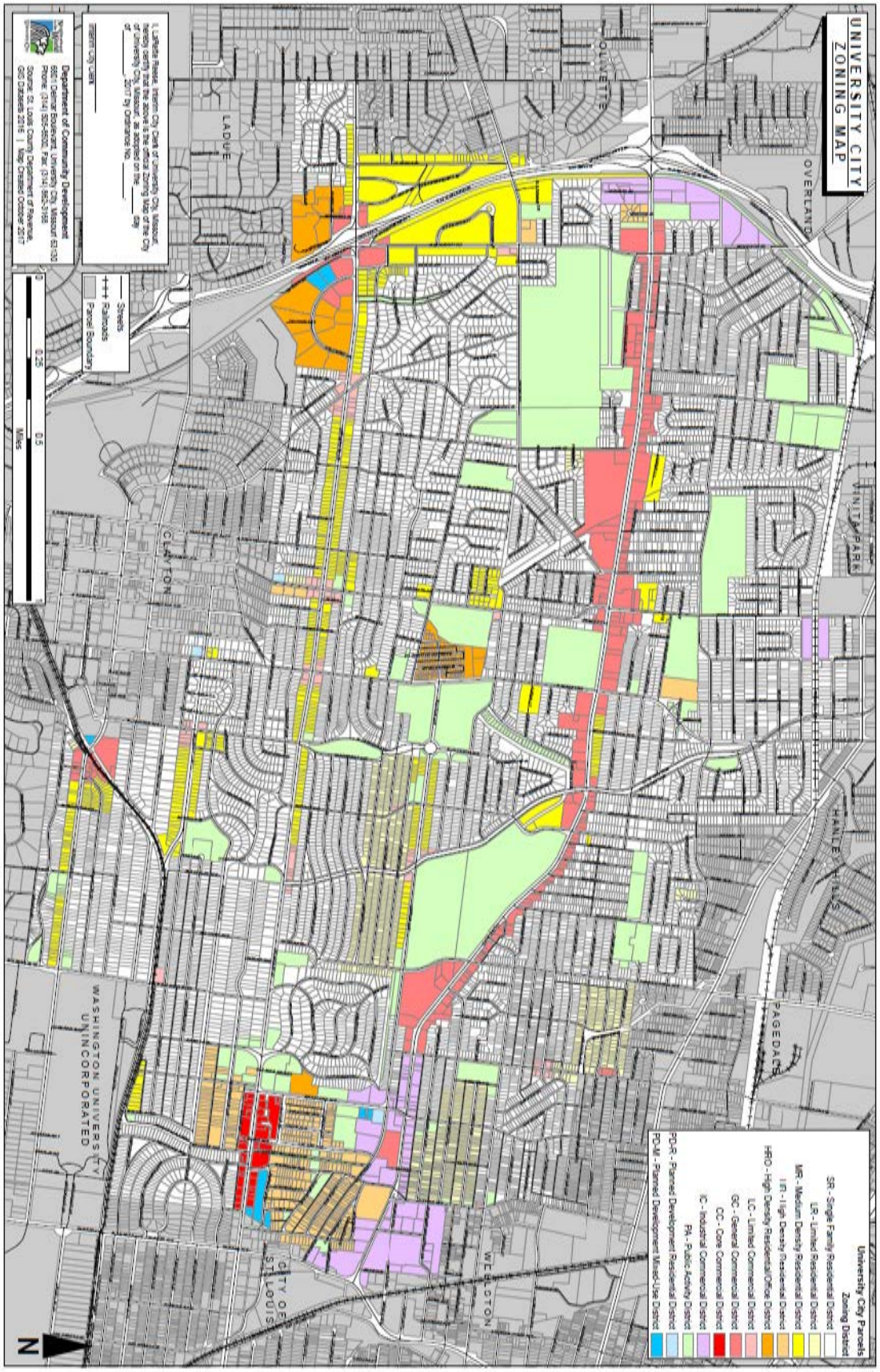
UNIVERSITY CITY
ZONING MAP
OLIVETTE
OVERLAND
LADUE
CLAYTON
WASHINGTON UNIVERSITY
UNINCORPORATED
CITY OF ST. LOUIS
WELLSTON
PAGEDALE
HANLEY HILLS
UNITY PARK
University City Parcels
Zoning District
SR - Single Family Residential District
LR - Limited Residential District
MR - Medium Density Residential District
HR - High Density Residential District
HRO - High Density Residential/Office District
LC - Limited Commercial District
GC - General Commercial District
CC - Core Commercial District
IC - Industrial Commercial District
PA - Public Activity District
PDR - Planned Development Residential District
PDMU - Planned Development Mixed-Use District
Streets
Railroads
Parcel Boundary
0.25
0.5
Miles
N

EXHIBIT B –

LEGAL DESCRIPTION FOR REZONING – 1167 REMLEY COURT

1167 Remley Court – Lot 16 (excepting the South 7 feet thereof) in Block 1 of Pearl Heights, according to the plat thereof recorded in Plat Book 17 Page 19 of the St. Louis County Records.

Plan Commission
6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 862-6767, Fax: (314) 862-3168

September 14, 2018

Ms. LaRette Reese
City Clerk
City of University City
6801 Delmar Boulevard
University City, MO 63130

RE: Zoning Map Amendment – Re-zoning of 1167 Remley Ct. from GC – General Commercial to SR – Single Family Residential

Dear Ms. Reese,

At its regular meeting on September 12, 2018 at 6:30 pm in the Heman Park Community Center, 975 Pennsylvania Avenue, University city, Missouri, 63130, the Plan Commission reviewed the above-referenced application by Regina Ruminova for a re-zoning of 1167 Remley Ct., University City, Missouri, 63130 from GC – General Commercial to SR – Single Family Residential.

By a vote of 5 to 0, the Plan Commission recommended approval of the re-zoning

Sincerely,

Cirri Moran, Chairperson
University City Plan Commission

Department of Community Development
6801 Delmar Boulevard ·University City, Missouri 63130 ·314-505-8500 ·Fax: 314-862-3168

APPLICATION FOR ZONING MAP AMENDMENT: 1167 Remley ct, MO 63130
Address / Location / Site of Building

1. Current Zoning District (Check one):
___CC _X_GC ___HR ___HRO ___IC ___LC ___LR ___MR ___PA ___PD ___SR

2. Proposed Zoning District (Check one):
___CC ___GC ___HR ___HRO ___IC ___LC ___LR ___MR ___PA ___PD _X_SR

3. State proposed use:

4. Describe existing premises:
Small Residential Home

5. Describe proposed construction (please attach additional narrative):
Brick Ranch

6. State applicant's name, address and daytime telephone number:
Regina Luvinova 314-393-3815
1696 Willowbrook Manors ct, MO 63146

7. Applicant's interest in the property (check one):

_X_ Owner _____Tenant _____Under contract to purchase _____Under contract to lease
_____Other (specify):

8. State name and address and daytime telephone number of owner, if other than applicant:
Regina Luvinova 314-393-3815

_____ Other (specify):

The undersigned hereby makes application for a Site Plan Review and requests the authorization of the City Council to proceed with the activities described in this application.

06/04/2018 Regina Luvinova, owner
Date Applicant's Signature and Title

FOR OFFICE USE ONLY

Date: _____ Application first received of _____

Application fee in the amount of $_____ Receipt #_____

Requesting to rezone 1167 Remley Court from GC – General Commercial District to SR – Single Family Residential

COUNCIL DISTRICT:	2
LOCATION:	1167 Remley Ct.
FILE NUMBER:	18-05774
REQUESTED ACTION:	Approval
APPLICANT	Regina Ruvinova 7843 Olive University City, Missouri 63130
STATUS:	Property owner

COMPREHENSIVE PLAN CONFORMANCE

[ ] Yes [X] No [ ] No reference

STAFF RECOMMENDATION

[x] Approval [ ] Approval with conditions [ ] Denial

PLAN COMMISSION RECOMMENDATION

[x] Approval [ ] Approval with conditions [ ] Denial

PROJECT DESCRIPTION:

Existing Zoning: GC-General Commercial District
Proposed Zoning: SR- Single Family Residential
Existing Land Use: Vacant Commercial
Proposed Land Use: Single Family Residential

Surrounding Zoning and Land Use:

North:	GC – General Commercial	Commercial
East:	GC – General Commercial	Commercial
South:	SR – Single Family Residential	Single Family Residential
West:	SR – Single Family Residential	Single Family Residential

Process – Required City Approvals

Plan Commission. Section 400.3180 of the Zoning Code requires that Map Amendment applications be reviewed by Plan Commission after receipt of staff report. The Plan Commission shall report a recommendation to the City Council for their consideration.

City Council. Sections 400.3190 and 400.3200 of the Zoning Code require that a public hearing be held by the City Council before making a final decision, subsequent to receiving a recommendation from Plan Commission.

Fire Chief Comments

Police Chief Comments

Public Works Comments

Analysis

Property Information
The subject property is currently zoned GC – General Commercial and is about 5,100 square feet. The parcel contains one building. It is located at the beginning of Remley Court, adjacent to a parking lot and another single family home (see Attachment A) with access to Olive Blvd.

In the past, a dentist's office occupied 1167 Remley Court, which abuts both GC and SR zoned districts. 1167 Remley was built as a single family home in 1946. At the time, dental offices were permitted under "transitional uses" in single family residential where a property abutted a commercial or industrial zone. Dental offices remained permitted transitional uses in single family residential until 1970 when the ordinance changed to regulate home occupations, prohibiting medical, dental, and physician offices in a single family zoned area.

After 1970, a dentist still operated their business in the building. The current GC – General Commercial zoning of the property likely resulted from a spot zoning to allow for the residence's previous transitional use to remain

Current Proposal
The applicant requests that the property be rezoned from GC – General Commercial to SR – Single Family Residential. The intent is to use the property as a single family home. The building footprint will remain the same.

Zoning Code Analysis

Article 14, Section 34-162.2 of the Zoning Code requires that Plan Commission review a request for a map amendment and forward its recommendation to City Council. A public hearing will be conducted at the City Council level.

The purpose of "SR" Single Family Residential districts, as set forth in Section 400.130 of the Zoning Code, is;

"To *protect and conserve areas of predominantly single-family detached dwellings, while at the same time allowing for the construction of new dwelling units if in substantial conformance with the character of surrounding single-family dwellings*."

Under home occupations prohibited in single family residential (Section 400.130.A) are;

"*Medical or dental offices or clinics, including chiropractors, veterinarians, podiatrists, and similar professions*"

Replacing the transitional uses language, the code now explicitly allows or prohibits various home occupations regardless of their proximity to commercial and industrial districts. Therefore, this property was likely rezoned to accommodate a dentist's office.

Staff Recommendation

The staff recommends that proposed rezoning of GC – General Commercial to SR – Single Family Residential be granted for the following reasons.

1. While we do not know when the lot was zoned to GC, the fact that the structure matches the size and shape of surrounding residential structures and was built prior to 1950, like the surrounding residential structures were, suggests the structure was originally built as a home and not a dentist office.
2. The lot and structure fit the prevailing pattern and character of single family residential on its South and West sides;
3. The rezoning will not cause substantial injury to the value of neighboring properties;
4. Approving the rezoning would increase consistency in the surrounding zoning district by including a structure originally built as a single family home in the adjacent SR district.

In conclusion, the staff recommend the proposed zoning map amendment be approved by the Planning Commission, and forward its recommendation on the City Council. Please see Attachment A for more details on site location and character.

ATTACHMENT A

Map I. Aerial view of 1167 Remley Ct.

Map II. Zoning of and surrounding 1167 Remley Ct.

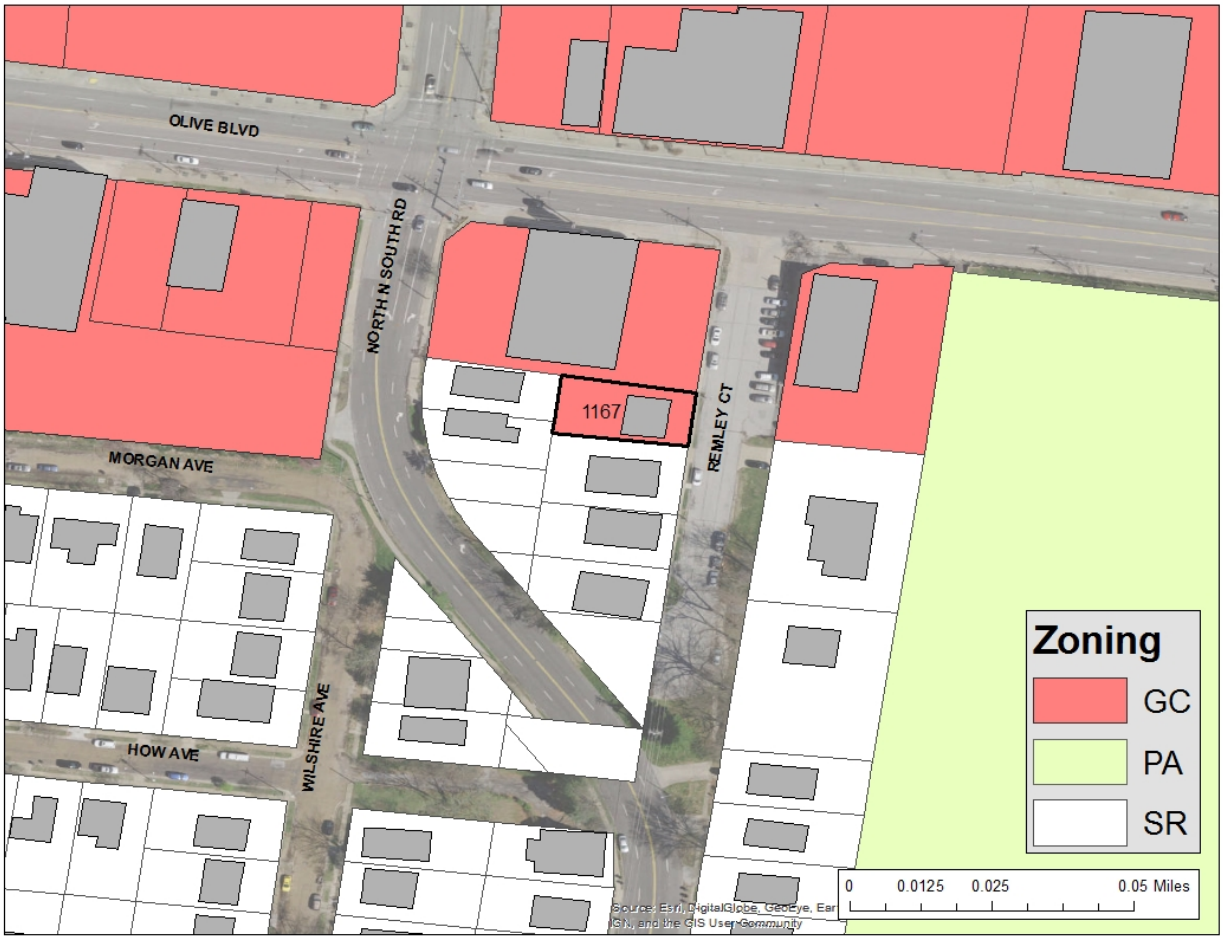

Image I. Street view of 1167 Remley Ct.

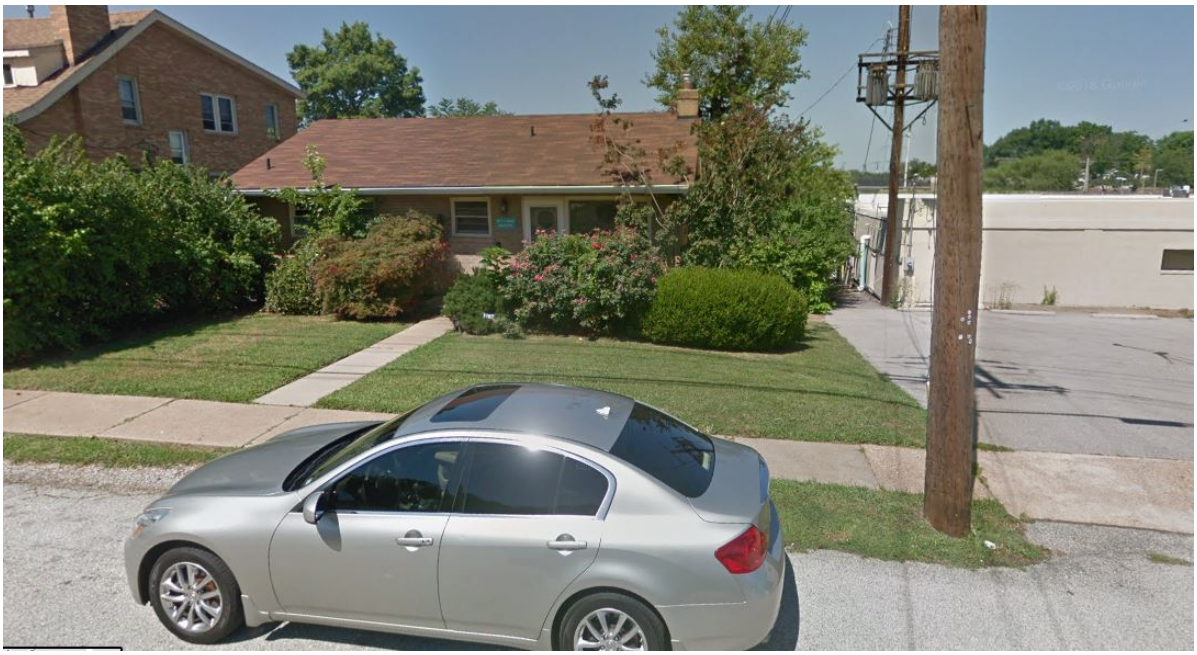

Image II. Street view of adjacent properties to the South (1159 & 1163 Remley Ct.)

Image III. Street view of adjacent property to the North (7700 Olive)

Council Agenda Item Cover

MEETING DATE: January 14, 2019

AGENDA ITEM TITLE: Municipal Code Amendment to Address Small Wireless Law (Missouri House Bill 1991)

AGENDA SECTION: Unfinished Business

CAN THIS ITEM BE RESCHEDULED? Yes

BACKGROUND: An update is proposed to the City's Municipal Code Chapters 100 and 505, specifically to clarify the rate due to the City for violation of the City's requirement for a Right-of-Way Use Agreement and unauthorized use of City property, as well as updates to the City's Rights-of-Way Code due to recent changes in law. These proposed Code amendments were precipitated by recent changes in Missouri and federal law, including the Uniform Small Wireless Facility Deployment Act (§§ 67.5110-67.5121 RSMo.; the "Act"), that set certain boundaries and limitations on the City's authority as it relates to the installation of certain wireless communications facilities and infrastructure. Most of the Act will go into effect on January 1, 2019. These Code updates are companion updates to the proposed amendments to Division 10 of Chapter 400 concerning Wireless Communications Facilities, which is also proposed under separate item title.

Among the new limitations the Act places on cities include alterations to the City's insurance, indemnification, and bonding requirements for usage of the City's Rights-of-Way by ROW Users installing Small Wireless Facilities therein. Therefore, these Code updates revise those requirements in accordance with the Act. These amendments also address certain spacing requirements for new utility poles within the City's Rights-of-Way, as well as a procedure to waive these generally applicable spacing requirements. In addition, these Code amendments amend the City's existing location and design requirements for wireless facilities and work in conjunction with the amendments to Division 10 in allowing Small Wireless Facilities and Fast-Track antenna facilities to be installed within the City's Rights-Way in compliance with the new Act. Finally, the Code amendments set a minimum usage rate per month for linear feet of facilities in the City's Rights-of-Way, remove the antenna fee, and set a rate for attachment to City facilities in the City's Rights-Way in accordance with the Act.

RECOMMENDATION:

City Manager recommends the City Council approve the proposed amendments to Municipal Code Chapters 100 and 505.

ATTACHMENT: Proposed Ordinance Amending Chapters 100 and 505 of the University City Municipal Code to adopt regulations related to regulations for Right-of-Way management and enforcement regulations.

INTRODUCED BY: Councilmemeber Jeff Hales **DATE: December 10, 2018**

BILL NO. 9375 **ORDINANCE NO. ____**

AN ORDINANCE AMENDING CHAPTERS 100 AND 505 OF THE MUNICIPAL CODE OF THE CITY OF UNIVERSITY CITY, MISSOURI RELATED TO REGULATIONS FOR RIGHT-OF-WAY MANAGEMENT AND ENFORCEMENT REGULATIONS.

WHEREAS, the City of University City, Missouri ("City") has specifically been granted authority including Chapter 67 RSMo. to establish permitting requirements for structures or equipment for wireless communication facilities in the public right-of-way ("ROW"); and

WHEREAS, the City Council's legislative findings include that: (a) the ROW is a unique and physically limited resource; (b) the ROW is critical to the travel and transportation of persons and property in the City; (c) the ROW is intended for public uses and must be managed and controlled consistent with that intent and can be partially occupied by facilities and public service entities to the enhancement of the health, welfare, and general economic well-being of the City and its citizens; and (d) such findings require adoption of specific additional regulations to ensure coordination of users, maximize available space, reduce maintenance and costs to the public, and facilitate entry of a maximum most efficient number of ROW Users that will serve the public interest; and

WHEREAS, the City has been granted the authority to enact legislation to regulate the construction, placement, and operation of telecommunications towers and antennas pursuant to its zoning powers established in Chapter 89 RSMo. and additionally, pursuant to its general and specific police powers established by statute (including Chapters 67, and 392 RSMo.); and

WHEREAS, the City is a "grandfathered" City authorized to impose linear foot fees and antenna fees pursuant to Section 67.1846 RSMo. because the City had, prior to May 1, 2001, one or more ordinances reflecting a policy of imposing a linear foot fee on ROW Users; and

WHEREAS, the Missouri General Assembly enacted the "Uniform Small Wireless Facility Deployment Act" §§ 67.5110 to 67.5121 RSMo., which governs certain installations of wireless equipment in the City's ROW, which has an effective date of January 1, 2019; and

WHEREAS, consistent with state and federal law and the City Council's legislative findings, the City Council desires to enact new regulations for small wireless facilities within the ROW; and

WHEREAS, the City is authorized to protect the taxpayer and public funds from incurring expenses resulting from violators of laws or contracts or other obligations to the City including such as relating to use of the city facilities or other City property, and the Council desires to amend the Municipal Code of the City of University City to ensure the regulations for use of public property and facilities are clear and that recovery of costs are available in the event that the City is forced to incur such expenses.

NOW, THEREFORE, BE IT ORDAINED BY COUNCIL OF THE CITY OF UNIVERSITY CITY, MISSOURI, AS FOLLOWS:

Section 1. The whereas clauses and findings therein are hereby specifically incorporated herein by reference.

Section 2. Section 100.210, Violation; Remedies, Unauthorized Holdover, of Article IV of Chapter 100, General Provisions, of the Municipal Code of the City of University City, Missouri, is hereby amended to repeal Section 100.210 and enact a new Section 100.210 to read as follows:

Section 100.210 Violation; Remedies, Unauthorized Holdover.

Any person who fails to hold and maintain a current and valid agreement with the City to use the City's land or facilities has no right to holdover and shall be subject to the provisions and City remedies of this subsection in addition to all other remedies and penalties as may otherwise exist in applicable law. Any claimed holdover right shall be deemed void and terminated upon expiration of a valid use agreement unless the City has affirmatively in writing authorized the holdover, or as otherwise may be required by law. Where an agreement, lease, or other agreement for use of public land or facilities expires, or a person is using public lands without authorization, and in addition to any penalties or other requirements therein, the person during any period without a valid agreement shall, during any period of unauthorized use: (1) indemnify the City from any liability arising from the use, (2) pay any damages and costs of the City from such use, including attorneys' fees incurred in enforcing this ordinance, and (3) make payment of compensation in the amount of two times the monthly rent of the last expired agreement, if a holdover, and two times the market rental value reasonably determined by the City in Section 505.220 or otherwise provided by ordinance ("Violation Rate"), if no prior agreement, provided that in no event shall the Violation Rate be less than the rate set by ordinance, until a valid agreement is executed with the City or the attachments and/or use is fully removed, the property restored and all obligations to the City satisfied. Unless otherwise provided in an unexpired agreement, such person shall also be responsible for interest on all amounts owed and at a rate of one and one-half percent (1.5%) per month. Nothing in these provisions, remedies, or compensation requirements, or acceptance or enforcement thereof by the City, shall be deemed to accept or authorize any use of public property without a required agreement, or after the expiration of such agreement, or otherwise in violation of applicable requirements.

Section 3. Section 505.220, Right-Of-Way Management, of Article III of Chapter 505, Public Right-of-Way Use Regulations, of the Municipal Code of the City of University City, Missouri, is hereby amended to amend Subsection C.8 to enact the underlined text and repeal the struck through text to read as follows:

C. *Agreement Required; User Fee.*

. . .

8. *Right-of-Way User Fees.*

(1) *User Fee*. Unless otherwise established by the City Council or applicable law, each Right-of-Way User shall pay to the City as compensation for the use of the public way, and including as referenced in Section 505.220.G.4, a user fee as follows:

a. Linear Foot Fee: one thousand dollars ($1,000.00)/month for the first (1st) mile of linear facilities, or part thereof, plus a monthly payment of $.165 per linear foot of Facilities located in the Right-of-Way, for an annual amount of one dollar and ninety-eight cents ($1.98) per linear foot of Facilities in the Right-of-Way; and

~~b. Antenna Fee: a $200.00 fee per month for each antenna in the Right-of-Way, if applicable to the user;~~

provided that all Right-of-Way Users shall be entitled to a credit against the user fee due hereunder equal to the payment(s) from such Right-of-Way User in accordance with Section 67.1846 RSMo.; provided, however, such credit cannot exceed the amount due under this subsection and may not be carried forward or back to any other time period and a credit shall not apply to any taxes paid under protest or otherwise paid with qualification unless so required by law.

(2) *Bundled Services*. The Right-of-Way User expressly acknowledges and agrees that to the extent it markets bundled services, including combination of goods or services, it will fairly reflect to the City an appropriate and reasonable division of services among the various services offered based on the actual value of each separate service. Whether or not the Right-of-Way User separates services on a subscriber's bill, it will provide to the City notice of any such allocation sufficient for City verification. Should the Right-of-Way User engage in billing or payment practices that, in the reasonable determination of the City, do not fairly reflect a fair and appropriate allocation, the City may nullify such allocation and require payment applicable to the full receipts.

(3) *Timing of Payment of User Fees*. Unless otherwise agreed to in writing, all Right-of-Way User fees shall be due and payable every month of each calendar year within thirty (30) days after the end each such month. A credit of the applicable gross receipts tax for that same period may be taken against the linear foot payment for that month.

(4) *Interest of Late Payments and Under Payments*. If any Right-of-Way User fee, or any portion thereof, is not postmarked or delivered on or before the due date, interest on the payment and interest on the unpaid balance shall accrue from the due date until received, at the rate of one and one-half percent (1.5%) per month, of the total amount past due, unless such other maximum rate is established by law. ~~or at such other lower rate as may be required by applicable law.~~

(5) *Fee Statement; Retroactive Adjustments*. Each Right-of-Way User fee payment shall be accompanied by a statement, certified as true, showing the manner in which the Right-of-Way User fee was calculated including the total number of feet of Right-of-Way occupied by the Right-of-Way User's Facilities and number of antennas in the Right-of-Way, the per foot linear foot rate applied, any credit or adjustment taken (including

setting forth the prior month's gross revenue and describing what revenues or receipts were included and excluded in the fee paid), and the payment of the user fee made. If any fee statement is determined to understate the fee owed, then such additional amount owed shall be made with a corrected statement, including interest on said amount as provided herein. No refund, credit or offset shall be granted for any claimed payment or overstatement of the amount due or certification of facilities reported, provided that a corrected payment or reported may be filed within the time for the original time for payment

(6) *No Accord and Satisfaction.* No acceptance by the City of any use fee shall be construed as an accord that the amount paid is in fact the correct amount, nor shall acceptance of any use fee payment be construed as a release of any claim of the City.

(7) *Maintain Records.* Right-of-Way Users shall at all times maintain complete and accurate books of account and records of the business, ownership, and operations of the Right-of-Way User with respect to the Facilities in a manner that allows the City to determine whether the Right-of-Way User has properly calculated its user fee in compliance with this Section. Should the City reasonably determine that the records are not being maintained in such manner, the Right-of-Way User shall correct the manner in which the books and/or records are maintained so that the Right-of-Way User comes into compliance with this Section. All financial books and records which are maintained in accordance with FCC regulations and the regulations of any governmental entity that regulates utilities in Missouri, and generally accepted accounting principles shall be deemed to be acceptable under this Section. Such books and records shall be maintained for a period of at least three (3) years.

(8) *Right of Inspection.* The City or its designated representatives shall have the right to inspect, examine, or audit, during normal business hours and upon seven (7) calendar days' notice, all documents, records, or other information that pertains to the Facilities within the Right-of-Way and/or Right-of-Way User's user fee obligations. In addition to access to the records of Right-of-Way User for audits, upon request, Right-of-Way User shall provide reasonable access to records necessary to verify compliance with the terms of this Section.

(9) *Fees and Compensation not a Tax.* The fees and costs provided for in this Section, and any compensation charged and paid for the use of the Right-of-Way as provided for in this Section, are separate from, and additional to, any and all federal, state, City or other local taxes as may be levied, imposed, or due.

Section 4. Section 505.220, Right-Of-Way Management, of Article III of Chapter 505, Public Right-of-Way Use Regulations, of the Municipal Code of the City of University City, Missouri, is hereby amended to enact the underlined text within Subsection C.11 to read as follows:

11. *Indemnification.* Every Right-of-Way User, as a condition of use of the Right-of-Way, shall at its sole cost and expense fully indemnify, protect, defend (with counsel for the City acceptable to the City) and hold harmless the City, its municipal officials, officers, employees, and agents,

from and against any and all claims, demands, suits, proceedings, and actions, liability, and judgment by other persons for damages, losses, costs, and expenses, including attorney fees, arising, directly or indirectly, in whole or in part, from the action or inaction of the Right-of-Way User, its agents, representatives, employees, contractors, subcontractors, or any other person for whose acts the Right-of-Way User may be liable, in constructing, operating, maintaining, repairing, restoring or removing facilities, or use of the Right-of-Way or the activities performed, or failed to be performed, by the Right-of-Way User under this Section or applicable law, or otherwise, except to the extent arising from or caused by the sole or gross negligence or willful misconduct of the City, its elected officials, officers, employees, agents, or contractors. Nothing herein shall be deemed to prevent the City, or any agent from participating in the defense of any litigation by their own counsel at their own expense. Such participation shall not, under any circumstances, relieve the person from the duty to defend against liability or its duty to pay any judgment entered against the City or its agents. Provided however, that in accordance with § 67.5121(2), a Right-of-Way User solely to the extent a Right-of-Way User is operating "Small Wireless Facility" as defined in the Uniform Small Wireless Facility Deployment Act within the Right-of-Way shall only indemnify and hold the City, its officers and employees, harmless against any damage or personal injury caused by the negligence of the Right-of-Way User, its employees, agents, or contractors. This exception shall only apply to the Right-of-Way User's "Small Wireless Facilities" and shall not otherwise alter the obligations of a Right-of-Way User to provide indemnification to the City for any other activities or operations.

Section 5. Section 505.220, Right-Of-Way Management, of Article III of Chapter 505, Public Right-of-Way Use Regulations, of the Municipal Code of the City of University City, Missouri, is hereby amended to enact a new Subsection D.5 to read as follows:

5. A Right-of-Way permit is not required for the following:

(1) Routine maintenance on previously approved Small Wireless Facilities, as defined by Section 400.1382,
(2) Replacement of such Small Wireless Facilities that are the same or smaller in size, weight, and height, or
(3) Installation placement, maintenance, operation, or replacement of Micro Wireless Facilities, as defined by Section 67.5111 RSMo., that are strung on cables between Utility Poles in compliance with applicable safety and building codes

when such work will not involve excavation, affect traffic patterns, obstruct traffic in the right-of-way, or materially impede the use of a sidewalk, and provided the Right-of-Way User submits as-builts of such new Small Wireless Facilities or Micro Wireless Facilities so the City may maintain an accurate inventory of facilities installed in the Right-of-Way.

Section 6. Section 505.220, Right-Of-Way Management, of Article III of Chapter 505, Public Right-of-Way Use Regulations, of the Municipal Code of the City of University City, Missouri, is hereby amended to enact the underlined text within Subsection F to read as follows:

F. *Liability Insurance.* Except as provided in this section, each Right-of-Way User shall provide, at its sole expense, and maintain during the term of an agreement or franchise, commercial general liability insurance with a reputable, qualified, and financially sound company licensed to

do business in the State of Missouri, and unless otherwise approved by the City, with a rating by best of not less than "A," that shall protect the Right-of-Way User, the City, and the City's officials, officers, and employees from claims which may arise from operations under an agreement or franchise, whether such operations are by the Right-of-Way User, its officers, directors, employees and agents, or any subcontractors of the Right-of-Way User. This liability insurance shall include, but shall not be limited to, protection against claims arising from bodily and personal injury and damage to property, resulting from all Right-of-Way User operations, products, services or use of automobiles, or construction equipment. The amount of insurance for single limit coverage applying to bodily and personal injury and property damage shall be at least two million eight hundred sixty-five thousand three hundred and thirty dollars ($2,865,330~~00,000~~.00), but in no event less than the individual and combined sovereign immunity limits established by RSMo § 537.610 for political subdivisions; provided that nothing herein shall be deemed to waive the City's sovereign immunity. An endorsement shall be provided which states that the City is listed as an additional insured and stating that the policy shall not be cancelled or materially modified so as to be out of compliance with the requirements of this section, or not renewed without thirty (30) days' advance written notice of such event being given to the Director of Public Works and Parks. If the person is self-insured, it shall provide the City proof of compliance regarding its ability to self-insure and proof of its ability to provide coverage in the above amounts. The City's additional insured coverage shall have no deductible. The insurance requirements in this section or otherwise shall not apply to a Right-of-Way User to the extent and for such period during an agreement or franchise as Right-of-Way User is exempted from such requirements pursuant to RSMo § 67.1830(6)(a) and has on file with the city clerk an affidavit certifying that Right-of-Way User has twenty-five million dollars ($25,000,000.00) in net assets and is otherwise, therefore, so exempted unless otherwise provided by agreement or franchise. Additionally, in accordance with § 67.5121(3), a self-insured Right-of-Way User shall not be required to obtain insurance naming the City as an additional insured solely to the extent such Right-of-Way User is utilizing "Small Wireless Facilities" as defined in the Uniform Small Wireless Facility Deployment Act within the Right-of-Way. This exception to the City's insurance requirements shall only apply as related to such "Small Wireless Facilities" and shall not otherwise alter the obligations of a Right-of-Way User to provide appropriate insurance to the City for any other activities or operations. The City reserves the right to waive any and all requirements under this section when deemed to be in the public interest.

A copy of the liability insurance certificate, or other proof of compliance if otherwise requested by the City shall be delivered by the Right-of-Way User to the city clerk.

Section 7. Section 505.220, Right-Of-Way Management, of Article III of Chapter 505, Public Right-of-Way Use Regulations, of the Municipal Code of the City of University City, Missouri, is hereby amended to enact the underlined text within Subsection H to read as follows:

H. *Deposit, Performance Bond Requirements.* Before a permit is issued, the applicant shall deposit with the Director of Public Works and Parks a sum of cash, and shall file with the Director of Public Works and Parks a continuing bond with good and sufficient sureties payable to the City, both conditional upon the performance of all the requirements of the permit and the law, and the restoration, to the satisfaction of the Director of Public Works and Parks, of the public street, avenue, highway, alley, tree lawn or other public place, easement or right-of-way in

as good a condition as it was, or better, before the work was done. Each permit shall have a separate cash deposit and performance bond to guarantee backfilling, paving, and/or site restoration of the particular project. The performance bond shall list the specific project for which the applicant is requesting a permit. The bond shall continue in full force and effect for a period of forty-eight (48) months following completion of the work. The bond shall be issued by a surety with an "A" or better rating of insurance in Best's Key Rating Guide, Property/Casualty Edition, shall be subject to the approval of the City's Attorney and shall contain the following endorsement: "This bond may not be cancelled or allowed to lapse until sixty (60) days after receipt by the City, by certified mail, return receipt requested, of a written notice from the issuer of the bond of intent to cancel or not to renew." The approximate cost of granular backfill, repaving operations, and general site restoration will be estimated by the Director of Public Works and Parks at the time an application for a right-of-way permit is submitted, and the cost so estimated shall be deposited with the City prior to permit issuance. The amount of the deposit shall be reasonably sufficient to secure the City against any damage or expense that may result from the applicant's failure to comply with the provisions of the permit. The amount of such deposit shall be based upon the location, purpose, and extent of the work. The amount of the cash deposit and bond shall vary. The minimum deposit shall be two hundred fifty dollars ($250.00). The minimum bond shall be at least one thousand dollars ($1,000.00). Any occupation/blockage of the right-of-way for four (4) hours or longer shall result in a minimum deposit of two hundred fifty dollars ($250.00) and a minimum bond of three thousand dollars ($3,000.00). The individual permit bond requirement may be waived for applicants having on file with the City an unexpired annual bond of ten thousand dollars ($10,000.00) for work requiring right-of-way permits in University City, with good and sufficient sureties payable to the City. If a Right-of-Way User fails to complete the work in a safe, timely, and competent manner or if the completed restorative work fails without remediation (as determined by the Director of Public Works and Parks) within the time period for the bond, then after notice and a reasonable opportunity to cure, there shall be recoverable, jointly and severally from the principal and surety of the bond, any damages or loss suffered by the City as a result, including the full amount of any compensation, indemnification, or cost of removal or abandonment of any property of the Right-of-Way User and the cost of completing work in or restoring the Right-of-Way, up to the full amount of the bond. The City may also recover against the bond any amount recoverable against a security fund or letter of credit where such amount exceeds that available under a security fund or letter of credit. Right-of-Way Users ~~Utility companies~~ with twenty-five million dollars ($25,000,000.00) in net assets and who do not have a history of permitting non-compliance within the City as defined by the Director of Public Works and Parks shall not be required to provide construction performance bonds or liability insurance coverage. Additionally, in accordance with § 67.5121(4), the bonds required for “Small Wireless Facilities” as defined in the Uniform Small Wireless Facility Deployment Act shall not exceed one thousand five hundred dollars ($1,500.00) per “Small Wireless Facility” or more seventy-five thousand dollars ($75,000.00) for all “Small Wireless Facilities” within the Right-of-Way of a Right-of-Way User. This exception to the City’s bonding requirements shall only apply as related to such “Small Wireless Facilities” and shall not otherwise alter the obligations of a Right-of-Way User to provide appropriate bonds to the City for any other activities or operations.

Section 8. Section 505.220, Right-Of-Way Management, of Article III of Chapter 505, Public Right-of-Way Use Regulations, of the Municipal Code of the City of University City, Missouri, is hereby amended to enact the underlined text within Subsection I to read as follows:

I. *Issuance Of Permit.* If the Director of Public Works and Parks determines that the applicant has satisfied all requirements, the Director of Public Works and Parks shall issue a right-of-way permit. The Director of Public Works and Parks may impose conditions upon the issuance of a right-of-way permit and the performance of the permittee in order to protect the public health, safety and welfare; to ensure the structural integrity of the right-of-way; to protect the property and safety of other users of the right-of-way; and to minimize the disruption and inconvenience to the public. A right-of-way permit shall have an effective date and an expiration date. Establishment of the expiration date shall be in the discretion of the Director of Public Works and Parks, which discretion shall be reasonably exercised to achieve the City's policy of minimizing disruption of public right-of-way. No permittee may excavate the right-of-way beyond the date or dates specified in the right-of-way permit unless the permittee makes a request for an extension of the right-of-way permit before the expiration of the initial permit and a new right-of-way permit or permit extension is granted. Right-of-way permits issued shall be conspicuously displayed by the permittee at all times at the indicated work site and shall be available for inspection by the Director of Public Works and Parks, other City employees and the public. Installation and collocation of a Small Wireless Facility shall be completed within one (1) year of issuance of the right-of-way permit or the right-of-way permit shall become null and void and shall no longer authorize installation or collocation of the Small Wireless Facility.

Section 9. Section 505.220, Right-Of-Way Management, of Article III of Chapter 505, Public Right-of-Way Use Regulations, of the Municipal Code of the City of University City, Missouri, is hereby amended to repeal Subsections O and P and enact new Subsections O, P, Q, R, S, T, U, V, and W to read as follows:

O. *Location, Type, and Design of Facilities Subject to Approval.*

1. *Exclusion of Certain Locations/Facilities*. To the extent permitted by applicable law, the Director of Public Works and Parks may designate certain locations or Facilities in the Right-of-Way to be excluded from use by the Right-of-Way User, including but not limited to, ornamental or similar specially-designed street lights or other Facilities or locations which, in the reasonable judgment of the Director of Public Works and Parks cannot safely bear the weight or wind loading thereof, or any other Facility or location that in the reasonable judgment of the Director of Public Works and Parks would be rendered unsafe or unstable by the installation. The Director of Public Works and Parks may further exclude certain other Facilities that have been designated or planned for other use or are not otherwise available for use by the Right-of-Way User due to engineering, technological, proprietary, legal, or other limitations or restrictions as may be reasonably determined by the City. In the event such exclusions conflict with the reasonable requirements of the Right-of-Way User, the City will cooperate in good faith with the Right-of-Way User to attempt to find suitable alternatives, if available, provided that the City shall not be required to incur financial cost nor require the City to acquire new locations for the Right-of-Way User.

2. *Location, Type, and Design of Facilities Subject to Approval.*

(1) *Review Required.* The design, location, and nature of all Facilities shall be subject to the review and approval of the Director of Public Works and Parks to the extent permitted by law. Such review shall be on a non-discriminatory basis in application of City policy and approvals shall not be unreasonably withheld. City height limitations, applicable zoning restrictions, and general City policies with regard to all users of the Right-of-Way shall be applicable to all Facilities. The Director of Public Works and Parks may establish regulations or policies as may be deemed necessary or appropriate to affect this provision.

(2) *Underground and Collocation of Facilities Required; Exceptions.* Except as provided herein or where prohibited by applicable law, no Person may erect, construct, or install Facilities above the surface of the Right-of-Way without the written permission of the City based on good cause established by Applicant and found by the City. In addition, all new fiber optics, coaxial, and similar cable Facilities shall be located within existing conduit, trenches, or other Facilities to minimize unnecessary use of Right-of-Way space, reduce potential existing or future interference and obstructions, and to reduce the cost to the public or others therefrom, and to maximize the public's ability to use and license appropriate private or public uses of the Right-of-Way in the public interest except where preempted by law or where good cause is established and written permission granted by the City. Such permission may be granted by the City Council when other similar Facilities exist above-ground and conditions are such that underground construction is impossible, impractical or unfeasible, as determined by the City, and when in the City's judgment the above-ground construction has minimal aesthetic impact on the area where the construction is proposed. Where reasonable and appropriate and where adequate Right-of-Way exists, the Right-of-Way User shall place above-ground Facilities underground in conjunction with City capital improvement projects and/or at specific locations requested by the City provided that such placement is practical, efficient, and economically feasible. New Utility Poles and related ground mounted equipment shall be permitted to be installed above ground; provided, however, that to ensure unobstructed pedestrian use and City maintenance of the Right-of-Way and minimize visual obstructions for vehicular traffic, a new Utility Pole and any ground mounted equipment related to that Utility Pole or the equipment thereon shall not be installed within two hundred feet (200') of another Utility Pole or other ground mounted equipment on the same side of the Right-of-Way. A replacement Utility Pole that is installed in lieu of an existing Utility Pole and is installed within ten feet (10') of the existing Utility Pole, shall not be considered a new Utility Pole subject to the spacing requirements herein. Such spacing regulations as applied to that specific site may be altered by the Director of Public Works and Parks upon good cause shown by the Applicant including: (1) when and where nearby Utility Poles exist that are spaced closer than two hundred feet (200') apart; (2) when conditions are such that no Existing Structure is available for placement of Facilities; and (3) the Utility Pole can be placed to be minimally visually intrusive.

3. *Wireless Antennas and Facilities*. Pursuant to City authority, including Section 67.1830(6)(f) RSMo. and the Uniform Small Wireless Facility Deployment Act (§§ 67.5110 *et seq.* RSMo.), and to properly manage the limited space in the City's Right-of-

Way, minimize obstructions and interference with the use of the Right-of-Way by the public and to ensure public safety, while also seeking to facilitate delivery of broadband technologies to City residents and businesses, wireless Facilities shall be permitted in the Right-of-Way in compliance with the requirements applicable to other Facilities and users in the Right-of-Way, and the additional requirements set forth in this Subsection for wireless antennas and Facilities.

(1) *General Conditions*. Any wireless Facility in the Right-of-Way shall be subject to conditions relating to the location (including prohibited or limited locations), design, height, appearance, safety, radio-frequency, and other interference issues as may be lawfully imposed by the City where necessary or appropriate to protect the public, and to conform to policies and interests of the public as may be set forth in special district plans, historic areas, or other policies as may be reasonably adopted by the Director of Public Works and Parks to address changing infrastructure, technology, and uses of the Right-of-Way and/or City Facilities. A wireless Facility shall not be located or installed in a manner that results in interference with or impairs the operation of existing utility facilities or City or third-party attachments. Wireless Antennas or Facilities shall further comply with (1) all applicable requirements for installation of any Facilities in the Right-of-Way as set forth in this Subsection including a right-of-way permit, (2) the requirements of this Section, and (3) requirements for installation of wireless Antennas and Facilities set forth in the Uniform Wireless Communications Infrastructure Deployment Act (§§ 67.5090 *et seq.* RSMo.), Uniform Small Wireless Facility Deployment Act (§§ 67.5110 *et seq.* RSMo.), applicable zoning, building, and other regulations and approvals, specifically including Chapter 400.

(2) *Specific Conditions*.

(a) *Small Wireless Facilities.* Any Small Wireless Facility meeting the requirements for Small Wireless Facility as defined by Section 400.1382 and as provided in Section 400.1390 of the Zoning Code shall be authorized to be located in the Right-of-Way with approval of the Director of Public Works and Parks subject to the following additional requirements:

i. If proposing to install a new Utility Pole, compliance with the spacing requirements in .2(2) of this Subsection;
ii. Compliance with § 67.5113.3(9) RSMo. to the satisfaction of the City;
iii. For collocations on City Utility Poles, all make-ready estimates for the Utility Pole, including replacement costs where necessary for the safety and reliability of the Utility Pole, as determined by the City;
iv. Attestation that the proposed Small Wireless Facility meets the volumetric requirements to meet the definition of a Small Wireless Facility in Section 400.1382 of the Zoning Code; and
v. Any other requirements which may be applicable to the proposed Small Wireless Facility pursuant to the Uniform Small Wireless Facility Deployment Act (§§ 67.5110 *et seq.* RSMo.).

(b) *"Fast-Track" Small Wireless Collocation*. Any wireless Facility meeting the requirements of a "'Fast-Track' Small Wireless Facility" as defined by Section 400.1382, and as provided in Section 400.1392 of the Zoning Code, may be authorized to be located in the Right-of-Way with approval of the Director of Public Works and Parks subject to the following additional requirements:

(1) Attestation that the proposed facilities meet the volumetric requirements to meet the definition of "Fast Track" in Section 400.1382 of the Zoning Code;
(2) Only one "Fast-Track" Small Wireless Facility shall be permitted per structure or Utility Pole in the Right-of-Way;
(3) No ground equipment shall be authorized;
(4) If the proposed structure the Applicant proposes to locate its "Fast-Track" Small Wireless Facility is not structurally sound, but the Director of Public Works and Parks finds such to be a desired location, the Director of Public Works and Parks can require the Applicant to install a new substantially similar structure at its cost; and
(5) Compliance with the spacing requirements in .2(2) of this Subsection if granted a waiver under the "Fast-Track" zoning procedure to install a new structure.

(c) *All other Wireless in Right-of-Way*. Any wireless Facility located on a Utility Pole or Existing Structure as defined in Section 400.1382, but not meeting the requirements of *(a) Small Wireless Facilities* or *(b) "Fast-Track" Small Wireless Collocation* above, may be approved, subject to conditions as may be imposed consistent with the purposes of this Section, only upon approval by the Council upon a determination by the Council that such wireless Facility is: (1) in the public interest to provide a needed service to persons within the City, (2) cannot feasibly meet all of the requirements of a "Small Wireless Facility," "Fast-Track" or otherwise, but varies from such requirements to the minimum extent necessary, (3) does not negatively impact appearance or property values in light of the location, design, and circumstances to be approved, (4) does not create any reasonable safety risk, and (5) complies with all zoning, Right-of-Way, and other applicable requirements.

(3) *Wireless Facility Compensation*. If the Small Wireless Facility or Fast-Track is to be located on a City owned structure or Utility Pole, an annual payment of $150.00 per attachment shall be required. Nothing herein shall limit, waive, or otherwise affect the applicability of linear foot fees as may be required by a grandfathered political subdivision pursuant to § 67.1846 RSMo.

(4) *Application Requirements.* Any application including one or more wireless Antennas or Facilities shall include all requirements for (1) installation of any Facilities in the Right-of-Way as set forth in this Section, (2) the requirements of this Subsection, and also include (3) requirements for installation of wireless Antennas and Facilities set forth in the Uniform Wireless Communications Infrastructure Deployment Act (§§ 67.5090 *et. seq.* RSMo.) or other applicable law including written proof of consent of landowner (copy of the Right-of-Way Agreement) and of structure owner (document

authorizing use of the structure).

P. *Mapping of Facilities.* Upon completion of the Right-of-Way work involving installation of new Facilities, the Right-of-Way User shall supply the City copies of as-built and detailed maps showing the exact location of Facilities installed in the Right-of-Way. As a condition of continued Right-of-Way use, all Right-of-Way Users shall, on an annual basis, provide the City with as-builts or other detailed maps of the Right-of-Way User's current facilities. Such annual requirement may be waived by the Director of Public Works and Parks upon written request.

Q. *No Interference.* All Right-of-Way Users shall construct and maintain its Facilities so as not to interfere with other users of the Right-of-Way. The Right-of-Way User shall not interfere with or alter the Facilities of the City or other Right-of-Way User without their consent and shall be solely responsible for such. Except as may otherwise be provided or as determined by the Director of Public Works and Parks, the Right-of-Way User shall, prior to commencement of work, execute a City-approved resident-notification plan to notify residents affected by the proposed work. All construction and maintenance by the Right-of-Way User or its subcontractors shall be performed in accordance with industry standards. The Right-of-Way User shall, in the performance of any excavation, Facilities maintenance, or other Right-of-Way work, limit such work to that necessary for efficient operation and so as not to interfere with other users of the Right-of-Way. All Facilities and other structures shall be installed and located to cause minimum interference with the rights and convenience of property owners, Right-of-Way Users, and the City. Facilities and other structures shall not be placed where they will disrupt or interfere with other Facilities, structures, or public improvements or obstruct or hinder in any manner the various utilities serving the residents and businesses in the City or public improvements. Above-ground Facilities shall be constructed and maintained in such a manner so as not to emit any unnecessary or intrusive noise. When reasonable and necessary to accomplish such purposes, the Director of Public Works and Parks may require as alternatives to the proposed work either less disruptive methods or different locations for Facilities consistent with applicable law.

R. *Subordinate Uses*. Right-of-Way User's use shall be in all situations subordinate and subject to public municipal use.

S. *Site Triangle Maintained.* Right-of-Way Users shall comply with the requirements of site triangles and nothing shall be erected, placed, planted, or allowed to grow in such a manner as to materially impede vision within the triangular area formed by the Right-of-Way lines and a line connecting them at points thirty (30) feet from their point of intersection or at equivalent points on private street.

T. *Relocation*

(1) *City Required Relocation.* The Right-of-Way User shall promptly remove, relocate, or adjust any Facilities located in the Right-of-Way as directed by the City when such is required by public necessity, or public convenience and security require it, or such other findings in the public interest that may require relocation, adjustment, or removal at the cost of the Right-of-Way User. Such removal, relocation, or adjustment shall be performed by the Right-of-Way User within the time frames

established by the City and at the Right-of-Way User's sole expense without any expense to the City, its employees, agents, or authorized contractors and shall be specifically subject to rules, regulations, and schedules of the City pertaining to such.

(2) *Emergency Exception.* In the event of an emergency or where construction equipment or Facilities create or are contributing to an imminent danger to health, safety, or property, the City may, to the extent allowed by law, remove, re-lay, or relocate such construction equipment or the pertinent parts of such Facilities without charge to the City for such action or for restoration or repair. The City shall attempt to notify the Person having Facilities in the Right-of-Way prior to taking such action, but the inability to do so shall not prevent same. Thereafter, the City shall notify the Person having Facilities in the Right-of-Way as soon as practicable.

(3) *Third-Party Relocation.* A Person having Facilities in the Right-of-Way shall, on the reasonable request of any Person, other than the City, holding a validly issued Permit, after reasonable advance written notice, protect, support, or temporarily disconnect or relocate Facilities to accommodate such Person and the actual cost, reasonably incurred, of such actions shall be paid by the Person requesting such action. The Person having Facilities in the Right-of-Way taking such action may require such payment in advance.

(4) *Abandonment Exception.* Rather than relocate Facilities as requested or directed, a Right-of-Way User may abandon the Facilities if approved by the City as provided in Subsection V of this Section.

(5) *Right-of-Way User Responsible for Damage.* Any damages suffered by the City, its agents or its contractors to the extent caused by the Right-of-Way User's failure to timely relocate, remove or adjust its Facilities, or failure to properly relocate, remove, or adjust such Facilities, shall be borne by the Right-of-Way User. Where the Right-of-Way User shall fail to relocate Facilities as required by the City, the City may, but shall not be required to, upon notice to the Right-of-Way User remove the obstructing Facilities with or without further delay and the Right-of-Way User shall bear all responsibility and liability for the consequences therefrom, and the City shall bear no responsibility to the Right-of-Way User or others for damage resulting from such removal.

U. *No Vested Rights.* No action hereunder shall be deemed a taking of property and no Person shall be entitled to any compensation therefor. No location of any Facilities in the Right-of-Way shall be a vested interest or property right.

V. *Abandoned Facilities; Removal.* A Person owning Abandoned Facilities in the Right-of-Way must not later than thirty (30) days of notice or of abandonment remove its Facilities and replace or restore any damage or disturbance caused by the removal at its own expense. The Director of Public Works and Parks may upon written application and written approval allow underground Facilities or portions thereof to remain in place if the Director of Public Works and Parks determines that it is in the best interest of public health, safety, and general welfare to do so. The City shall be entitled to all costs of removal and enforcement for any violation of this

provision.

W. *Nuisance.* Facilities abandoned or otherwise left unused in violation of this Section are deemed to be a nuisance. The City may exercise any remedies or rights it has at law or in equity, including, but not limited to, (a) abating the nuisance, (b) taking possession and ownership of the Facility and restoring it to a useable function, or (c) requiring the removal of the Facility by the Right-of-Way User.

Section 10. The portions of this ordinance shall be severable. In the event that any portion of this ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this ordinance are valid, unless the court finds that the valid portions of this ordinance are so essential and inseparably connected with and dependent upon the void portion that it cannot be presumed that the Board of Aldermen would have enacted the valid portions without the invalid ones, or unless the court finds that the valid portions standing alone are incomplete and are incapable of being executed in accordance with the legislative intent.

Section 11. This Ordinance shall take effect and be in force from and after its passage as provided by law.

PASSED AND APPROVED THIS ___ DAY OF _____ 2018.

By: _____
MAYOR

ATTEST:

_____
CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:

_____
CITY ATTORNEY

Department of Community Development
6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 862-6767, Fax: (314) 862-3168

Council Agenda Item Cover Sheet

MEETING DATE:	January 14, 2019
AGENDA ITEM TITLE:	Text Amendment of Chapter 400 Article 5 Division 10 "Amateur Radio Antennas and Towers, Parabolic Reflector Antennas and Telecommunications Antennas, Towers and Support Structures"
AGENDA SECTION:	Unfinished Business
CAN THIS ITEM BE RESCHEDULED?	No

BACKGROUND REVIEW

At the upcoming Plan Commission meeting, members will be considering a recommendation to revise the City's Zoning Regulations for wireless communications facilities, (Chapter 400, Article V, Division 10 "Amateur Radio Antennas and Towers, Parabolic Reflector Antennas and Telecommunications Antennas, Towers and Support Structures" ("Division 10")).

REVISIONS

The amended Division 10 will be retitled the "Wireless Communications Facilities Code" and will govern how wireless communications facilities and infrastructure are deployed ***in all Districts*** throughout the City. These proposed Code amendments were precipitated by recent changes in Missouri and federal law, including the Uniform Small Wireless Facility Deployment Act (§§ 67.5110-67.5121 RSMo.; the "Act"), that set certain boundaries and limitations on the City's authority as it relates to the installation of certain wireless communications facilities and infrastructure.

These Code amendments are meant to address the limitations that the Act places on the City's authority, as well as to clarify and streamline when, where, and how these wireless communications installations are approved in all Districts. The Division has general requirements that apply to all wireless facilities and is designed to allow these installations, either as a permitted use, administratively approved, or conditionally approved through the City's Conditional Use Permit ("CUP") procedures, depending on the specifications (such as volumetrics, height, among other specifications) of the installation. Specifically, in certain districts where the Act preempts the City's zoning, "small wireless facilities" as defined by the Act are permitted uses. In districts where the Act does not preempt the City's zoning authority (i.e., areas zoned Single-Family Residential or Historic on/before August 28, 2018), we have drafted two separate uses with differing processes for approval. These procedures are:

1. An administratively approved use of a "Fast-Track" Small Wireless Facility, which meets smaller volumetric requirements than those found in the Act, among other aesthetic and safety requirements and Disguised Support Structures, which are truly disguised structures (similar to the code provisions you passed last December via Ordinance 7067); and

2. Requiring installations that do not meet the “Fast-Track” requirements or Disguised Support Structures to go through the City’s CUP procedure.

In addition, the Commission will be considering an amendment which repeals individual references throughout the City’s District Regulations that are inconsistent with the revised changes to Division 10, as the amended Division 10 will govern these installations City-wide rather than needing individual District regulations. These zoning amendments have a high-priority, as the Act places certain timing requirements on when the City must have terms that comply with the Act, and that such mandated terms must be passed via ordinance.

RECOMMENDATION: The City Manager is recommending approval of this item.

ATTACHMENTS:

Attachment A: Proposed Ordinance Amending Chapter 400 of the University City Municipal Code to Adopt Regulations Relating to Communications Antennas and Support Structures

Plan Commission
6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 862-6767, Fax: (314) 862-3168

December 5, 2018

Ms. LaRette Reese
City Clerk
City of University City
6801 Delmar Boulevard
University City, MO 63130

RE: Text Amendment for Chapter 400, Article 5, Division 10 "Amateur Radio Antennas and Towers, Parabolic Reflector Antennas and Telecommunications Antennas, Towers and Support Structures"

Dear Ms. Reese,

At its regular meeting on November 28, 2018 at 6:30 pm in the Heman Park Community Center, 975 Pennsylvania Avenue, University city, Missouri, 63130, the Plan Commission reviewed the above-referenced Text Amendment.

By a vote of 5 to 0, the Plan Commission recommended approval of the Text Amendment.

Sincerely,

Michael Miller
University City Plan Commission

INTRODUCED BY: Councilmember Paulette Carr DATE: December 10, 2018

BILL NO. 9376 ORDINANCE NO. ___

AN ORDINANCE AMENDING CHAPTER 400 OF THE UNIVERSITY CITY MUNICIPAL CODE TO ADOPT REGULATIONS RELATING TO COMMUNICATIONS ANTENNAS AND SUPPORT STRUCTURES

WHEREAS, the City has been granted the authority to enact legislation to regulate the construction, placement, and operation of telecommunications towers and antenna pursuant to its zoning powers established in Chapter 89 of the Missouri Revised Statutes and additionally pursuant to its general and specific police powers established by statute authorizing the regulations herein to protect the public health, safety, and welfare; and

WHEREAS, consistent with the Telecommunications Act of 1996, and as amended in 2014, the regulations of this Ordinance will not have the effect of prohibiting the provision of personal wireless services and do not unreasonably discriminate among functionally equivalent providers of such service. The regulations also impose reasonable restrictions to protect the public safety and welfare and to ensure opportunities for placement of antennas with prompt approval by the City. This Ordinance does not attempt to regulate in areas within the exclusive jurisdiction of the FCC; and

WHEREAS, various new state or federal statutes and regulations continue to be enacted, supplemented, promulgated, and amended regarding regulation of certain communications providers, services, and operations as they pertain to local Right-of-Way, zoning regulations, and other municipal authority; and

WHEREAS, the Missouri General Assembly has recently enacted another such law, the "Uniform Small Wireless Facility Deployment Act" §§ 67.5110 to 67.5121 RSMo., governing certain installations of wireless equipment, which has an effective date of January 1, 2019; and

WHEREAS, the City Council desires to continue to at all times to ensure compliance with applicable law, and, therefore, finds it in the best interest of the public to update its telecommunication regulations; and

WHEREAS, a duly noticed and published public hearing was held regarding the proposed regulations in conformity with all requirements of Section 89.060 of the Missouri Revised Statutes and City Code, and the Planning and Zoning Commission has reviewed the amended regulations and given a recommendation of _____; and

WHEREAS, after review of the Planning and Zoning Commission recommendation, the City Council now desires to update its zoning regulations related to support structures and small wireless facilities.

NOW, THEREFORE, BE IT ORDAINED BY COUNCIL OF THE CITY OF UNIVERSITY CITY, MISSOURI, AS FOLLOWS:

Section 1. Division 10 entitled "Amateur Radio Antennas and Towers, Parabolic Reflector Antennas and Telecommunications Antennas, Towers and Support Structures" of Article V "Supplementary Regulations" of Chapter 400 the "Zoning Code" of the University City Municipal Code (the "Code"), is hereby repealed in its entirety and replaced with a new Division 10, entitled "Wireless Communications Facilities Code", attached hereto in substantially the form of **Exhibit A** and incorporated herein by reference.

Section 2. Article IV entitled "District Regulations" is hereby amended as follows:

1. Section 400.140, entitled Permitted Uses, is hereby amended by repealing Subsection A.7.

2. Section 400.150, entitled Conditional Uses, is hereby amended by repealing Subsection A.6 in its entirety and enacting a new Subsection A.6 to read as follows: Public utility facilities.

3. Section 400.200, entitled Permitted Uses, is hereby amended by repealing Subsection A.8.

4. Section 400.210, entitled Conditional Uses, is hereby amended by repealing Subsection A.8 in its entirety and enacting a new Subsection A.8 to read as follows: Public utility facilities.

5. Section 400.260, entitled Permitted Uses, is hereby amended by repealing Subsection A.9.

6. Section 400.270, entitled Conditional Uses, is hereby amended by repealing Subsection A.11 in its entirety and enacting a new Subsection A.11 to read as follows: Public utility facilities.

7. Section 400.320, entitled Permitted Uses, is hereby amended by repealing Subsection A.9.

8. Section 400.330, entitled Conditional Uses, is hereby amended by repealing Subsection A.13 in its entirety and enacting a new Subsection A.13 to read as follows: Public utility facilities.

9. Section 400.380, entitled Permitted Uses, is hereby amended by repealing Subsection A.11.

10. Section 400.390, entitled Conditional Uses, is hereby amended by repealing Subsection A.11.d.14 in its entirety and enacting a new Subsection A.11.d.14 to read as follows: Public utility facilities.

11. Section 400.440, entitled Permitted Uses, is hereby amended by repealing Subsection A.21.

12. Section 400.450, entitled Conditional Uses, is hereby amended by repealing Subsection A.14 in its entirety and enacting a new Subsection A.14 to read as follows: Public utility facilities.

13. Section 400.500, entitled Permitted Uses, is hereby amended by repealing Subsection A.21.

14. Section 400.510, entitled Conditional Uses, is hereby amended by repealing Subsection A.22 in its entirety and enacting a new Subsection A.22 to read as follows: Public utility facilities.

15. Section 400.560, entitled Permitted Uses, is hereby amended by repealing Subsection A.18.

16. Section 400.570, entitled Conditional Uses, is hereby amended by repealing Subsection A.8 in its entirety and enacting a new Subsection A.8 to read as follows: Public utility facilities.

17. Section 400.62[illegible] entitled Permitted Uses, is hereby amended by repealing Subsection A.22.

18. Section 400.63[illegible] entitled Conditional Uses, is hereby amended by repealing Subsection A.16 in its entirety and enacting a new Subsection A.16 to read as follows: Public utility facilities.

19. Section 400.680, entitled Permitted Uses, is hereby amended by repealing Subsection A.12.

20. Section 400.690, entitled Conditional Uses, is hereby amended by repealing Subsection A.11 in its entirety and enacting a new Subsection A.11 to read as follows: Public utility facilities.

Section 3. The portions of this Ordinance shall be severable. In the event that any portion of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this Ordinance are valid, unless the court finds that the valid portions of this Ordinance are so essential and inseparably connected with and dependent upon the void portion that it cannot be presumed that the City Council would have enacted the valid portions without the invalid ones, or unless the court finds that the valid portions standing alone are incomplete and are incapable of being executed in accordance with the legislative intent.

Section 4. This Ordinance shall take effect and be in force from and after its passage as provided by law.

PASSED AND APPROVED THIS ___ DAY OF _____ 2018.

By: _____
MAYOR

ATTEST:

_____
CITY CLERK

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DIVISION 10: WIRELESS COMMUNICATIONS FACILITIES CODE

Section 400.1380 Purpose.

A. *Statement of Purpose*. The general purpose of this Division 10 ("Division") is to regulate the placement, construction, and modification of telecommunications Wireless Communications Facilities to protect the health, safety, and welfare of the public, while at the same time not unreasonably interfering with the development of the competitive wireless telecommunications marketplace in the City of University City. Specifically, this Division is intended to:

1. Provide for the appropriate location and development of telecommunications facilities and systems to serve the citizens and businesses of the City of University City;

2. Minimize adverse visual impacts of Wireless Communications Facilities through careful design, siting, landscape screening, and innovative camouflaging techniques that provide predictability for nearby property owners and others that future uses will not materially alter such approved aesthetic protections without zoning hearing procedures and input from interested parties;

3. Ensure that any new Wireless Communications Facilities are located in an area compatible with the neighborhood or surrounding community to the extent possible; and

4. Ensure that regulation of Wireless Communications Facilities does not have the effect of prohibiting the provision of personal wireless services and does not unreasonably discriminate among functionally equivalent providers of such service and promotes the provision and availability of communication service within the City.

B. *Applicability; preemption*. Notwithstanding any ordinance to the contrary, the procedures set forth in this Division shall be applicable to all Wireless Communications Facilities existing or installed, built or modified after the effective date of this Division to the fullest extent permitted by law. No provision of this Division shall apply to any circumstance in which such application shall be unlawful under superseding federal or state law and furthermore, if any section, subsection, sentence, clause, phrase, or portion of this Division is now or in the future superseded or preempted by state or federal law or found by a court of competent jurisdiction to be unauthorized, such provision shall be automatically interpreted and applied as required by law.

Section 400.1382 DEFINITIONS.

As used in this Division, the following terms shall have the meanings and usages indicated:

ANTENNA: Any device that transmits and/or receives wireless radio waves for voice, data, or video communications purposes including, but not limited to, television, AM/FM radio, texts, microwave, cellular telephone, and similar forms of communications. The term shall exclude satellite earth station antenna less than two (2) meters in diameter (mounted within twelve feet (12') of the ground or building-mounted) and any receive-only home television antenna.

AGL (Above Ground Level): Ground level shall be determined by the average elevation of the natural ground level within a radius of fifty feet (50') from the center location of measurement.

AUTHORITY POLE: A Utility Pole that is owned and/or operated by the City.

CABINET: A structure for the protection and security of communications equipment associated with one (1) or more Antenna where direct access to equipment is provided from the exterior and that has horizontal dimensions that do not exceed four feet (4') by six feet (6'), and vertical height that does not exceed six feet (6').

DIRECTOR: The Zoning Administrator or his/her designee or official acting in such capacity.

DISGUISED SUPPORT STRUCTURE: Any free-standing, man-made structure designed for the support of Antenna, the presence of which is camouflaged or concealed as an appropriately placed and designed architectural or natural feature. Depending on the location and type of disguise used, such concealment may require placement underground of the utilities leading to the structure. Such structures may include but are not limited to clock towers, campaniles, observation towers, light standards, flag poles, and artificial trees. For purposes of this definition, a structure "camouflaged or concealed as an appropriately-placed and designed architectural or natural feature" shall mean:

i. It is consistent with and contributes to and does not detract from the character and property values and use of the area and neighborhood in which it is located;
ii. It does not contain distorted proportions, size, or other features not typically found on the type of structure or feature to which it is designed to replicate;
iii. It cannot be identified as a Support Structure by persons with reasonable sensibilities and knowledge;
iv. Its equipment, accessory buildings, or other aspects or attachments relating to the Disguised Support Structure are wholly concealed using a manner consistent with and typically associated with the architectural or natural structure or feature being replicated; and
v. It is of a height, design, and type that would ordinarily occur at the location and neighborhood selected.

EXISTING STRUCTURE: Any structure capable of supporting Wireless Communication Facilities (other than a Support Structure) in full conformance with the design and other requirements of this Division and is: (1) existing prior to the date of all applicable permit applications seeking City authorization for installation of such facilities thereon and (2) not built or installed in anticipation of such specific installation or erected as a means to evade approvals applicable to a non-existing structure.

FAA: The Federal Aviation Administration.

"FAST-TRACK" SMALL WIRELESS FACILITY: a "Fast-Track" Small Wireless Facility, or "Fast-Track", shall mean a Small Wireless Facility that meets the following requirements for an Antenna and associated equipment:

i. No more than seven cubic feet ($7ft^3$) in volume (comprised of no more than twenty-seven square feet ($27ft^2$) of exterior surface area, excluding the surface width equal to the width of

the Existing Structure or Utility Pole to which it is mounted, on an imaginary enclosure around the perimeter thereof, excluding cable or cable conduit of four inches (4") or less). Volume shall be the measure of the exterior displacement of the Antenna and associated equipment;

ii. Located with the consent of the owner on an Existing Structure or Utility Pole, or concealed within or on a replacement Utility Pole if appearance is not materially altered and the Existing Structure or Utility Pole is no more than 5' taller;

iii. Not exceeding six feet (6') above the top of an Existing Structure or Utility Pole for a total height not exceeding forty-five feet (45') (nor taller than more than six feet (6') above the average of similar poles within three hundred feet (300')).

FCC: The Federal Communications Commission.

HEIGHT: The vertical distance measured from the average grade of the base of the structure at ground level to its highest point and including the main structure and all attachments thereto.

INCIDENTAL USE: Any use authorized herein that exists in addition to the principal use of the property.

MODIFICATION: Any addition, deletion, or change, including the addition or replacement of Antenna, or any change to a structure requiring a building permit or other governmental approval.

SHELTER: A building for the protection and security of communication equipment associated with one (1) or more Antenna and where access to equipment is gained from the interior of the building. Human occupancy for offices or other uses or the storage of other materials and equipment not in direct support of the connected Antenna is prohibited.

SMALL WIRELESS FACILITY: An Antenna and associated equipment that meets the following:

i. An Antenna of no more than six cubic feet ($6ft^3$) in volume; and

ii. All other associated equipment, to the extent permitted by applicable law to be calculated, of cumulatively no more than twenty-eight cubic feet ($28ft^3$) in volume; provided that no single piece of equipment on the Utility Pole shall exceed nine cubic feet ($9ft^3$) in volume, and no single piece of ground mounted equipment shall exceed fifteen cubic feet ($15ft^3$) in volume.

SUPPORT STRUCTURE: A Tower or Disguised Support Structure.

TOWER: A structure designed for the support of one (1) or more Antenna and including guyed towers, self-supporting (lattice) towers, or monopoles, but not Disguised Support Structures, Utility Poles, or buildings. The term shall also not include any Support Structure that includes attachments of sixty-five feet (65') or less in height owned and operated solely for use by an amateur radio operator licensed by the FCC.

UTILITY POLE: A pole that is or may be used for wireline communications, lighting, traffic control, signage, or a similar function, which may also support a Small Wireless Facility or "Fast Track".

WIRELESS COMMUNICATIONS FACILITY: Any Antenna, Small Wireless Facility, "Fast Track," Cabinet, Shelter, and Support Structure, and associated equipment.

Section 400.1385 Application Procedures; Timing.

A. *Applications.* Applications for permitted, administrative, or conditional uses pursuant to this Division shall be subject to the supplementary procedures in this Division. Applications shall be submitted to the City as a complete application on forms provided by the City. A "complete application" shall be an application submitted on the forms provided by the City, fully executed by the applicant, identifying the specific approval sought, and containing all attachments, fees as may be established to reimburse the City for its inspection and review costs, and information as required thereon or by the City, consistent with this Division. Applications shall be accompanied by a building permit application and other applicable forms.

B. *Proof of Owner Consent*. Applications for permitted, administrative, or conditional uses pursuant to this Division shall be required to provide proof of landlord consent, which shall minimally include:

i. Written consent to pursue the application by all fee simple owners of the underlying real estate (or where located in street Right-of-Way, the Right-of-Way owner thereof), including when the proposed location is also in a utility easement; and

ii. Written consent to pursue the application of the owner of the structure on which such Facility is to be placed, if different than applicant.

C. *Timing.* Applications shall be decided upon within a reasonable time, subject further to state or federal specific additional time requirements as may apply to the particular application.

Section 400.1387 General Requirements.

A. *Applicability*. The requirements set forth in this Division shall be applicable to all Wireless Communications Facilities within the City installed, built, or modified after the effective date of this Division to the full extent permitted by law. Such zoning review and approvals required in this Division shall be in addition to any other generally applicable permitting requirement, including applicable building, excavation, or other right-of-way permits.

1. *Principal or incidental use.* Towers may be either a principal or incidental use in all commercial and industrial zoning districts, subject to any applicable requirement relating to yard or setback. An incidental use subject to a leasehold interest of a person other than the lot owner may be approved for a Tower only if the leasehold area separately meets all requirements for a separate subdivided lot, including dedicated access, parking, setbacks, and lot size, applicable to a primary use in the district in which the use is proposed as if it was a separate subdivided lot. No other district shall allow Towers unless required by law. All other wireless facilities other than Towers, may be a principal or incidental use in all districts subject to the requirements herein.

2. *Building codes, safety standards, and zoning compliance.* Wireless Communications Facilities shall be constructed and maintained in compliance with all standards contained in applicable state and local building codes. A certified engineer's structural report shall be required for all applications to construct a new or modify, or any way alter, a Support Structure, a Utility Pole, or Antenna, including Small Wireless Facility and Fast Track, unless waived upon application to the Director stating why such report is unnecessary to the specific application and a determination in the discretion of the Director approving such statement. In addition to any other approvals required by this Division, no Wireless Communication Facility or portion thereof shall be erected, replaced, or expanded prior to receipt of a Certificate of Zoning Compliance, unless otherwise required by law, and the issuance of a Building Permit. For sites within City Right-of-Way, (1) the most restrictive adjacent underlying zoning district classification shall apply unless otherwise specifically zoned and designated on the official zoning map, (2) no application shall be submitted for permit approval without attaching the City's consent to use the Right-of-Way for the specific construction application, to the extent permitted by applicable law; (3) Wireless Communications Facilities shall be installed and maintained as not to obstruct or hinder the usual travel or public safety on the Right-of-Way or obstruct the legal use of such Right-of-Way by authorities or authorized right-of-way users; and (4) such use shall be required to obtain applicable permits and comply with the City's ROW management rules and regulations set forth in Chapter 505.

3. *Regulatory compliance.* All Wireless Communications Facilities shall meet or exceed current standards and regulations of the FAA, FCC and any other local, state, or federal agency with the authority to regulate Wireless Communications Facilities, and including all required licenses, permits, and fees applicable to such structure and/or modification. Should such standards or regulations be amended, then the owner shall bring such devices and structures into compliance with the revised standards or regulations within the time period mandated by the controlling agency. No approval for any placement, construction, or modification of any Wireless Communications Facilities permitted by this Division shall be granted for any applicant having an uncured violation of this Division, any zoning regulation regarding the lot on which the structure is proposed, or any other governmental regulatory, licensing, or tax requirement applicable to such Wireless Communications Facilities within the City unless preempted by applicable law.

4. *Security.* All Wireless Communications Facilities shall be protected from unauthorized access by appropriate security measures. A description of proposed security measures shall be provided as part of any application to install, build, alter, or modify Wireless Communications Facilities. Additional measures may be required as a condition of the issuance of a Building Permit as deemed necessary by the Director or by the City Council in the case of a Conditional Use Permit.

5. *Lighting.* Antenna, Small Wireless Facilities, Fast Track, and Support Structures shall not be lighted unless required by the FAA or other state or federal agency with authority to regulate, in which case a description of the required lighting scheme will be made a part of the application to install, build, alter, or modify the Antenna, Small Wireless Facilities, Fast Track, or Support Structure. Lighting may also be approved as a consistent component of a Disguised

Support Structure. Equipment Cabinets and Shelters may have lighting only as approved by the Director or City Council on the approved site plan.

6. *Advertising*. Except for a Disguised Support Structure in the form of an otherwise lawfully permitted sign, the placement of advertising on Wireless Communications Facilities is prohibited other than identification signage or required safety signage of not greater than one (1) square foot on ground equipment.

7. *Design.*

a. *Color*. Subject to the requirements of the FAA or any applicable state or federal agency, Wireless Communications Facilities and attachments shall be painted a neutral color consistent with the natural or built environment of the site or an alternative painting scheme approved by the Director, or the City Council in the case of Conditional Use Permits, consistent with the requirements of this Division. Unpainted galvanized steel Support Structures are not permitted.

b. *Ground equipment*. When authorized, equipment Shelters or Cabinets shall have an exterior finish compatible with the natural or built environment of the site and shall also comply with any design guidelines as may be applicable to the particular zoning district in which the facility is located. All equipment shall be either placed underground, contained in a single Shelter or Cabinet, or wholly concealed within a building or approved walled compound.

c. *Antenna design.* Antenna attached to a Disguised Support Structure or Tower shall be contained within the Disguised Support Structure or within or mounted flush on the surface of the Tower to which they are mounted. Antenna attached to an existing building, Utility Pole, or structure shall be of a color identical to the surface to which they are mounted and architecturally integrated in a manner as to be visually unobtrusive. Antenna on the rooftop shall be screened or constructed and/or colored to match the structure to which they are attached and be located as far away as feasible from the edge of the building. All Antenna shall be designed to be disguised and maximally concealed on or within the Support Structure, or other structure. Exposed Antenna on "crow's nest" or other visible platforms or extensions are prohibited.

d. *Height.* Support Structures and Antenna shall be no taller than necessary and shall not exceed the height limitation of any airport overlay zone as may be adopted by the City or other regulatory agency. Support Structures may exceed underlying zoning district height restrictions for buildings and structures only where shown to be necessary, provided that no reasonable alternative exists. To the extent permitted by applicable law, district height restrictions shall be considered by the City in determining the appropriateness of the design and location of the application under the applicable standards for approval. No Support Structure shall be approved at a height exceeding one hundred twenty feet (120') AGL unless the applicant clearly demonstrates that such height is required for the proper function of the applicant's system.

e. *Monopole design*. All Towers shall be of a monopole design. Lattice, guyed Towers, or other non-monopole Tower designs shall not be permitted.

f. *Compound walls/landscaping.* All Towers shall be surrounded by a minimum of a six foot (6') high decorative wall constructed of brick, stone, or comparable masonry materials and a landscape strip of not less than ten feet (10') in width and planted with materials, which will provide a visual barrier to a minimum height of six feet (6'). The landscape strip shall be exterior to any security wall. In lieu of the required wall and landscape strip, an alternative means of screening may be approved by the Director, or by the City Council in the case of a Conditional Use Permit, upon demonstration by the applicant that an equivalent degree of visual screening will be achieved. Landscaping or other improvements may be required for Disguised Support Structures if needed to implement an approved disguise.

g. *Setbacks.* All Support Structures, including any portions of any Wireless Communications Facilities thereon and associated structures, fences, and walls (except for parking associated with the Wireless Communications Facility) shall be separated from any public Right-of-Way, sidewalk or street, alley, parking area, playground, or other building, and from the property line of any adjacent property at least a horizontal distance equal to the height of the Support Structure, including any portions of any Wireless Communications Facilities thereon, whichever is greater. No Tower shall be located within two hundred (200) feet of any property line within the "SR", "LR", "MR", "HR", "PD", "PRO" or "PA" districts or within two hundred (200) feet of a street other than a limited access highway.

h. *Storage.* Vehicle or outdoor storage on any Wireless Communications Facilities site is prohibited, unless otherwise permitted by the zoning district.

i. *Parking*. On-site parking for periodic maintenance and service shall be provided at all Support Structure locations consistent with the underlying zoning district and the type of Antenna or Support Structure approval granted.

j. *Decorative poles*. In districts where there are Utility Poles which were specifically designed for their aesthetic nature and compatibility with the built environment of that district, as determined by the City, such Utility Poles shall be deemed to be decorative Utility Poles. Such decorative Utility Poles, when authorized to be replaced by an applicant for Wireless Communications Facilities pursuant to applicable law and in compliance with this Division and Code, shall only be replaced with a substantially similar decorative Utility Pole which matches the aesthetics and decorative elements of the original decorative Utility Pole being replaced. Such replacement expenses shall be bore wholly by the applicant seeking to place Wireless Communications Facilities on such decorative Utility Pole.

8. *Public property.* Wireless Communications Facilities located on property owned, leased, or otherwise controlled by the City shall be subject to the requirements of this Division. A license or lease with the City authorizing the location of such Wireless Communications

Facilities shall be required for each site.

9. *As-built plans.* Within sixty (60) days of completion of the initial construction and any additional construction, two (2) complete sets of plans drawn to scale and certified as accurately depicting the location of all Wireless Communications Facilities constructed shall be furnished to the City.

10. *Historic preservation; 30-day hearing period*. Notwithstanding any provision within Article VI of this Zoning Code, the provisions of this Section shall govern any application regarding a Wireless Communication Facilities within a Historic District. To the extent permitted by law, approval shall not be issued for any Wireless Communications Facility that the Director determines would create a significant negative visual impact or otherwise have a significant negative impact on the historical character and quality of any property within a Historic Preservation District or such District as a whole. For collocation of any certified historic structure as defined in Section 253.545 RSMo., in addition to all other applicable time requirements, there shall be a thirty-day (30) time period before approval of an application during which one or more public hearings on collocation to a certified historic structure are held. The City may require reasonable, technically feasible and technological neutral design and concealment measures as a condition of approval of a Wireless Communication Facility within a historic district.

11. *Facility maintenance*. Wireless Communication Facilities and associated structures shall be maintained in good repair, free from trash and graffiti and other forms of vandalism, and any damage shall be repaired as soon as reasonably possible so as to minimize the occurrences of dangerous conditions or visual blight. Graffiti shall be removed from any facility as soon as practicable, and in no instance more than seven (7) days from the date if notification by the City.

12. *Quiet within abutting property*. All Wireless Communication Facilities shall be designed, located and operated to avoid interference with the quiet enjoyment of abutting residential, school, and park properties, and, at a minimum, shall be subject to any noise standards contained in the City's Code.

B. *Administration*. The Director shall have the authority to establish forms and procedures consistent with this Division and applicable federal, state, and local law to ensure compliance and to facilitate prompt review and administration of applications.

Section 400.1390 Permitted Use.

A. *Permitted use.* The placement of Wireless Communications Facilities fully conforming with the General Requirements in this Division are permitted in all zoning districts only as follows:

1. *Collocations on Existing Support Structures.* The attachment of additional or replacement complying Antenna or equipment to any existing fully conforming Support Structure or as otherwise authorized by state or federal law where local zoning is preempted, provided that building permit requirements, national safety codes, and other applicable codes

including recognized accepted industry standards for structural, safety, capacity, reliability, and engineering are satisfied, including specifically the requirement to submit a certified structural engineering report as provided in Section 400.1387.

2. *Antenna on high-voltage Towers.* The mounting of Antenna on or within any existing high-voltage electric transmission Tower, but not exceeding the height of such Tower by more than ten feet (10'), provided that all requirements of this Division and the underlying zoning ordinance are met, except minimum setbacks provided in this Division shall not apply.

3. *Antenna on Existing buildings/structures.* In all districts, except not on single-family residential or two-family dwellings, the mounting of Antenna on any existing and conforming building or structure (other than a Support Structure or Utility Pole) provided that the presence of the Antenna and equipment is concealed by architectural elements or fully camouflaged or concealed by painting a color identical to the surface to which they are attached, and further provided that all requirements of this Division and the underlying zoning ordinance are met.

4. *New, replacement, and modified Utility Poles.* New, replacement, or modified Utility Poles, at heights below the height limitations outlined in this Subdivision, and collocation of Small Wireless Facilities on the same shall be a permitted use in all districts except single-family residential and historic districts provided the proposed installation does not:

a. materially interfere with the safe operation of traffic and control equipment or City-owned communications equipment;

b. materially interfere with compliance with the American Disabilities Act, or similar federal or state standards regarding pedestrian access or movement;

c. materially obstruct or hinder the usual travel or public safety on the rights-of-way;

d. materially obstruct the legal use of the rights-of-way by the City, utility, or other third-party;

e. fail to comply with the spacing requirements within Section 505.220.O;

f. fail to comply with applicable national safety codes, including recognized engineering standards for Utility Poles or Support Structures;

g. fail to comply with the decorative pole replacement requirements herein;

h. fail to comply with undergrounding requirements within Section 505.220.O; or

i. interfere or impair the operation of existing utility facilities, or City or third-party attachments.

New, replacement, or modification of Utility Poles under the following circumstances shall not be considered a permitted use under this Section:

1. Proposals to construct or modify a Utility Pole which exceeds the greater of:

   i. Fifty feet (50') AGL; or

   ii. More than ten feet (10') above the tallest existing Utility Pole as of January 1, 2019 within five hundred feet (500') of the proposed Utility Pole in the City'; and

2. Proposals to collocate on an existing Utility Pole in place on August 28, 2018 which exceeds the height of the existing Utility Pole by more than ten feet (10').

B. *Application procedure*. Application for a Permitted Use under this Section shall require submission of an application with proof of owner consent as required by Section 400.1385 and an application fee of five hundred dollars ($500.00) as required to partly cover the City's actual costs, but not to exceed such amounts as may be limited by law. If the applicant is not a Wireless Services Provider, then the applicant must submit evidence of agreements or plans, or otherwise provide attestations to the same, which conclusively demonstrate to the City that the proposed site(s) will become operational and used by a Wireless Services Provider within one year of the permit's issuance date. For any application for a Small Wireless Facility, the applicant shall provide an attestation that the proposed Small Wireless Facility complies with the volumetric limitations as required to meet the definition of a Small Wireless Facility in accordance with this Division and pursuant to applicable law. Applicant shall also submit a certified structural analysis as required in the General Requirements of this Division. Applications requesting any information that is prohibited by federal or state law under the applicable circumstance shall be deemed inapplicable to the subject application. The Director shall issue a decision on the application for a permitted use within the time-frame permitted by applicable law. A decision to deny an application shall be made in writing and state the specific reasons for the denial.

Section 400.1392 Administrative Approval.

A. *Administrative approval.* The placement of Wireless Communications Facilities fully conforming with the General Requirements in this Division are permitted in all zoning districts by Administrative Permit approved by the Director only as follows:

1. *Disguised Support Structures.* The construction of a Disguised Support Structure, provided that all related equipment shall be placed underground or concealed within the structure. Equipment may be placed in an appropriately concealed cabinet if the Disguised Support Structure is incidental to an industrial, commercial, or other non-residential use and fits with the natural built environment or the Disguised Support Structure. Any Disguised Support Structure shall have as a condition of approval, unless expressly exempted in the approval, an obligation and corresponding covenant recorded on the property that runs with the land to the benefit of the City on behalf of the public, prohibiting modifications to the Disguised Support

Structure that eliminate or are materially detrimental to the disguise, unless such proposed modification is approved by a duly authorized zoning or conditional use approval approved. If the applicant does not wish to have such a covenant, the application shall not qualify for Administrative Permit approval, unless another mechanism is proposed and approved to ensure that the disguise is not subsequently eliminated or materially detrimentally altered.

2. *"Fast-Track" Small Wireless Facilities.* An application for a "Fast-Track" Small Wireless Facility may be approved administratively by the Director, subject to meeting the following requirements:

a. *General requirements*. The following requirements shall generally apply to all "Fast-Track" Small Wireless Facilities located within the City:

i. The "Fast-Track" shall substantially match any current aesthetic or ornamental elements of the Existing Structure or Utility Pole, or otherwise be designed to maximally blend in to the built environment, with attention to the current uses within the district at the proposed site;

ii. Any portion above the Existing Structure or Utility Pole shall be concealed and of the same dimensions and appearance so as to appear to be a natural extension of the Existing Structure or Utility Pole in lieu of an enclosure or concealment;

iii. The "Fast-Track" equipment shall not emit noise audible from the building line of any residentially zoned or used property; and

iv. Location, placement, and orientation of the "Fast-Track" shall, to the extent feasible, minimize the obstruction to, or visibility from, the closest adjacent properties unless otherwise required by the City for safety reasons.

b. *Additional requirements when sited near pedestrian and vehicle ways.* When a "Fast-Track" is proposed to be located on an Existing Structure or Utility Pole on or adjacent to public or private streets, sidewalks, or other pedestrian or vehicle ways:

i. Only one "Fast-Track" shall be permitted per structure or Utility Pole in the Rights-of-Way;

ii. The height of all portions of the "Fast-Track" shall be located at least eight feet (8') above ground level;

iii. No ground equipment shall be permitted; and

iv. No portions of the "Fast-Track" shall extend horizontally from the surface of the Utility Pole or Existing Structure more than sixteen inches (16").

c. *Waiver for good cause shown.* Additionally, the Director may for good cause shown increase any one or more of the maximum volumetric specifications from the definition of a "Fast-Track" by up to fifty percent (50%) if the applicant demonstrates that it:

i. Does not in any location nationally use equipment capable of meeting the specifications and the purpose of the equipment; and

ii. Cannot feasibly meet the requirements as defined and described.

The City Council may further waive one or more of the requirements found in the definition of "Fast-Track", or from *a. General Requirements* or *b. Additional Requirements When Sited Near Pedestrian or Vehicle Ways* of this Subdivision, upon good cause shown by the applicant, and provided a showing that the waiver is the minimum necessary to accomplish the purposes of this Division. The burden of proof for any waiver shall be wholly on the applicant and must be shown by clear and convincing evidence.

B. *Application procedures*. Applications for Administrative Permits shall be made on the appropriate forms to the Director consistent with the requirements of this Division. Applications requesting any information that is prohibited by federal or state law under the applicable circumstance shall be deemed inapplicable to the subject application.

1. *General application requirements.* Applicant shall submit along with its completed application form:

a. An application fee of five hundred dollars ($500.00) as required to partly cover the City's actual costs, but not to exceed such amounts as may be limited by law; any amount not used by the City shall be refunded to the applicant upon written request after a final decision;

b. A detailed site plan, based on a closed boundary survey of the host parcel, shall be submitted indicating the exact location of the facility, all dimensions and orientations of the facility and associated equipment, in addition to all existing and proposed improvements including buildings, drives, walkway, parking areas, and other structures, public right-of-way, the zoning categories of the subject and adjoining properties, the location of and distance to off-site residential structures, required setbacks, required buffer and landscape areas, hydrologic features, and the coordinates and height AGL of the Utility Pole, or Existing Structure, if applicable;

c. Specifications, dimensions, photos, or drawings of the completed installation;

d. Proof of owner consent as required by Section 400.1835.

e. Certified structural analysis as required in the General Requirements of this Division;

f. If the applicant is not a Wireless Services Provider, then the applicant must submit evidence of agreements or plans, or otherwise provide attestations to the same, which conclusively demonstrate to the City that the proposed site(s) will become operational and used by a Wireless Services Provider within one year of the permit's issuance date; and

g. All other information necessary to show compliance with the applicable requirements of this Division.

2. *"Fast-Track"-specific application requirements.* In addition to the above General application requirements, applications for a "Fast-Track" shall include the following:

a. An attestation that the proposed "Fast-track" meets the volumetric and other requirements to meet the definition of "Fast-track" provided in this Division; and

b. Information demonstrating that the applicant's proposed plans are in compliance with § 67.5113.3(9) RSMo. to the satisfaction of the City.

3. *Review.* The application shall be reviewed by the Director to determine compliance with the above standards, including specifically design, location, safety, and appearance requirements and transmit the application for review and comment by other departments and public agencies as may be affected by the proposed facility.

4. *Additional information may be required.* In reviewing an application, the Director may require the applicant to provide additional information, including technical studies, to the extent permitted by applicable law. An application shall not be deemed complete until satisfaction of all application requirements and submission of all requested information as provided herein.

5. *Decisions; denials required in writing.* The Director shall issue a decision on the permit within the time-frame permitted by applicable law. The Director may deny the application or approve the application as submitted or with such modifications or conditions as are, in his/her judgment, reasonably necessary to protect the safety or general welfare of the citizens and property values consistent with and to affect the purposes of this Division. The Director may consider the purposes of this Division and the factors established herein for granting a Conditional Use Permit as well as any other considerations consistent with the Division. A decision to deny an application shall be made in writing and state the specific reasons for the denial.

Section 400.1395 Conditional Use Permit Required.

A. *Conditional Use Permit Required.* All proposals to construct or modify a Wireless Communications Facilities not permitted by Section 400.1390 (Permitted Use) or Section 400.1392 (Administrative Approval) or not fully complying with the General Requirements of this Division shall be permitted only upon the approval of a Conditional Use Permit authorized

consistent with Section Article XI of this Zoning Code, subject to the following additional requirements, procedures, and limitations:

1. *Applications*. Applications for Conditional Use Permits shall be filed on such forms required by the Director and processed subject to the requirements of and in the manner established by applicable law, herein, and for Conditional Use Permits in the Zoning Code and, in addition to such other requirements, shall be accompanied by a deposit of one thousand five hundred dollars ($1,500.00), to the extent permitted by applicable law to the specific Wireless Communications Facility. Any amount not used by the City shall be refunded to the applicant upon written request after a final decision. Except as otherwise provided by law, no application for a Conditional Use Permit under this Section shall be deemed complete until the applicant has paid all fees and deposits required under this Division, submitted certified engineering plans, and provided proof of owner consent as required by Section 400.1835. Applications requesting any information that is prohibited by federal or state law under the applicable circumstance shall be deemed inapplicable to the subject application.

2. *Decision and findings required*. A decision shall be contemporaneously accompanied by substantial evidence supporting the decision, which shall be made a part of the written record of the meeting at which a final decision on the application is rendered. Evidence shall be under oath and may be submitted with the application or thereafter or presented during the public hearing by the applicant or others.

3. *Additional minimum requirements*. No Conditional Use Permit shall be issued unless the applicant has clearly demonstrated by substantial evidence that placement of Wireless Communications Facilities pursuant to Section 400.1390 (Permitted Use) or Section 400.1392 (Administrative Approval) of this Division is not technologically or economically feasible. The City may consider current or emerging industry standards and practices, among other information, in determining feasibility.

4. *Findings required.* In addition to the determinations or limitations specified herein and by the applicable provisions of Article XI of this Zoning Code for the consideration of Conditional Use Permits, no Conditional Use Permit shall be approved by the City Council unless findings in the affirmative are made that the following conditions exist:

a. That the design of the Wireless Communications Facilities, including ground layout, maximally reduces visual degradation and otherwise complies with provisions and intent of this Division;

b. That the design is visually compatible with the area, will not distract from the view of the surrounding area, is maximally concealed or blended in with the environment, and will not adversely affect property values;

c. That such conditional use shall not be inconsistent or adversely affect the regular permitted uses in the district in which the same is located; and

d. That the proposal fully complies with applicable law including the General Requirements herein; provided that an exception to the General Requirements, other than building or safety code compliance, may be approved upon evidence that compliance is not feasible or is shown to be unreasonable under the specific circumstances shown.

Section 400.1397 Commercial Operation of Unlawful Wireless Communications Facilities.

Notwithstanding any right that may exist for a governmental entity to operate or construct Wireless Communications Facilities, it shall be unlawful for any person to erect or operate for any private commercial purpose any Wireless Communications Facilities in violation of any provision of this Division, regardless of whether such Wireless Communications Facilities are located on land owned by a governmental entity.

Section 400.1400 Removal of Support Structure.

Any Wireless Communications Facility or portion thereof that is no longer in use for its original communications purpose shall be removed at the owner's expense. In the case of multiple operators sharing use of a single Support Structure, this provision shall not become effective until all users cease operations.

Section 400.1402 Penalty.

Except as may otherwise be provided by law, any person violating any provision in this Division shall be subject to the penalties within Section 400.1390.

Section 400.1405 [illegible].

The procedures of Article XII of Chapter 400, shall govern appeals by any aggrieved person of a final action of any City Officer, employee, board, commission, or the City Council that are claimed by an aggrieved person to be unlawful or an unconstitutional taking of property without compensation. To the fullest extent permitted by law, the review procedures of Article XII of Chapter 400 shall be exhausted before any action may be filed in any court against the City or its officers, employees, boards, officials or commissions. Nothing herein shall be deemed to unlawfully limit any remedy that is required to be available as a matter of law.

Council Agenda Item Cover

MEETING DATE: January 14, 2019

AGENDA ITEM TITLE: Text Amendments to Section 400.3080 in Article VIII, Division 3 (Non-conforming lots of records) and Section 400.1020 in Article V, Division 1 of the University City Zoning Code

AGENDA SECTION: New Business

COUNCIL ACTION: Passage of Ordinance required for Approval

CAN THIS ITEM BE RESCHEDULED? : Yes

BACKGROUND REVIEW:
The proposed text amendment would allow for more infill development in the older areas of University City by modifying the dimensional regulations for qualifying subdivisions platted prior to 1926. The intention of these Text Amendments is to encourage development in University City that is consistent with the prevailing pattern of each subdivision and to simplify the regulations for non-conforming lots so that the District regulations prevail.

Per Section 400.3080, the Zoning Code currently restricts the use of non-conforming residential lots in SR (Single Family Residential) and LR (Limited Residential) to either open space or single-family development regardless of the District regulations that pertain to each lot. Section 400.3080 also restricts the use of non-conforming non-residential lots to either open space or office regardless of the District regulations that pertain to each lot. The dimensional non-conformity of a lot should not determine the use of the lot, especially when District regulations already apply. The proposed Text Amendment to Section 400.3080 would remove the use restrictions of dimensionally non-conforming lots to allow the District regulations to regulate the use of such lots.

Per Section 400.1020, the Zoning Administrator can administratively reduce a lot of record's width to no less than 37 ½ feet and a lot's area to no less than 4,500 square feet. These minimums exclude many lots in subdivisions with prevailing patterns smaller than these dimensions, particularly those north of Olive Boulevard. Section 400.1020 also requires the applicant demonstrate the prevailing pattern of the lots surrounding their property to justify their requested dimensional reduction. The Text Amendment provides the minimum width and area of subdivisions with currently non-conforming prevailing patterns to reduce this burden on the applicant. If a lot's dimensions are reduced per Section 400.1020, the lot is still considered dimensionally non-conforming. With this Text Amendment, lots consistent with their subdivision's prevailing pattern would be considered dimensionally conforming. The proposed Text Amendment simplifies how prevailing patterns are determined and allows for the creation of lots of record that are consistent with the prevailing pattern of the subdivision in which they are located. Across the City, 165 lots would be eligible to be subdivided to be consistent with the prevailing pattern of their subdivision. Of these 165 lots, there are 65 lots that have a single structure on one side of the lot and what appears to be a vacant side lot next door. These lots would be the most likely to be subdivided. Maps I and II below show where these two groups of lots are located in University City.

The Plan Commission reviewed the proposed Text Amendments at their November 28, 2018 meeting and recommended approval.

This agenda item requires a public hearing at the City Council level and passage of an ordinance. The public hearing and first reading should take place on January 14, 2019. The second and third readings and passage of the ordinance could occur at the subsequent January 28, 2019 meeting.

RECOMMENDATION: The City Manager is recommending approval of this item.

ATTACHMENTS:
1: Transmittal Letter from Plan Commission
2: Attachment A: Maps
3: Draft Ordinance

Plan Commission
6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 862-6767, Fax: (314) 862-3168

December 5, 2018

Ms. LaRette Reese
City Clerk
City of University City
6801 Delmar Boulevard
University City, MO 63130

RE: Text Amendments for Section 400.3080 of Article 8, Division 3 pertaining to Non-conforming Lots of Record and Section 400.1020 of Article 5 Division 1pertaining to Lot Area and Width Exceptions of the University City Zoning Code

Dear Ms. Reese,

At its regular meeting on November 28, 2018 at 6:30 pm in the Heman Park Community Center, 975 Pennsylvania Avenue, University city, Missouri, 63130, the Plan Commission reviewed the above-referenced Text Amendments.

By a vote of 5 to 0, the Plan Commission recommended approval of the Text Amendments.

Sincerely,

Michael Miller
University City Plan Commission

Attachment A: Maps

MAP I: Lots eligible for subdivision with Text Amendment to Section 400.1020

MAP II: Lots eligible for subdivision with structures on one side, creating a vacant side lot

INTRODUCED BY:_____ DATE: January 14, 2018

BILL NO. **9377** ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 400 OF THE MUNICIPAL CODE OF THE CITY OF UNIVERSITY CITY, RELATING TO ZONING, BY AMENDING SECTION 400.3080 – NON-CONFORMING LOTS OF RECORD AND SECTION 400.1020 – LOT AREA AND WIDTH EXCEPTIONS, RELATING TO DISTRICT REGULATIONS; CONTAINING A SAVINGS CLAUSE AND PROVIDING A PENALTY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF UNIVERSITY CITY, MISSOURI AS FOLLOWS:

WHEREAS, Chapter 400 of the Municipal Code of the City of University City, Missouri divides the City into several zoning districts and regulates the uses to which the premises located therein may be put; and

WHEREAS, the City Plan Commission in a meeting held at the Heman Park Community Center located at 975 Pennsylvania Avenue, University City, Missouri on November 28, 2018 at 6:30 pm recommended an amendment of Sections 400.3080 and 400.1020; and

WHEREAS, due notice of a public hearing to be held by the City Council in the 5th Floor City Council Chambers at City Hall at 6:30 pm, January 14, 2018 was duly published in the St. Louis Countian, a newspaper of general circulation within said City on December 20, 2018; and

WHEREAS, said public hearing was held at the time and place specified in said notice, and all suggestions or objections concerning said amendment of the Zoning Code were duly heard and considered by the City Council.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF UNIVERSITY CITY, MISSOURI, AS FOLLOWS:

Section 1. Chapter 400 of the Municipal Code of the City of University City, Missouri, relating to zoning, is hereby amended, by amending Section 400.3080 and Section 400.1020 and as so amended shall read as follows (where applicable, bolded text is added text and stricken text is removed):

AMENDMENT (**Bold** for additions and ~~strike through~~ for deletions)

Article VIII, Division 3
Section 400.3080 - Non-Conforming Lots of Record.
[R.O. 2011 §34-153.1; Ord. No. 6139 §1(Exh. A (part)), 1997]

~~A.~~ Lots of record, established prior to the effective date of this Chapter, or amendments thereto, that have any dimensional non-conformities, may be used for purposes allowable by this Chapter, subject to the following limitations:

~~1. Such lot, when located in an "SR" or "LR" district, shall comply with the prevailing patterns requirement specified under Article V, Section 400.1020 of this Chapter; shall only be used for open space or a detached single-family dwelling and associated accessory uses or structures; and any buildings placed thereon shall meet the required setbacks of the applicable district regulations, subject to setback exceptions established under Article V, Division 2 of this Chapter.~~

~~2. Such lot, when located in any non-residential district, shall not be less than five thousand (5,000) square feet nor less than forty (40) feet in width; shall only be used for open space or an office building; and any buildings placed thereon shall meet the required setbacks of the applicable district regulations, subject to setback exceptions established under Article V, Division 2 of this Chapter.~~

3**1.** ~~In any event, a~~ **A** non-conforming lot of record shall not be used for the development of a freestanding principal structure, unless:

a. Such lot was owned separately and individually from adjoining tracts of land at a time when the creation of a lot of such size and width at such location would not have been prohibited by the Zoning Code adopted by the City; and

b. Has remained in separate and individual ownership from adjoining tracts of land continually during the entire time that creation of such lot has been prohibited by the applicable Zoning Code.

4**2**. Nothing in this Section shall prohibit the combination of a non-conforming lot of record, or portions thereof with another adjoining lot, or lots, so as to create zoning lots which comply with the requirements of this Chapter. Such consolidations may be accomplished under the boundary adjustment procedure specified in Article VI, Section 405.580 of the "Subdivision and Land Development Regulations" (Chapter 405 of the University City Municipal Code).

Article V, Division 1
Section 400.1020 Lot Area and Width Exceptions
[R.O. 2011 §34-53; Ord. No. 6471 §1, 2003]

A. Within the "SR" and "LR" districts, ~~a reduction in~~ the minimum lot area and/or lot width for detached single-family **and two-family (duplex)** dwellings **in subdivisions platted prior to the City of University City's first zoning code in 1926** shall be **the prevailing pattern of** ~~granted by the Zoning Administrator if the lot area and/or width are consistent with the prevailing pattern of~~ the subdivision in which the lot is located **as specified in Table 1.** ~~In determining the prevailing pattern of a subdivision.~~

B. For lots within "SR" and "LR" districts that are not within subdivisions platted prior to 1926, a reduction in the minimum lot width for detached single-family and two-family (duplex) dwellings shall be granted by the Zoning Administrator if the lot area and/or width are consistent with the prevailing pattern of the subdivision. In determining the prevailing pattern, the lot area and/or width of at least ten (10) of the closest lots shall be considered or, if there are fewer than ten (10) lots, the prevailing pattern of the lots on the block frontage shall be considered. ~~In no case shall an exception be granted for any lot which is less than four thousand five hundred (4,500) square feet in area nor less than thirty-seven and one-half (37½) feet in width at the building setback line. In the instance where:~~

~~1. The lot size and/or width is smaller than the minimum standards set forth above,~~

~~2. and the lot meets the prevailing pattern exception,~~

~~3. and is within an established subdivision where development is consistent upon lots the same size or smaller,~~

~~the Zoning Administrator shall grant an exception to the minimum lot size and/or width requirements consistent with the prevailing pattern.~~

Table 1: Subdivisions and their prevailing pattern dimensions for lots in subdivisions platted prior to the City's first zoning code in 1926.

Subdivision	Minimum Area (SF)	Minimum Width (ft)
Alta Dena	4600	45
Ames Place	5600	50
Balson's at Olive	3700	30
Balson's at Shaftesbury Heights	5100	50
Bellemoor Park	4200	40
Darstdale No.3	3200	40
De Soto Place	3200	30
Delmar Garden	3500	40
Eastover	4600	30
Forsyth Place	4900	50
Gannondale	5100	50
Garden Heights	4700	50
Hafner Place	5000	50
Harris Place	3000	45
Jackson Park	5200	50
Kingsland Place	3600	40
Meridian	5700	50
Mount Olive	4400	35
Musick	5600	50
New Delmar	5500	50
North Parkview	4000	40
Northmoor	5000	40
Olivania Park	4000	40
Olive Heights	3000	30
Olive Street	3700	40
Partridge Heights	5100	50
Pearl Heights	4000	40
Pershing Heights	4200	40
Rathert Heights	3200	30
Richardson Washington Park	3900	50
Roth Grove	4000	45

Sadler Place	**5000**	**40**
Spring Avenue	**5300**	**50**
Sutter Estates	**4300**	**45**
Sutter Heights	**3400**	**30**
University Park: **Amherst Blocks 7000-7300** **Tulane and Dartmouth Blocks 7000-7100** **Parcels north of and not including 728 Pennsylvania**	**4000**	**40**
University Park No. 2	**3800**	**40**
University Terrace	**4300**	**40**
Vernon Place	**3400**	**30**
West Chamberlain Park	**2900**	**25**
West Delmar	**5500**	**50**
West Lawn	**4000**	**30**
West Portland	**5100**	**40**
West University No. 3	**4500**	**40**

Section 2. This ordinance shall not be construed to so as to relieve any person, firm or corporation from any penalty heretofore incurred by the violation of said Sections mentioned above, nor bar the prosecution for any such violation.

Section 3. Any person, firm or corporation violating any of the provisions of this ordinance, shall upon conviction thereof, be subject to the penalty provided in Title 1 Chapter 1.12.010 of the Municipal Code of the City of University City.

Section 4. This ordinance shall take effect and be in force from and after its passage as provided by law.

PASSED this _____ day of _____, _____.

_____
MAYOR

ATTEST:

_____
CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:

_____
CITY ATTORNEY

Council Agenda Item Cover

MEETING DATE: January 14, 2019

AGENDA ITEM TITLE: Text Amendment to Section 400.3090 in Article VIII, Division 3 of the University City Zoning Code

AGENDA SECTION: New Business

COUNCIL ACTION: Passage of Ordinance required for Approval

CAN THIS ITEM BE RESCHEDULED? : Yes

BACKGROUND REVIEW:

The proposed Text amendment would allow residential property owners to reconstruct a dimensionally non-conforming, existing accessory structure so long as the reconstruction does not increase the degree of dimensional non-conformity.

The Zoning Code currently does not allow reconstruction of dimensionally non-conforming accessory structures unless they are brought into compliance with current code requirements. Many of the accessory structures in University City do not comply with current dimensional and setback requirements, making the possibility of reconstructing such structures to come into compliance unnecessarily burdensome and expensive rather than practical. The intent of this amendment is to allow for residential property owner's to reconstruct their non-conforming accessory structures so long as the degree of non-conformity is not increased.

The Plan Commission reviewed the proposed Text Amendment at their November 28, 2018 meeting and recommended approval.

This agenda item requires a public hearing at the City Council level and passage of an ordinance. The public hearing and first reading should take place on January 14, 2019. The second and third readings and passage of the ordinance could occur at the subsequent January 28, 2019 meeting.

ATTACHMENTS:
1: Transmittal Letter from Plan Commission
3: Draft Ordinance

RECOMMENDATION: The City Manager recommends approval of this item.

Plan Commission
6801 Delmar Boulevard, University City, Missouri 63130, Phone: (314) 862-6767, Fax: (314) 862-3168

December 5, 2018

Ms. LaRette Reese
City Clerk
City of University City
6801 Delmar Boulevard
University City, MO 63130

RE: Text Amendments for Section 400.3090 of Article 8, Division 3 pertaining to Non-conforming Structures of the University City Zoning Code

Dear Ms. Reese,

At its regular meeting on November 28, 2018 at 6:30 pm in the Heman Park Community Center, 975 Pennsylvania Avenue, University city, Missouri, 63130, the Plan Commission reviewed the above-referenced Text Amendment.

By a vote of 5 to 0, the Plan Commission recommended approval of the Text Amendment.

Sincerely,

Michael Miller
University City Plan Commission

INTRODUCED BY:_____ DATE: January 14, 2019

BILL NO. 9378 ORDINANCE NO.

AN ORDINANCE AMENDING CHAPTER 400 OF THE MUNICIPAL CODE OF THE CITY OF UNIVERSITY CITY, RELATING TO ZONING, BY AMENDING SECTION 400. 3090 – NON-CONFORMING STRUCTURES, RELATING TO DISTRICT REGULATIONS; CONTAINING A SAVINGS CLAUSE AND PROVIDING A PENALTY.

BE IT ORDAINED BY THE COUNCIL OF THE CITY OF UNIVERSITY CITY, MISSOURI AS FOLLOWS:

WHEREAS, Chapter 400 of the Municipal Code of the City of University City, Missouri divides the City into several zoning districts and regulates the uses to which the premises located therein may be put; and

WHEREAS, the City Plan Commission in a meeting held at the Heman Park Community Center located at 975 Pennsylvania Avenue, University City, Missouri on November 28, 2018 at 6:30 pm recommended an amendment of Section 400.3090 – Non-conforming Structures; and

WHEREAS, due notice of a public hearing to be held by the City Council in the 5th Floor City Council Chambers at City Hall at 6:30 pm, January 14, 2019, was duly published in the St. Louis Countian, a newspaper of general circulation within said City on December 20, 2018; and

WHEREAS, said public hearing was held at the time and place specified in said notice, and all suggestions or objections concerning said amendment of the Zoning Code were duly heard and considered by the City Council.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL OF THE CITY OF UNIVERSITY CITY, MISSOURI, AS FOLLOWS:

Section 1. Chapter 400 of the Municipal Code of the City of University City, Missouri, relating to zoning, is hereby amended, by amending Section 400.3090 and as so amended shall read as follows (where applicable, bolded text is added text and stricken text is removed):

Article VIII, Division 3
Section 400.3090 - Non-conforming Structures

A. Non-Conforming Structures Associated With Conforming Uses. Any non-conforming structure, which is associated with a conforming use, may remain as a non-conforming structure, subject to the following provisions:

1. Enlargement, repair, alterations. Any such structure may be enlarged, maintained, repaired or remodeled; provided however, that no such enlargement, maintenance, repair or remodeling shall either create any additional non-conformity or increase the degree of existing non-conformity of all or any part of such structure, except as may be permitted under Section 400.3100 of this

Article.

2. Damage or substandard conditions. Any such structure shall be subject to the provisions of Section 400.3120 of this Article.

3. Moving. No such structure shall be moved, in whole or in part, to any other location on the same or any other lot within University City unless the entire structure shall thereafter conform to the provisions of this Chapter after being moved.

4. Reconstruction of accessory structures in residential districts. Any accessory structure may be reconstructed, in whole or in part, provided that no such reconstruction shall increase the existing dimensional non-conformity.

Section 2. This ordinance shall not be construed to so as to relieve any person, firm or corporation from any penalty heretofore incurred by the violation of said Sections mentioned above, nor bar the prosecution for any such violation.

Section 3. Any person, firm or corporation violating any of the provisions of this ordinance, shall upon conviction thereof, be subject to the penalty provided in Title 1 Chapter 1.12.010 of the Municipal Code of the City of University City.

Section 4. This ordinance shall take effect and be in force from and after its passage as provided by law.

PASSED this _____ day of _____, _____.

_____
MAYOR

ATTEST:

_____
CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:

_____
CITY ATTORNEY

Council Agenda Item Cover

MEETING DATE: January 14, 2019

AGENDA ITEM TITLE: An ordinance approving a redevelopment agreement and district project agreement in connection with the Olive boulevard commercial corridor and residential conservation redevelopment plan

AGENDA SECTION: New Business-Bills

CAN THIS ITEM BE RESCHEDULED? : Yes

BACKGROUND REVIEW:

Funding of RPA 2 and RPA 3 Costs

Consistent with the Redevelopment Plan and the TIF Commission's recommendation for funding at least $10,000,000 of Redevelopment Project Costs for RPA 2 and $5,000,000 of Redevelopment Project Costs for RPA 3, the City and the Developer will commit as follows:

(1) On the earlier of (a) the Developer's sale or lease to the anchor tenant of that portion of the Property on which the anchor tenant is to be located or (b) two years after the initial issuance of the TIF Notes, the Developer shall pay to the City the sum of $7,500,000.

(2) TIF Revenues in the amount of $500,000 annually shall be paid to the City until the total amount paid from TIF Revenues totals $4,000,000.

(c) The City will commit other incremental revenues derived from RPA 1, in the total amount of $3,500,000.

Acquisition of Property

The Developer currently has options to acquire fee title to 77 parcels within RPA 1.

No eminent domain of owner-occupied single-family residential structures will be permitted, except for the purposes of clearing title or condemning easements, except as determined by the City Council in its sole and absolute discretion.

The Developer may, upon receipt of a commissioners' award in condemnation, pay the award and take the property. If the property owner appeals the award and is subsequently awarded additional money (either by a judge or jury), the Developer must pay that additional amount. Because condemnation actions are in the name of the City, the City bears some risk if (due to bankruptcy or for other reasons), the Developer is unable to pay any additional award. To mitigate that risk, the Redevelopment Agreement requires the Developer to post a letter of credit

or additional collateral with the City in an amount equal to 50% of any commissioners' award that has been appealed. However, the amount of that collateral will be reduced by $7.5 million following the Developer's sale of property to Costco.

Relocation Assistance

The Developer is responsible for relocation benefits to displaced businesses and residents as required by Missouri law. The Relocation Policy attached as Exhibit I to the Redevelopment Agreement provides for additional benefits to businesses and residents that choose to stay within the City. Those additional benefits will be paid by the City from the RPA 2/3 funds deposited as described above.

Minority Contracting

The Developer and its general contractor will be required to enter into an agreement with the City, whereby the general contractor will be required to use commercially reasonable efforts to contract with minority and women subcontractors in the following percentages:

FINDING 5.
MWBE AVAILABILITY

SUMMARY OF MWBE AVAILABILITY
WITHIN THE RELEVANT MARKET
(Using the Master Vendor File)
St. Louis County, MO Disparity Study

Business Category	African American %	Asian American %	Hispanic American %	Native American %	Caucasian Women %	Non WMBE %
Construction	20.17%	.74%	1.72%	.25%	9.47%	66.30%
A&E	9.07%	2.83%	2.83%	.85%	15.30%	68.56%
Other						
Professional Services	12.28	2.21%	1.50%	.71%	12.42%	67.52%
Other Services	9.63%	1.22%	.69%	.30%	9.59%	76.40%
Goods	6.59%	1.10%	.87%	1.00%	13.94%	75.44%

Griffin & Strong, P.C. 2017

14

First Source Employment

The Developer and its contractors will be required to participate in the U City First Hiring Initiative. The Developer will request that tenants in RPA 1 participate. Under this program, those who live in RPA 2 will have the first opportunity to apply for and have preferential consideration for any job openings, if they are qualified, before positions are made available to other applicants. When job opportunities in RPA 1 venues are posted, internal candidates and RPA 2 eligible candidates are provided an opportunity to apply within a period of at least two weeks before others are considered.

Tenant Selection

Unless approved in writing by the City, the following types of uses shall not be permitted within RPA 1: adult entertainment, adult bookstores, pawn shops, payday loan, title loan, check-cashing and similar uses, and tattoo shops.

Community Improvement District

The Developer must create a community improvement district (CID) to provide another source of funds for repayment of the TIF Notes/Bonds (as described below). The CID will be required to impose the following:

(1) Sales tax of 1%

(2) Hotel assessment of $5.00 per occupied sleeping room per night

(3) Special assessment equal to the Developer's estimate of what taxes on the site would be without the adoption of TIF (assessment is higher than PGAV's estimates)

TIF Assistance to Developer

The Developer will pay the costs of the entire project, but will be reimbursed for up to $70.5 million of eligible costs. The reimbursement will initially occur through the City's issuance of TIF Notes to the Developer. The TIF Notes are payable from:

(1) The CID revenues identified above

(2) 50% of the all sales taxes that are subject to capture by the TIF Act (totaling 3.6%)

(3) The "other 50%" of the City's 1% general sales tax and the City's 0.50% capital improvement sales tax

$15.0 million of the TIF Notes will not be issued until the Developer has lease agreements or sale contracts for the following development in the South Phase: (1) a senior living facility of not less than 60,000 square feet or a movie theater of not less than 35,000 square feet, (2) a hotel of not less than 60 rooms, and (3) at least 20,000 square feet of additional commercial space.

After substantial completion of the Redevelopment Project, the City must attempt to issue publicly-offered TIF Bonds, subject to reasonably favorable market conditions. Such a refunding will generally benefit the City because of lower interest rates (i.e., meaning the TIF will likely pay off faster).

ATTACHMENTS:

- Redevelopment Agreement

RECOMMENDATION: City Manager's recommendation is pending

INTRODUCED BY: **DATE: January 14, 2019**

BILL NO. 9379 **ORDINANCE NO.**

AN ORDINANCE APPROVING A REDEVELOPMENT AGREEMENT AND DISTRICT PROJECT AGREEMENT IN CONNECTION WITH THE OLIVE BOULEVARD COMMERCIAL CORRIDOR AND RESIDENTIAL CONSERVATION REDEVELOPMENT PLAN.

WHEREAS, the City has approved the Olive Boulevard Commercial Corridor and Residential Conservation Redevelopment Plan (the "Plan") and the redevelopment project for Redevelopment Project Area 1 described therein (the "RPA 1 Redevelopment Project") pursuant to the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865 of the Revised Statutes of Missouri, as amended; and

WHEREAS, the City desires to enter into a redevelopment agreement with U. City, L.L.C. and U. City TIF Corporation (collectively, the "Developer") with regard to the RPA 1 Redevelopment Project (the "Redevelopment Agreement"); and

WHEREAS, the Plan and the Redevelopment Agreement contemplate the creation of a community improvement district (the "District") to assist in the financing and development of the RPA 1 Redevelopment Project;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF UNIVERSITY CITY, MISSOURI, AS FOLLOWS:

Section 1. The City Council finds and determines that it is necessary and desirable to enter into the following agreements in connection with the RPA 1 Redevelopment Project (collectively, the "Agreements"):

(a) Redevelopment Agreement between the City and the Developer in substantially the form of **Exhibit A** attached hereto; and

(b) District Project Agreement among the City, the Developer and the District in substantially the form of **Exhibit B** attached hereto.

The City Manager is hereby authorized and directed to execute the Agreements on behalf of the City. The City Clerk is hereby authorized and directed to attest to the Agreements and to affix the seal of the City thereto. The Agreements shall be in substantially the forms attached to this Ordinance, which Agreements are hereby approved by the City Council, with such changes therein as shall be approved by the officers of the City executing the same.

Section 2. The officers, agents and employees of the City are hereby authorized and directed to execute all documents and take such steps as they deem necessary and advisable to carry out and perform the purpose of this Ordinance.

Section 3. The sections of this Ordinance shall be severable. If any section of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining sections shall remain valid, unless the court finds that: (a) the valid sections are so essential to and inseparably connected with and dependent upon the void section that it cannot be presumed that the City Council has or would have enacted the valid sections without the void ones; and (b) the valid sections, standing alone, are incomplete and are incapable of being executed in accordance with the legislative intent.

Section 4. This Ordinance shall be in full force and effect from and after the date of its passage and approval; provided, if the Developer has not executed the Redevelopment Agreement within 15 days after such date, all rights conferred by this Ordinance on the Developer shall terminate and the City may designate another entity as developer of the RPA 1 Redevelopment Project.

PASSED and ADOPTED THIS _____ DAY OF JANUARY, 2019.

_____
MAYOR

(Seal)

ATTEST:

_____
CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:

_____
CITY ATTORNEY

EXHIBIT A

REDEVELOPMENT AGREEMENT

[On file in the City Clerk's Office]

(The above space is reserved for Recorder's Certification.)

TITLE OF DOCUMENT:	REDEVELOPMENT AGREEMENT
DATE OF DOCUMENT:	_____, 2019
GRANTOR:	CITY OF UNIVERSITY CITY, MISSOURI
GRANTOR'S MAILING ADDRESS:	6801 Delmar Boulevard University City, Missouri 63301 Attention: City Manager
GRANTEE:	U. CITY, L.L.C. U. CITY TIF CORPORATION
GRANTEE'S MAILING ADDRESS:	c/o Novus Development 20 Allen Avenue, Suite 400 Webster Groves, Missouri 63119 Attention: Jonathan Browne
RETURN DOCUMENTS TO:	Gilmore & Bell, P.C. 211 North Broadway, Suite 2000 St. Louis, Missouri 63102 Attention: Mark D. Grimm, Esq.
LEGAL DESCRIPTION:	See **Exhibit A**

REDEVELOPMENT AGREEMENT

between the

CITY OF UNIVERSITY CITY, MISSOURI,

and

U. CITY, L.L.C.

and

U. CITY TIF CORPORATION

dated as of

_____, 2019

OLIVE BOULEVARD COMMERCIAL CORRIDOR AND RESIDENTIAL CONSERVATION REDEVELOPMENT PLAN

RPA 1 REDEVELOPMENT PROJECT

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REDEVELOPMENT AGREEMENT

THIS REDEVELOPMENT AGREEMENT (this "*Agreement*") is made and entered into as of this ____ day of _____, 2019, by and among the **CITY OF UNIVERSITY CITY, MISSOURI**, an incorporated political subdivision of the State of Missouri (the "*City*"), **U. CITY, L.L.C.**, a Missouri limited liability company, and **U. CITY TIF CORPORATION**, a Missouri corporation (collectively, the "*Developer*"). (All capitalized terms used but not otherwise defined herein shall have the meanings ascribed in **Article I** of this Agreement.)

RECITALS

A. The City Council created the Tax Increment Financing Commission of the City of University City, Missouri (the "*TIF Commission*") and empowered the TIF Commission to exercise those powers and fulfill such duties as are required or authorized for the TIF Commission under Sections 99.800 to 99.865 of the Revised Statutes of Missouri, as amended (the "*TIF Act*").

B. On March 30, 2017, the City distributed a Request for Redevelopment Proposals concerning the redevelopment of the an area located immediately east of the I-170 and Olive Boulevard interchange (the *"Initial Proposal Area"*), and sent a copy of the Request for Redevelopment Proposals to potential developers in accordance with Section 120.340 of the City's municipal code.

C. On May 1, 2017, Novus Development ("*Novus*") submitted a proposal to the City (the regarding the redevelopment of approximately 32 acres on the north and south sids of Olive Boulevard, east of I-170.

D. The City Council determined that it was in the best interests of the City and its residents to redevelop not only the Initial Proposal Area but also to provide funds for residential improvements, enhanced public improvements and services, and commercial development within a broader area. Accordingly, on March 2, 2018, the City published a Notice of Request for Redevelopment Proposals in the *St. Louis Post-Dispatch* concerning the redevelopment of an area described herein as *"RPA 1"* and sent a copy of the Request for Redevelopment Proposals to potential developers in accordance with Section 120.340 of the City's Municipal Code.

E. On March 28, 2018, the City published a Revised Notice of Request for Redevelopment Proposals in the *St. Louis Post-Dispatch* concerning the redevelopment of RPA 1, and sent a copy of the Revised Request for Redevelopment Proposals to potential developers in accordance with Section 120.340 of the City's Municipal Code.

F. On March 30, 2018, Novus Development ("*Novus*") timely submitted a proposal to the City (the "*Redevelopment Proposal*"). Novus desires to implement the Redevelopment Proposal through its affiliates, U. City, L.L.C. and U. City TIF Corporation (collectively, the "*Developer*").

G. At the request of the City, PGAV Planners prepared the Olive Boulevard Commercial Corridor and Residential Conservation Redevelopment Plan (the "*Redevelopment Plan*"), which provides for the demolition and clearance of the existing structures located within RPA 1 and the development of commercial and residential uses (as more fully described in the Redevelopment Plan, the *"RPA 1 Redevelopment Project"*).

H. The Redevelopment Plan also proposes redevelopment projects within (1) the largely residential area north of Olive Boulevard (as further described in the Redevelopment Plan, *"RPA 2"*) and (2) the Olive Boulevard commercial corridor east of RPA 1 (as further described in the Redevelopment Plan, *"RPA 3"*). RPA 1, RPA 2 and RPA 3 collectively constitute the "Redevelopment Area" described in the Redevelopment Plan. This Agreement does not grant the Developer any rights or privileges with respect to RPA 2 or RPA 3.

I. On May 23, 2018 and continued on June 6, 2018, June 22, 2018 and August 23, 2018, the TIF Commission held a public hearing at which all interested parties had the opportunity to be heard and at which the TIF Commission heard and considered all protests and objections concerning the Redevelopment Plan, the Redevelopment Area and the redevelopment projects for each redevelopment project area, including the RPA 1 Redevelopment Project.

J. On August 23, 2018, the TIF Commission passed a resolution recommending that the City Council approve the Redevelopment Plan, designate the Redevelopment Area as a "redevelopment area" pursuant to the TIF Act, approve the redevelopment projects for each redevelopment project area and adopt tax increment financing within each redevelopment project area.

K. On _____, 2019, after due consideration of the TIF Commission's recommendation and making each of the findings required by Section 99.810 of the TIF Act, the City Council adopted (1) Ordinance No. ____ approving the Redevelopment Plan, designating the Redevelopment Area as a "redevelopment area" pursuant to the TIF Act, approving the RPA 1 Redevelopment Project and adopting tax increment financing within RPA 1 and (2) Ordinance No. ____ authorizing the City to execute and enter into this Agreement.

L. The City Council hereby determines that the implementation of the RPA 1 Redevelopment Project and the fulfillment generally of this Agreement are in the best interests of the City, and the health, safety, morals and welfare of its residents, and in accord with the public purposes specified in the Redevelopment Plan.

M. Pursuant to provisions of the TIF Act and Ordinance Nos. ____ and _____, the City is authorized to enter into this Agreement.

AGREEMENT

Now, therefore, in consideration of the premises and mutual promises contained herein and other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

ARTICLE I

DEFINITIONS

1.1. Definitions. As used in this Agreement, the following words and terms shall have the following meanings:

"353 Approval Ordinance" means an ordinance to be adopted by the City Council approving a development plan and the real property tax abatement described in **Section 6.6** in accordance with the 353 Procedural Ordinance and Chapter 353.

"353 PILOT Payments" means the payments in lieu of tax to be paid pursuant to **Section 6.6**.

"353 Procedural Ordinance" means Chapter 510 of the Municipal Code.

"*Acquisition Costs*" means all costs of acquiring the Property, including, but not limited to: cost of land and improvements, leasehold interests, and easement interests therein; brokerage commissions; costs of title commitments, reports or policies; surveys; environmental testing and remediation, soil and hazardous waste and other site and property related reports and expenses; appraisals; carrying costs (including the principal and interest components of any mortgage payments, but not including taxes, utilities or other operating costs); Relocation Costs; and professional fees of any kind or nature, including attorneys' fees, filing fees, recording fees, experts' fees, and all litigation costs, including commissioners' awards and other costs of condemnation proceedings, judgments, payments in settlement of litigation, and all associated court costs, fees and expenses.

"Agreement" means this Redevelopment Agreement, as the same may be from time to time modified, amended or supplemented in writing by the parties hereto.

"*Approved Investors*" means (a) the Developer or a Related Party, (b) an "accredited investor" under Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, (c) a "qualified institutional buyer" under Rule 144A promulgated under the Securities Act of 1933, or (d) any general business company or enterprise with total assets in excess of $50,000,000.

"Approved Site Plan" means the site plan or site plans reflecting one or more portions of the Work and the RPA 1 Redevelopment Project approved by all entities required to approve a site plan pursuant to the Municipal Code and **Section 3.7**, as such site plan or site plans may be submitted, approved and amended from time to time in accordance with the Municipal Code and **Section 3.7**.

"Available Revenues" means (a) all money on deposit from time to time (including investment earnings thereon) in (1) the PILOTS Account and (2) subject to annual appropriation, the EATS Account, the District Revenues Account and the City Revenues Account, and (b) any money in any other account of the Special Allocation Fund that has been appropriated to the repayment of the TIF Obligations, excluding in each case (i) any amount paid under protest until the protest is withdrawn or resolved against the taxpayer, or (ii) any sum received by the City or the District that is the subject of a suit or other claim communicated to the City or the District which suit or claim challenges the collection of such sum.

"Base Property Tax Payments" means, for each year during the first ten years of the period described in **Section 6.6**, the amount imposed upon any portion of the Property within RPA 1 measured solely by the assessed valuation of the land, exclusive of improvements, in the calendar year preceding the calendar year in which the Corporation acquired such portion of the Property.

"Bond Counsel" means Gilmore & Bell, P.C., St. Louis, Missouri, or an attorney at law or a firm of attorneys selected by the City and approved by the Developer of nationally recognized standing in matters pertaining to the tax-exempt nature of interest on obligations issued by states and their political subdivisions, duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia.

"Bond Financing Agreement" means an agreement between the City and the Developer setting forth the terms upon which TIF Bonds may be issued, in lieu of TIF Notes, prior to the completion of the RPA 1 Redevelopment Project.

"Bond Proceeds" means the net cash proceeds from the sale of TIF Bonds available for refunding of the TIF Notes or funding Reimbursable Redevelopment Project Cost (after deposit of funds for Issuance Costs, capitalized interest and debt service reserves), together with any interest earned thereon.

"Certificate of Reimbursable Redevelopment Project Costs" means a document, substantially in the form of **Exhibit D** attached hereto and incorporated herein by reference, delivered by the Developer to the City and which, upon the City's written acceptance thereof, will evidence Reimbursable Redevelopment Project Costs incurred.

"Certificate of Substantial Completion" means a document, substantially in the form of **Exhibit C** attached hereto and incorporated herein by reference, delivered by the Developer to the City and which, upon the City's written acceptance thereof or the City's deemed acceptance thereof as provided in **Section 3.10**, will evidence the Developer's satisfaction of all obligations and covenants to perform the Initial Work with respect to the North Phase or the South Phase, as applicable. The Certificate of Substantial Completion does not constitute a final occupancy certificate, final inspection certificate, or other documentation required by the Municipal Code to occupy the RPA 1 Redevelopment Project or any portion thereof.

"Chapter 353" means Chapter 353 of the Revised Statutes of Missouri, as amended.

"CID Act" means the Community Improvement District Act, Sections 67.1401 to 67.1571 of the Revised Statutes of Missouri, as amended.

"City" means the City of University City, Missouri, a home-rule city and political subdivision of the State of Missouri.

"City Attorney" means John F. Mulligan, Jr., Attorney at Law, or any other person or law firm appointed as the City Attorney pursuant to the Municipal Code.

"City Council" means the City Council of the City.

"City Manager" means the person duly appointed as City Manager pursuant to the Municipal Code.

"*City Revenues*" means an amount equal to any and all incremental revenues that are not TIF Revenues received by the City from the 1.0% countywide sales tax and the 0.5% capital improvements sales tax that are generated within RPA 1, over the amount of revenues generated from those taxes within RPA 1 in the year ending December 31, 2018. Notwithstanding anything to the contrary, if any retail establishment operating in the City, but outside RPA 1, as of the date of this Agreement, relocates to RPA 1, the "City Revenues" shall be reduced by the amount of taxable retail sales attributable to such retail establishment for the calendar year immediately preceding the year in which such retail establishment relocates to RPA 1. For the purpose of this definition, "relocates" shall mean if a retail establishment operating in the City closes its business within one year of relocating to a facility within RPA 1 and the City Council makes a reasonable, good faith determination that the relocation is a direct beneficiary of tax increment financing pursuant to Section 99.805(4) of the TIF Act.

"*City Revenues Account*" means an account of the Special Allocation Fund into which City Revenues shall be deposited from time to time in accordance with **Section 6.1**.

"Concept Site Plan" means the site development plan set forth as **Exhibit B**, attached hereto and incorporated herein by reference, depicting the conceptual program for construction of the Work.

"Construction Inspector" means such licensed engineer or architect either employed by or retained and designated by the City from time to time, at the City's sole cost and expense, and/or such individuals as may be designated to carry out inspections on behalf of the City's planning and zoning and public works departments.

"Construction Plans" means plans, drawings, specifications and related documents, and construction schedules for the construction of the Work, together with all supplements, amendments or corrections submitted by the Developer and approved by the City in accordance with the Municipal Code and this Agreement.

"Corporation" means the urban redevelopment corporation to be established by or at the behest of the Developer, or its permitted successors or assigns in interest.

"Cost-Benefit Analysis" means the "Olive Boulevard Commercial Corridor & Residential Conservation Redevelopment Area Redevelopment Project Area One Cost/Benefit Analysis" dated June 4, 2018, prepared in association with the Redevelopment Plan and as may be amended from time to time.

"County Assessor" means the office of the St. Louis County Assessor or such other entity that may, from time to time, be responsible for determining the assessed value of the Property under applicable law.

"County Collector" means the office of the St. Louis County Collector of Revenue or such other entity that may, from time to time, be responsible for collecting 353 PILOT Payments under applicable law.

"Developer" means, collectively, U. City, L.L.C., a Missouri limited liability company, or its permitted successors or assigns in interest, and U. City TIF Corporation, a Missouri corporation, or its permitted successors or assigns in interest.

"Development Plan" means the plan approved by the 353 Approval Ordinance regarding the designation of the property within RPA 1 as an "urban redevelopment area" pursuant to Chapter 353, as such plan may from time to time be amended in accordance with Chapter 353 and the 353 Procedural Ordinance.

"District" means the community improvement district formed in connection with the RPA 1 Redevelopment Project pursuant to the CID Act and **Section 3.12**.

"District Expenses" shall have the meaning set forth in the District Project Agreement.

"District Hotel Assessments" means a special assessment imposed on all properties within the District that rent sleeping rooms to transient guests in the amount of $5.00 per occupied room or suite per night, as further described in **Section 3.12** and the District Project Agreement.

"District Project" means the improvements as described in the District Project Agreement, which improvements shall, in the opinion of counsel to the District, be qualified expenditures for the District under Missouri law, and for which the District is to reimburse the Developer for the costs thereof, all pursuant to the District Project Agreement. The parties acknowledge that the scope of the District Project is included within the scope of the RPA 1 Redevelopment Project.

"District Project Agreement" means the district project agreement to be entered into among the Developer, the District and the City, as described in **Section 3.12**, to be executed in substantially the form of **Exhibit F**, attached hereto and incorporated herein by reference.

"District Revenues" means, subject to Section **3.12(e)**, any and all revenues generated by the District Sales Tax, District Special Assessments and District Hotel Assessments that are appropriated by the District and deposited into the District Revenues Account.

"District Revenues Account" means an account of the Special Allocation Fund into which District Revenues are deposited from time to time.

"District Sales Tax" means the one percent (1.0%) community improvement district sales and use tax to be levied by the District in accordance with the CID Act.

"*District Special Assessments"* means the special assessments (other than the District Hotel Assessments) to be levied against the owners of real property within the District, as further described in **Section 3.12** and the District Project Agreement.

"EATS Account" means an account of the Special Allocation Fund into which 50% of the Economic Activity Taxes are deposited pursuant to Section 99.845 of the TIF Act.

"Economic Activity Taxes" has the meaning ascribed to such term in Section 99.805 of the TIF Act, but not including any taxes that are excluded from tax increment financing by Missouri law.

"Governmental Approvals" means all plat approvals, re-zoning or other zoning changes, planned unit development approvals, site plan approvals, conditional use permits, variances, building permits, architectural review or other subdivision, zoning or similar approvals, or approvals related to the creation of the District required by the Municipal Code or this Agreement for the implementation of the RPA 1 Redevelopment Project.

"IDA" means The Industrial Development Authority of the County of St. Louis, Missouri or another issuer of municipal bonds acceptable to the City and the Developer.

"Initial Work" means (i) acquiring all Property and (ii) undertaking all Work required to complete the construction of at least 222,000 square feet of commercial space in the North Phase (including retail space to be constructed by or on behalf of end-users pursuant to an executed sale contract or an executed ground lease) and at least 100,000 square feet of residential/commercial space in the South Phase (including retail/commercial space to be constructed by or on behalf of end-users pursuant to an executed sale contract or an executed ground lease).

"Issuance Costs" means all costs reasonably incurred by the City and/or the Developer and/or the District in connection with the issuance of the TIF Obligations, including, but not limited to, the fees and expenses of financial advisors and consultants, the City's attorneys (including the City Attorney, issuer's counsel, Bond Counsel and disclosure counsel), the District's attorneys, the Developer's attorneys, the City's underwriter and underwriter's counsel, the City's administrative fees and expenses (including fees and costs of planning consultants and/or financial advisors), underwriters' discounts and fees, initial fees and charges of the trustee, the cost of obtaining CUSIP numbers, the costs of printing any TIF Obligations and any official statements relating thereto.

"Maximum Reimbursement Amount" means $70,500,000 plus Issuance Costs.

"Minority Contractor/Workforce Agreement" means a written agreement between the Developer and the general contractor for the RPA 1 Redevelopment Project (which may be included in a construction contract or as a separate agreement) meeting the requirements of **Section 3.9(b)**.

"Municipal Code" means the University City Municipal Code, as may be amended from time to time.

"North Phase" means the portion of the RPA 1 Redevelopment Project located north of Olive Boulevard.

"Note Ordinance" means the ordinance of the City authorizing the TIF Notes, any trust indenture relating thereto, and all related ordinances, resolutions and proceedings.

"Original Purchaser" means the Developer, a Related Party, the Project Lender or a Qualified Institutional Buyer; provided, however, that any such Related Party or Project Lender shall also qualify as an Approved Investor and shall be designated in writing by the Developer as the Original Purchaser.

"Payments in Lieu of Taxes" or *"PILOTS"* shall have the meaning ascribed to such term in Section 99.805 of the TIF Act.

"PILOTS Account" means an account of the Special Allocation Fund into which Payments in Lieu of Taxes are deposited pursuant to Section 99.845 of the TIF Act.

"Preliminary Funding Agreement" means the Preliminary Funding Agreement dated as of October 31, 2017, between the City and the Developer, as amended from time to time in accordance with its terms.

"Prime Rate" means the prime rate reported in the "Money Rates" column or any successor column of *The Wall Street Journal*, currently defined therein as the base rate on corporate loans posted by at least 75% of the nation's 30 largest banks. If *The Wall Street Journal* ceases publication of the Prime Rate, then "Prime Rate" shall mean the "prime rate" or "base rate" announced by Bank of America, N.A., or any successor thereto.

"Project Fund" means the project fund created in the Note Ordinance.

"*Project Lender*" means a commercial bank, savings bank, savings and loan association, credit union or other financial institution that has loaned funds to the Developer to be used for acquisition, development and/or construction of the RPA 1 Redevelopment Project and has secured such loan with a mortgage or security interest in the RPA 1 Redevelopment Project.

"Property" means all of the real property (including, but not limited to, all options held by third parties, fee interests, leasehold interests, tenant-in-common interests, easement interests, and such other like or similar interests) and existing improvements on the property in RPA 1, other than and excluding any public rights-of-way and easements that the Developer determines in its reasonable judgment are not necessary for the implementation of the RPA 1 Redevelopment Project and the Work.

"*Qualified Institutional Buyer*" means a "qualified institutional buyer" under Rule 144A promulgated under the Securities Act of 1933.

"Redevelopment Area" means the area described in Attachment 2 to the Redevelopment Plan.

"Redevelopment Plan" means the plan entitled the "Olive Boulevard Commercial Corridor and Residential Conservation Redevelopment Plan," as approved by the City Council pursuant to the TIF Ordinances, as such plan may from time to time be amended in accordance with the TIF Act.

"Redevelopment Project Costs" has the meaning assigned to such term in Section 99.805 of the TIF Act.

"Reimbursable Redevelopment Project Costs" means those Redevelopment Project Costs that are reimbursable to the Developer under **Article IV,** the Redevelopment Plan, the CID Act and the TIF Act in accordance with this Agreement.

"Related Party" means any party related to the Developer by one of the relationships described in Section 267(b) of the United States Internal Revenue Code of 1986, as amended, or any party controlled by or under common control with the Developer.

"Relocation Costs" means all costs incurred to relocate the occupants of and businesses in RPA 1 in accordance with the Relocation Policy, including, but not limited to, relocation payments to displaced persons or businesses, and all costs of implementing the Relocation Policy including costs of referrals, relocation specialists, planners, attorneys' fees, brokers' commissions and staff costs.

"Relocation Policy" means the relocation policy of the City set forth in Ordinance No. 6789, as supplemented by the policy attached as **Exhibit I** hereto and incorporated by reference.

"RPA 1" means the area described as such in the Redevelopment Plan and legally described on **Exhibit A** attached hereto and incorporated by reference.

"RPA 1 Redevelopment Project" means the construction of the mixed-use development described and/or shown in the Redevelopment Plan and the Concept Site Plan, inclusive of the North Phase and the South Phase.

"RPA 2" means the portion of the Redevelopment Area described as RPA 2 in the Redevelopment Plan.

"RPA 3" means the portion of the Redevelopment Area described as RPA 3 in the Redevelopment Plan.

"Special Allocation Fund" means the RPA 1 Account of the Olive Boulevard Commercial Corridor and Residential Conservation Special Allocation Fund authorized by the TIF Ordinances.

"*South Phase"* means the portion of the RPA 1 Redevelopment Project located south of Olive Boulevard.

"State" means the State of Missouri.

"Subordinate Notes" means all TIF Notes that are subordinate to TIF Bonds, as further described in **Section 5.2**.

"Tax-Exempt TIF Notes" means all TIF Notes, including any applicable Subordinate Notes, that, in the opinion of Bond Counsel, interest on is excluded from gross income for federal income tax purposes.

"Taxable TIF Notes" means all TIF Notes, including any applicable Subordinate Notes, that, in the opinion of Bond Counsel, interest on is not excluded from gross income for federal income tax purposes.

"TIF Act" means the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865 of the Revised Statutes of Missouri, as amended.

"TIF Bonds" means any tax increment revenue bonds (a) authorized and issued by the City in accordance with the TIF Act and this Agreement or (b) authorized and issued by the IDA in accordance with Chapter 349 of the Revised Statutes of Missouri, as amended.

"TIF Commission" means the Tax Increment Financing Commission of the City of University City, Missouri.

"TIF Notes" means the tax increment revenue notes issued by the City pursuant to and subject to this Agreement and the Note Ordinance in substantially the form as set forth in **Exhibit E**, attached hereto and incorporated herein by reference, to evidence the City's limited obligation to repay Reimbursable Redevelopment Project Costs incurred by the Developer on behalf of the City in accordance with the TIF Act, the CID Act and this Agreement.

"TIF Obligations" means, collectively, the TIF Notes and the TIF Bonds.

"TIF Ordinances" means Ordinance No. _____ adopted by the City Council on _____, 2019, adopting the Redevelopment Plan and designating the Redevelopment Area and Ordinance No. _____ adopted by the City Council on _____, 2019, approving the RPA 1 Redevelopment Project and authorizing tax increment financing within RPA 1.

"TIF Revenues" means, collectively, Payments in Lieu of Taxes and 50% of the Economic Activity Taxes.

"Trustee" means the trustee or fiscal agent for any issue of TIF Obligations.

"Work" means all work necessary to prepare RPA 1 and to construct the RPA 1 Redevelopment Project, including but not limited to:

(a) demolition, excavation, mobilization and removal of all existing buildings and improvements located on the Property and clearing, grading and site preparation of the Property;

(b) construction of public improvements on the Property as follows:

(1) storm and sanitary sewers, stormwater control, detention facilities and other infrastructure improvements required to obtain all necessary approvals and permits,

(2) construction, reconstruction and/or relocation of utilities, including the burying of utility lines (to the extent permitted by the applicable utility companies), and

(3) all other water, sewer, street and other infrastructure required to accommodate all of the uses to be developed on the Property; and

(c) construction of retail, restaurant, multi-family and other uses as set forth on the Approved Site Plan and as otherwise described for RPA 1 in Redevelopment Plan, or as reasonably necessary to effectuate the intent of this Agreement.

ARTICLE II

ACCEPTANCE OF PROPOSAL

2.1. Developer Designation. The City hereby selects the Developer to acquire the Property and perform the Work in accordance with the Approved Site Plan, the Redevelopment Plan, the Development Plan, this Agreement and all Governmental Approvals. To the extent of any inconsistency among the foregoing, the parties agree that the Work described in the Governmental Approvals shall govern so long as such approvals do not constitute a change to the Redevelopment Plan, the Development Plan or the RPA 1 Redevelopment Project as would, in the opinion of the City Attorney or special counsel retained by the City, require an amendment to the Redevelopment Plan or the Development Plan.

2.2. Developer to Advance Costs. The Developer agrees to advance all Redevelopment Project Costs as necessary to acquire the Property and complete the Work, subject to the Developer's right to abandon the RPA 1 Redevelopment Project and terminate this Agreement as set forth in **Section 7.1**. Additionally, and not by way of limitation:

(a) *Advances Under Preliminary Funding Agreement*. The Developer, under the Preliminary Funding Agreement, has heretofore advanced, or caused to be advanced, pursuant to the Preliminary Funding Agreement the aggregate sum of $251,066.75 for certain Redevelopment Project Costs comprised of City planning, legal, administrative and other costs associated with the RPA 1 Redevelopment Project, the Redevelopment Plan, the Cost-Benefit Analysis and the negotiation of this Agreement. As of the date of this Agreement, $0 remains under the Preliminary Funding Agreement. The obligations of the parties under the Preliminary Funding Agreement are deemed fully performed and shall be merged into and superseded by this Agreement. Any portion of the funds that are not spent by the time this Agreement is executed may be applied in the same manner as funds received pursuant to (b) below.

(b) *Advances Upon Execution of Agreement.* Upon execution of this Agreement, the Developer agrees to advance to the City the sum of $50,000.00 to pay (1) the City's reasonable planning, legal, financial and other consultants, and (2) administrative costs and expenses that are incurred in connection with the approval of the Redevelopment Plan, the negotiation and administration of this Agreement (including, without limitation, the enforcement of any performance bond and the review of Certificates of Reimbursable Redevelopment Project Costs, the Certificate of Substantial Completion, site plans and construction plans), the defense of the TIF Ordinances relating to RPA 1, the 353 Approval Ordinance, the Redevelopment Plan, the Development Plan and this Agreement, and the creation of the District; provided, however, that administrative costs and expenses shall not include any portion of salary and benefit costs related to City staff. If the amount initially deposited pursuant to this subsection is insufficient for the purposes described herein, the Developer shall deposit any additional amount requested by the City within ten (10) days of a written request therefor; provided, however, that (i) the City shall obtain the Developer's approval before entering into any new engagements with any third party and (ii) the City shall provide the Developer with a monthly statement showing each agreement executed, amounts paid pursuant to each agreement, and amounts remaining due with respect to each agreement.

(c) *Advances Upon Issuance of Notes*. Upon the initial issuance of the TIF Notes, the Developer agrees to pay to the City an amount not to exceed $75,000 for the payment or reimbursement of reasonable fees and expenses incurred by the City relating to such TIF Notes and any other reasonable costs related to the approval of this Agreement to the extent they are not

already provided for by subsection (b) above; provided, however, that such costs and expenses shall not include any portion of salary and benefit costs related to City staff.

(d) *District Creation and 353 Approval Costs.* The Developer shall pay or cause to be paid all reasonable costs incurred by the City in connection with the creation of the District and the approval of the Development Plan and real property tax abatement pursuant to Chapter 353; provided, however, that administrative costs and expenses shall not include any portion of salary and benefit costs related to City staff. The Developer may seek reimbursement of costs related to the creation of the District from the District to the extent available and consistent with this Agreement and the District Project Agreement.

(e) *No Waivers.* Payment of any advance under this Section will not waive any application fee or other cost to the Developer associated with any Governmental Approvals required by the Municipal Code, including but not limited to application fees for zoning changes and costs of traffic studies and landscape review.

(f) *Return of Excess Funds*. Within 30 days after the City's acceptance of the final Certificate of Substantial Completion or deemed acceptance thereof and the approval of the final Certificate of Reimbursable Redevelopment Project Costs, the City shall remit to the Developer any amounts that have been advanced under paragraphs (a), (b), (c) or (d) and that have not been spent for costs incurred by the City pursuant to such paragraphs.

(g) *Advances to be Reimbursable*. To the extent permitted by law, all sums advanced or deemed advanced by the Developer under this Section shall constitute Reimbursable Redevelopment Project Costs to be reimbursed to the Developer from the proceeds of TIF Obligations issued as provided herein or from District revenues as District Expenses.

2.3. Funding of RPA 2 and RPA 3 Costs. Consistent with the Redevelopment Plan and the TIF Commission's recommendation for funding at least $10,000,000 of Redevelopment Project Costs for RPA 2 and $5,000,000 of Redevelopment Project Costs for RPA 3, the City and the Developer hereby commit as follows:

(a) On the earlier of (1) the Developer's sale or lease to the first anchor tenant (i.e., a tenant that will occupy at least 100,000 sqaure feet) of that portion of the Property on which the anchor tenant is to be located or (2) two years after the initial issuance of the TIF Notes pursuant to **Section 5.1**, the Developer shall pay to the City the sum of $7,500,000.

(b) Available Revenues in the amount of $500,000 annually shall be paid to the City pursuant to **Section 6.3**, until the total amount paid under that Section totals $4,000,000.

(c) The City will commit other incremental revenues derived from RPA 1, other than Available Revenues, in the total amount of $3,500,000.

The City will use all of the above-described moneys to pay Redevelopment Project Costs associated with RPA 2 and RPA 3, as described in the Redevelopment Plan.

ARTICLE III

OWNERSHIP OF THE PROPERTY; SCHEDULE; CONSTRUCTION OF REDEVELOPMENT PROJECT; CITY APPROVALS

3.1. Ownership and Acquisition of Property.

(a) *Control of Property.* As of the date of this Agreement, the Developer represents that it has acquired or has valid, enforceable options to acquire the fee title to 77 parcels within RPA 1. The Developer shall have the right to encumber its interest in the Property concurrently with the acquisition of the Property.

(b) *Acquisition of Property.* The Developer will continue its efforts to acquire the Property by negotiation. If the Developer is unable to acquire the Property by negotiation, it may request in writing that the City initiate condemnation proceedings for the acquisition of one or more of those parcels. Failure to acquire title to or valid enforceable options to acquire title to the Property or request that the City initiate condemnation proceedings for the Property within 12 months after the date of this Agreement will result in the automatic termination of this Agreement; provided, however, the City Council may, in its sole discretion, extend such date by resolution. Notwithstanding the time limit set forth in the preceding sentence, the parties acknowledge and agree that condemnation may be required to clear title on certain parcels or condemn easements and that the Developer may request that the City initiate condemnation proceedings pursuant to subsection (c) below for the purpose of clearing title or condemning easements more than 12 months after the date of this Agreement. Notwithstanding any provision of this Agreement to the contrary, **no eminent domain of owner-occupied single-family residential structures will be permitted**, except for the purposes of clearing title or condemning easements, except as determined by the City Council in its sole and absolute discretion.

(c) *Condemnation Proceedings.*

(1) Before the City authorizes the initiation of condemnation proceedings for any parcel of Property, the Developer shall:

(A) if so requested by the City Manager within 15 days after the Developer's request for condemnation, use reasonable efforts to arrange a meeting between the applicable property owner and the City Manager within 15 days;

(B) provide such evidence as the City Attorney or special counsel retained by the City may reasonably require demonstrating that the jurisdictional and statutory prerequisites necessary for the initiation of such condemnation proceedings, including the requirement to negotiate in good faith, have been satisfied; and

(C) provide the City, acting through the City Attorney or special counsel retained by the City, the right to inspect any documentation relating to the Developer's efforts to acquire the parcel or parcels, which are to be part of the proceeding, and to set reasonable requirements regarding further documentation from the Developer.

(2) Subject to the foregoing, the City shall, within thirty (30) days after the Developer's request, authorize the initiation of condemnation proceedings by causing petition(s) to be filed in the St. Louis County Circuit Court. Except as otherwise provided in this Agreement or as may be provided by law, the Developer, as the City's agent, shall control all condemnation proceedings and shall diligently prosecute all such proceedings; provided, however, that the selection of attorneys to prosecute any condemnation proceedings shall be subject to approval by

the City Attorney or special counsel retained by the City, such approval is hereby provided for Carmody MacDonald P.C. and, otherwise, not to be unreasonably withheld, conditioned or delayed. The City agrees to cooperate in such proceedings and to execute all pleadings and other documents that may be necessary and/or required before and during the prosecution of such proceedings. During the condemnation proceedings, the Developer agrees to consult with the City regarding recommendations by consultants to the Developer as to the fair settlement value of each such case. Advice and consultation with the City shall continue throughout such proceedings. The City shall, upon initiation of the condemnation proceedings, designate in writing to the Developer an individual who is authorized to represent the City in consultations with the Developer and its counsel. Upon the City's request, the Developer shall provide copies of all pleadings and other documents filed or prepared in conjunction with the prosecution of the condemnation proceedings for the City's inspection. The Developer shall pay all costs reasonably incurred by the City in connection with any condemnation action.

(3) Within 180 days after any commissioners' award the Developer shall either: (A) abandon the condemnation action; (B) settle the action; (C) file exceptions to the commissioners' award without paying the award; or (D) file exceptions and pay the amount of any commissioners' award issued either directly to the Clerk of the Circuit Court or to the City for payment of such commissioners' award to the Clerk of the Circuit Court, which payment the City will make immediately. Notwithstanding the foregoing, if the Developer terminates any condemnation proceeding to effect a settlement of any such proceeding, this Agreement shall continue and the City and the Developer shall continue to diligently prosecute any other condemnation proceedings pending at such time. Upon request of the Developer after payment of any commissioners' award or settlement, the City shall promptly, at a time and place designated by the Developer, convey to the Developer by quit claim deed all right, title and interest in and to any such parcel acquired in connection with or as a result of the condemnation proceeding. The City agrees to the conveyance of the condemned property and to tender into escrow a fully approved and executed quit claim deed, which escrow shall provide for the release of such instrument upon the pay-in of the award or settlement, so long as the Developer is not in default under this Agreement or the TIF Act.

(4) Notwithstanding anything to the contrary in this Agreement, the Developer shall be responsible for all attorneys' fees, penalties, damages and other costs associated with the abandonment of any condemnation proceedings or the prior acquisition of any property within RPA 1 resulting from the Developer's decision to terminate this Agreement as described in clause **Section 3.1(c)(3)(A)** above. This provision shall survive the termination of this Agreement.

(d) *Actions to Clear Title, Condemn Easements, etc.* Upon written request from the Developer, the City will cooperate in and participate in any actions necessary to clear title, condemn an easement, vacate right-of-way or similar activity, as may be necessary for the orderly acquisition of the property necessary for the RPA 1 Redevelopment Project. However, notwithstanding anything to the contrary contained herein, the City will not initiate condemnation proceedings until the Developer complies with subsection (c) to the extent possible with respect to the property interest sought to be condemned.

(e) *Security for Developer's Condemnation Obligations.*

(1) From time to time following the initiation of any proceedings for the exercise of the City's power of eminent domain pursuant to this **Section 3.1** and payment of such commissioners' awards by the Developer to the City, but before payment by the City on behalf of the Developer of any commissioners' awards and acquisition of legal title to any such parcel or parcels by the City on behalf of the Developer, the Developer shall provide the City with an irrevocable letter or letters of credit naming the City as beneficiary, or such other bond or collateral

as the City Attorney or special counsel retained by the City determines appropriate in his sole discretion, in an amount equal to 50% (the *"Security Amount"*) of the commissioners' awards for all parcels that have been taken by eminent domain but for which such commissioners' award is not yet final (a *"Pending Award")*; provided, the Security Amount may be reduced by the amount paid by the Developer to the City pursuant to **Section 2.3(a)**. The letter or letters of credit or other bond or security instrument shall be in legal form and substance acceptable to the City Attorney or special counsel retained by the City and, once issued for any such Pending Award, shall remain outstanding until such time as each such Pending Award has been liquidated, settled, compromised or otherwise resolved and paid or the Developer has abandoned the condemnation or terminated this Agreement in which event such security after the payment of all costs of the condemnation (including any interest award) shall be returned to the Developer.

(2) Notwithstanding anything to the contrary herein, the Developer covenants that it will indemnify and hold harmless the City in the amount that the sum of all jury awards exceeds the sum of all commissioners' awards for all parcels, or interests therein, which have been taken by eminent domain, and the breach of this covenant shall give rise to the City's right of termination pursuant to **Section 7.2**, in addition to any other remedy that the City may have at law or in equity. Upon such termination, the City shall have no obligation to reimburse the Developer for any amounts advanced under this Agreement or for Reimbursable Redevelopment Project Costs incurred or paid by the Developer, and any TIF Notes issued pursuant to this Agreement shall be deemed cancelled.

(f) *Transfer of Title to Corporation.* Following the acquisition thereof by the Developer, the Developer shall transfer fee title to the Property to the Corporation for the purposes of initiating real property tax abatement as provided in Chapter 353 and **Section 6.6** of this Agreement. Immediately after acquiring title to the Property, the Corporation shall transfer fee title to the Property back to the Developer and/or a Related Party.

3.2. Relocation Assistance.

(a) The Developer shall relocate those occupants or businesses displaced from any portion of the Property acquired by the Developer in accordance with the Relocation Policy and applicable law, except as may otherwise be agreed in writing by such displaced occupant or business and approved in writing by the Developer, it being understood and agreed that, to the extent permitted by law, any displaced occupant or business may waive certain rights to statutory and other relocation benefits under the Relocation Policy or otherwise. The Developer will cooperate with the City to encourage businesses and residents that are displaced from RPA 1 to relocate within the City. All payments, costs and expenses described in the Relocation Policy that exceed the requirements of Missouri law shall be paid by the City.

(b) Within 30 days after the date of this Agreement, the Developer shall engage a third-party relocation specialist that has significant experience complying with federal, state and local relocation policies and is acceptable to the City to ensure compliance with the Relocation Policy. The City hereby approves Development Resource Partners LLC.

(c) The Developer shall make commercially reasonable offers to restaurant tenants currently located in Jeffrey Plaza to relocate to locations in the South Phase. The Developer will allow the tenants to initially pay their current rental rate and thereafter increase to market rental rate over a period of not less than two years, as mutually agreed to by the Developer and the tenant. The City is not responsible for any costs pursuant to this paragraph.

3.3. Project Construction.

(a) The Developer shall use reasonable efforts to:

(1) acquire title to the Property within 12 months after the date of this Agreement (excluding title to any portion of the Property that is subject to a then-current condemnation proceeding);

(2) commence the construction of the RPA 1 Redevelopment Project within 16 months after the date of this Agreement; and

(3) complete the Initial Work (as evidenced by the City's acceptance or deemed acceptance of a Certificate of Substantial Completion for the Initial Work) no later than June 30, 2022.

For the purposes of clause (2), commencement of construction will be deemed to have occurred when (A) the Developer provides to the City an executed contract for the demolition of the existing structures in the North Phase and the necessary site work to prepare the North Phase for construction of the North Phase portion of the RPA 1 Redevelopment Project and (B) the on-site work under such contract begins.

(b) The Developer and its project teams shall (1) submit monthly written reports to the City Council regarding the status of constructing the RPA 1 Redevelopment Project and leasing the commercial space included therein (provided, the Developer does not have to disclose any tenants or prospective tenants that the Developer, in its sole discretion, determines the disclosure of which is prohibited or will harm lease negotiations or other business relationships) and (2) upon reasonable notice, meet with the City Manager and such other City staff and consultants as designated by the City Manager to review and discuss the design and construction of the Work to enable the City to monitor the status of construction and to determine that the Work is being performed and completed in accordance with this Agreement and the Municipal Code.

(c) Construction of the Work shall be pursued in a good and workmanlike manner in accordance with the terms of this Agreement.

3.4. Construction Contracts; Insurance. The Developer may enter into one or more construction contracts to complete the Work. All construction contracts entered into by or on behalf of the Developer shall comply with the Minority Contractor/Workforce Agreement and state that the contractor has no recourse against the City in connection with the contractor's construction of the applicable portion of the Work. The Developer shall obtain or shall require any contractor to obtain workers' compensation, commercial public liability and builder's risk insurance coverage in amounts required by the City pursuant to **Section 7.10** and, upon written request of the City, shall deliver evidence of such insurance to the City. The Developer shall require that such insurance be maintained by the contractors for the duration of the construction of the applicable portion of the Work.

3.5. Competitive Bids; Prevailing Wage; Federal Work Authorization.

(a) The Developer shall comply with all applicable federal, State and local laws relating to the construction of the RPA 1 Redevelopment Project, including, but not limited to, Section 107.170, RSMo., and laws relating to the payment of prevailing wages and competitive bidding, to the extent such laws are applicable to the RPA 1 Redevelopment Project or portions thereof. For avoidance of doubt, the City acknowledges that its ordinances relating to competitive bidding do not apply to contracts or purchases by private property owners or tenants for their property.

(b) The Developer acknowledges that it must comply with Section 285.530, RSMo. regarding enrollment and participation in a federal work authorization program with respect to their respective employees working in connection with the RPA 1 Redevelopment Project. The Developer represents and warrants that it is in compliance with Section 285.530, RSMo. at the time of execution of this Agreement and has provided a sworn affidavit and supporting documentation affirming participation in a qualified work authorization program as evidence thereof.

3.6. Governmental Approvals. The City agrees to cooperate with the Developer and to process and timely consider all complete applications for the Governmental Approvals as received, all in accordance with the applicable City ordinances and laws of the State.

3.7. Concept Site Plan; Approved Site Plan; Zoning. The Concept Site Plan is attached as **Exhibit B** hereto. The Developer agrees that it will pursue planned development district zoning for the RPA 1 Redevelopment Project and will comply with all City ordinances relating thereto. Any site plan submitted by the Developer for approval as the Approved Site Plan must not, without the City's advance consent, result in such a change in the RPA 1 Redevelopment Project as would require compliance with the notice and hearing requirements of Section 99.825 of the TIF Act. The Parties agree that the Approved Site Plan shall govern the ultimate design and construction of the RPA 1 Redevelopment Project.

3.8 Construction Plans.

(a) The Construction Plans shall be prepared by one or more professional engineers or architects licensed to practice in the State of Missouri. The Construction Plans and all construction practices and procedures with respect to the Work shall conform with all applicable state and local laws, ordinances and regulations, including, but not limited to, any performance, labor and material payment bonds required for public improvements. The Developer shall submit Construction Plans for approval by the City's Building Commissioner or his designee in sufficient time so as to allow for review of the plans in accordance with applicable City ordinances and procedures and in accordance with the schedule set forth in **Section 3.3**, subject to **Section 7.7**. The plans shall be in sufficient completeness and detail to show that construction will be in conformance with the Approved Site Plan and this Agreement.

(b) Before commencement of construction or during the progress of the Work, the Developer may make such reasonable changes, including, without limitation, modification of the construction schedule, including dates of commencement and completion, modification of the areas in which the Work is to be performed, relocation, expansion or deletion of items, revisions to the areas and scope of the Work, and any and all such other changes as site conditions or orderly development may dictate or as may be required to meet any reasonable requests of prospective tenants or purchasers of any real property located within RPA 1 or as may be necessary or desirable, in the sole determination of the Developer, to enhance the economic viability of the RPA 1 Redevelopment Project and as may be in furtherance of the general objectives of the Redevelopment Plan; provided that, (1) the Developer shall obtain all necessary approvals and comply with all laws, regulations and ordinances of the City, (2) any changes shall not result in an extension of the time for performance of any obligation under this Agreement, and (3) the Developer shall

obtain the City's advance written consent to any change that would, in the opinion of the City Attorney or special counsel retained by the City, result in such a change in the RPA 1 Redevelopment Project as would require compliance with the notice and hearing requirements of Section 99.825 of the TIF Act.

3.9. Special Development Conditions; Use of Minority Contractors; First Source Employment.

(a) *Special Development Conditions.*

(1) The Developer acknowledges that in consideration of the public participation in financing Redevelopment Project Costs, the City expects that the RPA 1 Redevelopment Project will be of a high quality and will include enhanced aesthetic features, including facades, landscaping, bicycle parking and access from the Centennial Greenway. Additionally, the RPA 1 Redevelopment Project will incorporate the special development conditions described on **Exhibit G** attached hereto, which the City may waive in its sole and absolute discretion.

(2) The Developer will provide notice to the City of any meetings between the Developer and MoDOT regarding signalization and lane improvements/changes to Olive Boulevard.

(3) Unless otherwise approved in writing by the City, any hotel developed within RPA 1 will initially be developed as a national flag hotel with an (A) American Automobile Association (or similar rating agency) rating of three diamonds or higher or (B) "upper midscale" or higher designation on the Smith Travel Research, Inc. (or similar rating agency) STR U.S. Chain Scales.

(4) The Developer will cooperate with the City and Great Rivers Greenway regarding the construction of a pedestrian pathway across the South Phase at a mutually-agreeable location to connect with the Centennial Greenway, as a trailhead and/or as a potential future connection to a connecting trail at the Ruth Park Woods. The Developer is not required to incur any costs of designing or constructing the pathway, but agrees to convey an interest in the property on which the pathway will be located to the City or Great Rivers Greenway. The Developer is not required to maintain the trail.

(b) *Minority Contracting.*

(1) Notwithstanding anything else to the contrary contained in this Agreement, the Developer may not commence any demolition or construction activities until (i) the Developer and the Developer's general contractor enter into a Minority Contractor/Workforce Agreement reasonably acceptable to the City and the Developer and (ii) the Developer or the Developer's general contractor has developed a utilization plan reasonably acceptable to the consultant identified in the Minority Contractor/Workforce Agreement.

(2) The Minority Contractor/Workforce Agreement shall contain, but not be limited to, the following terms:

(A) The Developer and the Developer's general contractor shall use commercially reasonable efforts to contract with minority and women subcontractors in the percentages shown on **Exhibit J** attached hereto. If the City determines that the Developer's general contractor has failed to use commercially reasonable efforts to meet those percentages, the Developer and the Developer's general contractor will be prohibited from bidding on any City construction contracts for a period of five years.

(B) During the construction of the RPA 1 Redevelopment Project, the Developer or the Developer's general contractor shall provide written quarterly reports to the City, detailing the usage of minority and women subcontractors and the progress toward meeting goals described in **Exhibit J** and the hiring of any City residents as part of the U City First Hiring Initiative defined in (c) below.

(C) The identity of a consultant, which shall be paid by the Developer, to assist the City in monitoring the Developer's and general contractor's compliance with the Minority Contractor/Workforce Agreement.

(c) *First Source Employment.* The City will establish a program reasonably acceptable to the Developer to recruit City residents, with a particular emphasis on Third Ward residents, for jobs associated with the construction and operation of the RPA 1 Redevelopment Project (the "U City First Hiring Initiative"). The Developer shall require participation in the U City First Hiring Initiative by all contractors associated with the construction of the RPA 1 Redevelopment Project. The Developer shall request participation in the U City First Hiring Initiative by all tenants or purchasers renting or purchasing portions of the RPA 1 Redevelopment Project from the Developer.

3.10. Tenant Selection. Unless approved in writing by the City, the following types of uses shall not be permitted within RPA 1: adult entertainment, adult bookstores, pawn shops, payday loan, title loan, check-cashing and similar uses, and tattoo shops.

3.11. Certificate of Substantial Completion.

(a) Promptly after substantial completion of each of the Initial Work for the North Phase and the Initial Work for the South Phase, the Developer shall furnish a Certificate of Substantial Completion to the City. The Certificate of Substantial Completion shall be in substantially the form of **Exhibit C**, attached hereto and incorporated herein by reference.

(b) The appropriate City official shall, within 30 days following delivery of the Certificate of Substantial Completion, make such inspections as may be reasonably necessary to verify to its reasonable satisfaction the accuracy of the project architect's certifications accompanying the Certificate of Substantial Completion. If the City fails to approve or reject the Certificate of Substantial Completion in writing within such 30-day period, then the Developer shall notify the City in writing of its failure to take action on the Certificate of Substantial Completion and the City shall have fifteen (15) days from receipt of such notice to accept or reject the applicable Certificate of Substantial Completion in writing. The Certificate of Substantial Completion shall be deemed accepted by the City unless, prior to the end of such additional 15-day period, the appropriate City official accepts or rejects the Certificate of Substantial Completion. If the appropriate City official rejects a Certificate of Substantial Completion and/or accompanying certifications, such rejection shall specify in reasonable detail in what respects the Developer has failed to complete the Initial Work for the North Phase or the South Phase, as applicable, in reasonable accordance with the provisions of this Agreement, or in what respects the Developer is otherwise in default, and what reasonable measures or acts the Developer must take or perform, in the opinion of such City official, to obtain such acceptance. Upon acceptance of the Certificate of Substantial Completion by the City or upon the lapse of the additional 15-day period referenced above without any written objections thereto, the Developer may record the Certificate of Substantial Completion with the St. Louis County Recorder, and the same shall constitute evidence of the satisfaction of the Developer's agreements and covenants to perform the Initial Work for the North Phase or South Phase, as applicable.

(c) Upon acceptance (or deemed acceptance) of any Certificate of Substantial Completion by the City, the Developer may record the Certificate of Substantial Completion with the St. Louis County Recorder, and the same shall constitute evidence of the satisfaction of the Developer's agreements and covenants to perform the applicable portion of the Work in accordance with this Agreement.

3.12. Community Improvement District.

(a) The Developer shall petition the City for the creation of the District following its acquisition of the Property. The District's boundaries shall cover all portions of the Property that would be reasonably expected to generate District Revenues if included in the District.

(b) The Developer shall and shall cause the District, promptly following its formation and constitution of a board of directors, to:

(1) authorize and enter into the District Project Agreement, and

(2) take such steps as are necessary (including casting votes as a qualified voter under the CID Act) to impose

(i) the District Sales Tax in the amount of one percent (1.0%);

(ii) the District Hotel Assessments in the amount of $5.00 per occupied sleeping room or suite per night; and

(iii) the District Special Assessments in the following annual amounts:

Year	Annual Assessment	Year	Annual Assessment
2020	$ 1,000,000	2031	$ 2,898,185
2021	2,000,000	2032	2,898,185
2022	2,500,000	2033	2,985,131
2023	2,575,000	2034	2,985,131
2024	2,575,000	2035	3,000,000
2025	2,652,250	2036	3,000,000
2026	2,625,250	2037	3,000,000
2027	2,731,818	2038	3,000,000
2028	2,731,818	2039	3,000,000
2029	2,813,772	2040	3,000,000
2030	2,813,772	2041	3,000,000

The parties agree that the assessments shown above were based on the total square feet shown in the Concept Site Plan, and the final assessments will be adjusted proportionately based on the total square feet shown in the Approved Site Plan.

(c) The parties agree that the Developer, so long as it or a Related Party owns real property or a business operating in the District, shall be authorized to designate a majority of the governing body of the District.

(d) The City acknowledges that the District is integral to the financing of the RPA 1 Redevelopment Project, and in that regard the City will cooperate with and assist the Developer in all proceedings relating to the creation and certification of the District.

(e) Until the TIF Obligations are paid in full, the District shall not issue any bonds or notes or incur any other obligations without the prior written consent of the City, which may be withheld in its sole and absolute discretion. After the TIF Obligations are paid in full, the District may issue bonds, notes and other obligations as it determines appropriate; however, the District will not issue any tax-exempt bonds, notes or obligations without the City's prior written consent (which shall not be unreasonably withheld, conditioned or delayed).

(f) The parties agree that 50% of the District Revenues attributable to the District Sales Tax will constitute Economic Activity Taxes and will be transferred to or at the direction of the City for deposit into the EATS Account of the Special Allocation Fund pursuant to **Section 6.1** (and the Developer will cause the District to provide the necessary consents thereto required by Section 99.845.3 of the TIF Act). In addition, the Developer will cause the District to transfer all other District Revenues (i.e., the portion of District Sales Tax revenues not required to be deposited into the Special Allocation Fund by operation of the TIF Act, the District Hotel Assessments and the District Special Assessments) to the City or to any Trustee for any TIF Obligations in accordance with **Section 6.2**. Once all TIF Obligations have been repaid, the District may use District Revenues for any purpose permitted by the CID Act and the petition providing for the creation of the District.

ARTICLE IV

REIMBURSEMENT OF DEVELOPER COSTS

4.1. City's Obligation to Reimburse Developer. The City agrees to reimburse the Developer, but solely from the proceeds of the TIF Notes and/or TIF Bonds as provided herein, for verified Reimbursable Redevelopment Project Costs in an amount not to exceed the Maximum Reimbursement Amount (plus Issuance Costs and accrued interest on any TIF Notes).

4.2. Reimbursements Limited to Reimbursable Redevelopment Project Costs. Reimbursements to the Developer are limited to costs that qualify as "redevelopment project costs" under Section 99.805 of the TIF Act, plus Issuance Costs and accrued interest on the TIF Notes. Reimbursable Redevelopment Project Costs incurred by the Developer will be eligible for reimbursement upon compliance with the following procedures:

(a) The Developer may submit to the City, no more frequently than once per month, a Certificate of Reimbursable Redevelopment Project Costs in substantially the form of **Exhibit D**, attached hereto and incorporated herein by reference. Such Certificate shall be accompanied by itemized invoices, receipts or other information that will demonstrate that any cost has been incurred and qualifies for reimbursement pursuant to this Agreement.

(b) The City shall notify the Developer in writing within 15 days after each submission of its approval or disapproval of the costs identified in each Certificate of Reimbursable Redevelopment Project Costs. If the City determines that any cost identified as a Reimbursable Redevelopment Project Cost is not a Reimbursable Redevelopment Project Cost under this Agreement, the City shall so notify the Developer in writing within 15 days after the submission, identifying the ineligible cost and the basis for determining the cost to be ineligible. The Developer shall then have the right to identify and substitute other Redevelopment Project Costs as Reimbursable Redevelopment Project Costs, which shall be included with a supplemental application for payment submitted within 15 days after the City's notification of any ineligible costs. The City shall then review and notify the Developer in writing within 15 days after

submission of its approval or disapproval of the costs identified in the supplemental application for payment. If the City fails to approve or disapprove the Certificate of Reimbursable Redevelopment Project Costs within 15 days of submission, the Developer shall notify the City in writing of the City's failure to take action and shall advise the City that the City's failure to take action within an additional 7 days will result in the deemed approval of the Certificate of Reimbursable Redevelopment Project Costs. If the City fails to approve or disapprove of the Certificate of Reimbursable Redevelopment Project Costs within the additional 7-day period, the City shall be deemed approved. Notwithstanding anything to the contrary above, (1) the maximum amount of reimbursement shall not exceed the Maximum Reimbursement Amount (plus Issuance Costs) and (2) no reimbursement shall be permitted for any costs related to the vertical construction of buildings. The City acknowledges and agrees that all of the Acquisition Costs associated with the RPA 1 Redevelopment Project are a Reimbursable Redevelopment Project Cost, subject only to the Maximum Reimbursement Amount.

(c) The Developer shall provide such information, books and records as the City may reasonably request for the City to confirm that any cost submitted qualifies as a Reimbursable Redevelopment Project Cost under this Agreement, has been incurred and paid by the Developer, and has not been reimbursed by the District. The City may retain such consultants as it deems necessary in connection with such review, the cost of which shall be paid from the funds deposited pursuant to **Section 2.2(b)**.

4.3. City's Obligations Limited to Special Allocation Fund and Bond Proceeds. Notwithstanding any other term or provision of this Agreement, the TIF Notes issued by the City for Reimbursable Redevelopment Project Costs are payable only from Available Revenues and Bond Proceeds, and not from any other other source.

ARTICLE V

OBLIGATIONS

5.1. Issuance of TIF Notes. Subject to the limitations contained herein, so long as no default by the Developer has occurred and is continuing hereunder, the City will issue the TIF Notes, in the form substantially similar to **Exhibit E**, attached hereto and incorporated herein by reference, to an Original Purchaser to evidence reimbursement of Reimbursable Redevelopment Project Costs up to the Maximum Reimbursement Amount plus Issuance Costs as provided herein. The City may issue the TIF Notes in either a taxable and/or a tax-exempt series.

(a) *Terms*. The TIF Notes shall have the following terms:

(1) The TIF Notes shall bear interest at a variable rate equal to (i) the greater of (x) the Prime Rate plus 2.00% or (y) 8.00%, if the interest on the TIF Notes (in the opinion of Bond Counsel) is not excluded from gross income for federal income tax purposes (the "*Taxable Rate*"), or (ii) the Taxable Rate less 150 basis points, if the interest on the TIF Notes (in the opinion of Bond Counsel) is excluded from gross income for federal income tax purposes (the "*Tax-Exempt Rate*").

(2) Notwithstanding any provision herein to the contrary, (i) in no event shall the interest rate on the TIF Notes exceed the maximum rate permitted by law and (ii) in no event shall the interest rates on the TIF Notes at the date of issuance thereof exceed the

rates that, based on the Developer's reasonable projections of Available Revenues, would enable the TIF Notes to be paid in full before the stated maturity thereof.

(3) Interest on the TIF Notes shall be compounded semi-annually.

(4) All TIF Notes shall have a stated maturity equal to the longest period permissible under the TIF Act.

(b) *Conditions Precedent to Issuance of the TIF Notes*. The TIF Notes shall not be issued until the following occurs:

(1) the Developer has acquired, or simultaneously with the issuance of the TIF Notes will acquire, at least 14 acres of Property in the North Phase and at least 10 acres of Property in the South Phase;

(2) evidence that the Developer has closed or, simultaneously with the issuance of the TIF Notes, will close, on the private financing for the Initial Work, which includes not less than a 10% equity investment in the form of cash or cash equivalent;

(3) a Minority Contractor/Workforce Agreement reasonably acceptable to the City and the Developer has been executed, and the consultant identified in the Minority Contractor/Workforce Agreement has approved the Developer's or general contractor's utilization plan;

(4) the Developer has agreed in writing to the terms of the U City First Hiring Initiative described in **Section 3.9(c)**; and

(5) the City has approved the Note Ordinance**.**

Within 10 days after the above requirements have been satisfied and the acceptance by the City of a Certificate of Reimbursable Redevelopment Project Costs, the City shall issue the TIF Notes, or endorsements to outstanding TIF Notes, subject to the limitations of **Article IV** and this Section, and the Developer shall be deemed to have advanced funds necessary to purchase such TIF Notes and the City shall be deemed to have deposited such funds in the Project Fund and shall be deemed to have reimbursed the Developer in full for such costs from the amounts deemed to be on deposit in the Project Fund from time to time.

(d) *Holdback.* The principal amount of the TIF Notes shall not be endorsed above $55,500,000 plus Issuance Costs until:

(1) the Developer provides evidence to the reasonable satisfaction of the City Attorney or special counsel retained by the City that the Developer has entered into lease agreements or sale contracts pursuant to which (A) a third party is obligated to commence construction of either (i) a senior living facility of not less than 60,000 square feet or (ii) a movie theatre of not less than 35,000 square feet in the South Phase within 24 months after the Developer acquires the Property upon which the senior living facility or movie theatre will be located, (B) a third party is obligated to commence construction of a hotel of not less than 60 rooms in the South Phase within 24 months after the Developer acquires the Property upon which the hotel will be located, and (C) the Developer is obligated to commence construction of not less than 20,000 square feet of additional commercial space

in the South Phase within 12 months after the Developer acquires the Property upon which tenants will be located;

(2) the 353 Approval Ordinance has been approved and the Corporation has acquired title to the Property; and

(3) the District Sales Tax, District Hotel Assessments and District Special Assessments have been duly approved by the requisite actions of the District's governing body, property owners and qualified voters.

5.2. TIF Bonds.

(a) *When Issued.*

(1) The City, at its discretion, may issue or cause to be issued TIF Bonds at any time, including prior to completion of any of the Work. Such TIF Bonds may be issued in an amount sufficient to refund all or, with the Developer's prior written consent, a portion of the outstanding TIF Notes or to fund any portion of the Work. If TIF Bonds are issued before the receipt of Certificates of Substantial Completion for both the North Phase and the South Phase (either to refund previously issued TIF Notes or in lieu of TIF Notes), the City and the Developer must enter into a mutually-agreeable Bond Financing Agreement, setting forth the terms upon which the Bond Proceeds will be made available to the Developer to fund portions of the Work and/or reimburse the Developer for previously-incurred Reimbursable Redevelopment Project Costs.

(2) Notwithstanding anything to the contrary contained herein, after the acceptance of the Certificates of Substantial Completion, the City will use its best efforts to issue or cause to be issued TIF Bonds in an amount sufficient to refund all or, with the Developer's prior written consent, a portion of the outstanding TIF Notes, provided that the market conditions are such that the payment terms of the TIF Bonds are sufficiently favorable that a reasonably prudent financial officer or agent of a similarly situated political subdivision would undertake such a refunding or refinancing of the TIF Notes.

(3) Alternatively, the Developer may, with the City's consent, request the IDA to issue TIF Bonds in an amount sufficient to refund all or a portion of the outstanding TIF Notes.

(4) The Developer may, from time to time, make a written request of the City for the issuance of the TIF Bonds, provided that the City shall have no obligation to issue the TIF Bonds except in accordance with this Section.

(5) Notwithstanding the foregoing, no TIF Bonds shall be issued by the City or the IDA until such time as:

(A) the City has received the consents required pursuant to **Section 6.1(c)**, if any; and

(B) the City has received such other certificates, statements, receipts and documents as may be reasonably required by the underwriter or other purchaser in connection with its purchase of the TIF Bonds or by Bond Counsel to deliver its opinion to the effect that the TIF Bonds constitute valid and legally binding special, limited obligations of the City.

(b) *Subordinate Notes.* If the maximum amount of TIF Bonds possible is insufficient to refund any TIF Notes, then such amounts will become or be reissued as Subordinate Notes and will be fully subordinated as to both principal and interest to the TIF Bonds. The Subordinate Notes shall have the same outstanding principal amount as the TIF Notes that they redeem or replace, shall have a stated maturity equal to the longest period permissible under the TIF Act and shall bear interest at the fixed rate of 8.00% per annum.

5.3. Cooperation in the Issuance of TIF Obligations.

(a) If the City or the IDA issues TIF Bonds, the Developer covenants to cooperate, and to cause the District to cooperate, and take all reasonable actions necessary to assist the City and Bond Counsel, underwriters and financial advisors in the preparation of offering statements, private placement memorandum or other disclosure documents and all other documents necessary to market and sell the TIF Bonds and make any of the calculations required by **Section 5.6**, including (1) disclosure of tenants of the Property and the non-financial terms of the leases between the Developer and such tenants, and (2) providing sufficiently detailed estimates of Reimbursable Redevelopment Project Costs so as to enable Bond Counsel to render its opinion as to the tax-exemption of TIF Bonds. The Developer shall, if requested by the City, execute a continuing disclosure agreement or undertaking, whereby the Developer will be required to provide annual updates to certain operating information, including the information regarding tenant leases described above. Unless otherwise required by law, the Developer will not be required to disclose to the general public or any investor the rent payable under any such lease or any proprietary or confidential financial information pertaining to the Developer, its tenants or the leases with its tenants, but upon the execution of a confidentiality agreement acceptable to the Developer, the Developer will provide such information to the City's financial advisors, underwriters and their counsel to enable such parties to satisfy their due diligence obligations. Such compliance obligation shall be a covenant running with the land, enforceable as if any subsequent transferee thereof were originally a party to and bound by this Agreement.

(b) If the IDA issues the TIF Bonds, the City covenants to cooperate and take all actions reasonably necessary to assist the IDA in the issuance of the TIF Bonds. The maturity date of any TIF Bonds issued by the IDA may be later than _____, 2042 (i.e., 23 years from the adoption of the TIF Ordinances), but the City's obligation to contribute TIF Revenues and City Revenues to the repayment of such TIF Bonds issued by the IDA shall terminate no later than _____, 2042. Any TIF Bonds outstanding after such date shall be payable from District Revenues only.

(c) Notwithstanding anything to the contrary contained herein, the City and the Developer acknowledge and agree that, if recommended by Bond Counsel, TIF Obligations may be issued in separate series payable from separate portions of the Available Revenues (for example, Bond Counsel may recommend a separate series of TIF Obligations payable only from District Revenues).

5.4. City to Select Bond Counsel, Underwriter and Consultants; Term and Interest Rate.

(a) The City shall select, in its sole discretion, following consultation with the Developer, Bond Counsel, underwriters, financial advisors, the trustee and consultants as the City deems necessary for the issuance of the TIF Bonds. The TIF Bonds shall bear interest at such rates, shall be subject to redemption and shall have such terms as the City, following consultation with the Developer, underwriters, financial advisors and consultants, shall reasonably determine in conformance with the terms of this Agreement.

(b) The City will promptly notify the Developer if the selected underwriting firm or other prospective purchaser of the TIF Bonds determines that it is not able to purchase TIF Bonds in a sufficient amount to refund all of the outstanding TIF Notes. The Developer shall then have thirty (30) days from the

date of such notice to identify an alternative underwriting firm or prospective purchaser of the TIF Bonds that will be able to accommodate a full refunding of the outstanding TIF Notes (the "Alternate Purchaser") and present such Alternate Purchaser to the City for its consideration (during such thirty (30) day period, the City will not issue or market any TIF Bonds). The City will make a good faith evaluation of the Alternate Purchaser's qualifications and the proposed terms of the transaction, and, so long as, in the City's reasonable discretion, the payment terms of the TIF Bonds as provided by the Alternative Purchaser are sufficiently favorable that a reasonably prudent financial officer or agent of a similarly situated political subdivision would undertake such a refunding or refinancing of the TIF Notes, the City will begin working with the Alternate Purchaser to issue the TIF Bonds.

5.5. No Other Obligations or Uses of Available Revenues. So long as the Original Purchaser holds any of the TIF Notes initially issued hereunder, the City shall not issue any other indebtedness or obligations secured by Available Revenues deposited into the account of the Special Allocation Fund from which such TIF Notes are secured (other than TIF Obligations to refund and refinance, and redeem and pay in full, such TIF Notes), and the City shall not use or apply any Available Revenues to pay any Redevelopment Project Costs other than the Reimbursable Redevelopment Project Costs. Following the redemption and payment in full of the TIF Obligations, the City may utilize any excess Available Revenues that are not needed to pay the TIF Obligations to pay any other authorized Redevelopment Project Costs. Nothing in this Section shall be construed to prohibit or limit the City's ability to issue obligations secured by the amounts referenced in **Section 6.3(a)(3)** for the purpose of funding the redevelopment projects for RPA 2 and RPA 3.

ARTICLE VI

SPECIAL ALLOCATION FUND; COLLECTION AND USE OF TIF REVENUES; TAX ABATEMENT

6.1. Special Allocation Fund. The City agrees to cause its Finance Director or other financial officer to maintain the Special Allocation Fund, including within such fund a "*PILOTS Account*," an "*EATS Account*," a "*City Revenues Account*," and a "*District Revenues Account."* Subject to the requirements of the TIF Act and, with respect to Economic Activity Taxes, the City Revenues, and District Revenues, subject to annual appropriation by the City Council and/or the District, as applicable, the City will, promptly upon receipt thereof, deposit all Payments in Lieu of Taxes into the PILOTS Account, all Economic Activity Taxes that constitute TIF Revenues into the EATS Account, all City Revenues into the City Revenues Account, and all District Revenues (that are received by the City and are not TIF Revenues) into the District Revenues Account. The City shall take all actions necessary to cause the Assessor and County Collector to perform all duties required to be performed pursuant to Section 99.845 of the TIF Act.

(a) *Certificate of Total Initial Equalized Assessed Value*. The City shall provide to the Developer, within 30 days after the City's receipt thereof, the St. Louis County Assessor's calculation of the total initial assessed value of all taxable property within RPA 1, determined pursuant to Section 99.855.1 of the TIF Act.

(b) *Certificate of Initial Economic Activity Tax Revenues*. The City shall provide to the Developer and shall file with St. Louis County, within 30 days after the City's receipt thereof, a certification of the total additional revenues from Economic Activity Taxes that are eligible pursuant to the TIF Act or other Missouri law for deposit into the Special Allocation Fund and that were imposed by the City or other taxing districts for economic activities within RPA 1 in the calendar year prior to the adoption of tax increment financing for such area; provided, the certification is required with respect to Economic Activity Taxes derived from utility usage only if

the Developer provides to the City, within 12 months after the execution of this Agreement, copies of utility bills for all Property within RPA 1 together with such other information as the City determines is reasonably required to prepare the certification with respect to sales taxes on utility usage.

(c) *Consent to Release of Sales Tax Information.* If there are six or fewer businesses generating sales taxes, the Developer shall cause each business within RPA 1 to deliver (i) a consent to disclose sales tax information allowing the City to make public sales tax information for the purposes of complying with reporting requirements contained in the TIF Act, calculating City Revenues and making certain disclosures associated with any public offering or private placement of TIF Bonds and (2) a certification of such tenant's taxable retail sales for the purpose of calculating City Revenues. Receipt of such consent shall be a prerequisite to the issuance of the TIF Notes or TIF Bonds. Notwithstanding anything to the contrary in this Agreement, the City shall have no obligation to include within its calculation of City Revenues the sales tax revenues generated from any business within RPA 1 that has not provided the above-described release or certification, but for which the Developer is required by this paragraph to cause to be provided.

6.2. Transfer of District Revenues. The Developer shall cause the District, subject to annual appropriation by its board of directors and in accordance with the District Project Agreement, to transfer all District Revenues to the City or to a Trustee for any TIF Obligations for deposit in the District Revenues Account of the Special Allocation Fund or with the Trustee. If District Revenues are paid to the City, the Finance Director or other financial officer of the City shall maintain separate subaccounts for the District and shall divide the District Revenues into the appropriate subaccounts. The monies on deposit in any District Revenues Account shall be pledged to the payment of the principal of and interest on any outstanding TIF Obligations, subject to applicable law.

6.3. Application of Available Revenues.

(a) The City hereby agrees to apply the Available Revenues semi-annually to the payment of the TIF Notes as provided herein. Unless otherwise specified below, such money shall be applied to such payment (either by the Finance Director or other financial officer or, at the option of the City, by the Trustee on behalf of the City) first from the EATS Account, then from the District Revenues Account, then from the PILOTS Account and then from the City Revenues Account, as follows:

(1) Declare as surplus pursuant to the TIF Act, the amounts described in **Section 6.4(b)** and **(c)**;

(2) Solely from District Revenues, pay the District Administrative Costs (as defined in the District Project Agreement);

(3) Transfer the sum of $250,000 to a separate account or accounts maintained by the City for the purpose of paying costs associated with the redevelopment projects for RPA 2 and RPA 3, until the total amount transferred pursuant to this clause equals $4,000,000;

(4) Pay arbitrage rebate, if any, owed with respect to the TIF Obligations under Section 148 of the Internal Revenue Code of 1986, as amended, including any costs of calculating arbitrage rebate;

(5) Pay fees and expenses owing to the Trustee for the TIF Obligations, upon delivery to the City of an invoice for such amount;

(6) Pay to the City as compensation for the administration of the Redevelopment Plan and this Agreement (including to reimburse the City for costs incurred by third parties in connection with such administration), the sum of $25,000 per calendar year, increased annually by three percent;

(7) Pay the extraordinary fees and expenses incurred by the City relating to the TIF Commission's consideration of the Redevelopment Plan, the TIF Ordinances, the Redevelopment Plan, this Agreement and all TIF Notes, including but not limited to (A) any litigation costs not paid by the Developer pursuant to **Section 7.16** and (B) the costs of responding to any audit, questionnaire or other request for information from the Internal Revenue Service regarding any TIF Obligations;

(8) Pay scheduled principal of, premium, if any, and interest becoming due (by reason of maturity or mandatory sinking fund redemption) on the TIF Obligations on each interest payment date;

(9) Redeem TIF Obligations using all remaining Available Revenues; and

(10) Reimburse the City for City Revenues that were applied to the payment of TIF Obligations.

(b) If TIF Bonds are issued, Available Revenues will be applied in the manner described in the trust indenture for the TIF Bonds. The City and the Developer agree that Available Revenues may, if recommended by Bond Counsel, be bifurcated so that portions of the Available Revenues are used to pay separate series of TIF Obligations (for example, Bond Counsel may recommend a series of TIF Obligations payable only from District Revenues).

(c) If the moneys available in the Special Allocation Fund are insufficient to reimburse the City as provided in (a)(6) or (a)(7) above on any interest payment date, then the unpaid portion shall be carried forward to the next interest payment date, with interest thereon at the Prime Rate.

(d) The City agrees to direct the officer of the City charged with the responsibility of formulating budget proposals to include in the budget proposal submitted to the City Council for each fiscal year that the TIF Obligations are outstanding a request to appropriate all moneys in the EATS Account and the City Revenues Account in the manner provided by this Section.

(e) Notwithstanding anything to the contrary contained herein, the ratio of District Revenues to all Available Revenues applied pursuant to (a) above shall not exceed the ratio of Reimbursable Redevelopment Project Costs eligible for reimbursement under the CID Act, if applicable, to all Reimbursable Redevelopment Project Costs.

6.4. Developer Cooperation in Determining Available Revenues.

(a) The Developer (or its successor(s) in interest as an owner or owner(s) of the affected portion(s) of the Property) shall:

(1) require each "seller" (as that term is defined in Section 144.010(10) of the Revised Statutes of Missouri, as amended) located on the Property that has multiple business operations within the City to file a separate Missouri Department of Revenue Form 53-1 for each location in order to separately identify and declare all sales taxes originating within RPA 1;

(2) supply or cause to be promptly supplied to the City, monthly sales tax information of each "seller" (as that term is defined in Section 144.010(10), RSMo.) in a form substantially similar to the monthly sales tax returns filed with the Missouri Department of Revenue or a certification of the information contained in such reports for the City to calculate City Revenues;

(3) make good faith efforts to assist the City in compiling any information that the City must publicly report, including, without limitation, the information required by Section 99.865.1 of the TIF Act; and

(4) include a provision in every new or amended lease, purchase agreement or similar agreement requiring any lessee, purchaser or transferee of real property or other user of real property located within RPA 1 that states:

> **Economic Activity Taxes:** [*Tenant/Purchaser/Transferee*] acknowledges that the Premises are a part of a tax increment financing district ("TIF District") created by the City of University City, Missouri (the "City") and that certain taxes generated by [*Tenant/Purchaser/Transferee*]'s economic activities, including sales taxes, will be applied toward the costs of improvements for the development that the Premises are part of. Upon the request of [*Landlord/Seller/Transferor*] or the City, [*Tenant/Purchaser/Transferee*] shall forward to the City monthly or quarterly, as applicable, sales tax information in a form substantially similar to the sales tax returns filed with the Missouri Department of Revenue for its property located in the TIF District, and, upon request, shall provide such other reports and returns regarding other local taxes generated by [*Tenant/Purchaser/Transferee*]'s economic activities in the TIF District as the City shall require, all in the format prescribed by them. Sales tax confidentiality shall be protected by the City as required by law. [*Tenant/Purchaser/Transferee*] acknowledges that the City is a third-party beneficiary of the obligations in this Section, and that the City may enforce these obligations in any manner provided by law.

Alternate language may be used by the Developer if such language is approved by the City Attorney or special counsel retained by the City. At the request of the City, the Developer shall provide a certification to the City confirming that a lease, purchase agreement or similar agreement includes the provisions satisfying the Developer' obligation as set forth above.

(b) If the City receives sufficient information from the Developer to prepare a certification of the "base" Economic Activity Taxes pursuant to **Section 6.1(b)**, the Developer shall thereafter, if possible, supply, or cause to be promptly supplied, to the City, by January 31 of each year, copies of utility bills for Property within RPA 1 for the preceding calendar year, together with such other information as the City determines is reasonably required to calculate the amount of Economic Activity Taxes attributable to utility usage. The Developer acknowledges that the City will not be able to accurately determine the Economic Activity Taxes attributable to utility usage in RPA 1 if the Developer does not provide the foregoing information. Accordingly, if the Developer does not provide that information, the Developer waives any claim to utility tax revenues and agrees to bring no suit, claim or other action against the City seeking the deposit of utility tax revenues into the Special Allocation Fund. In that case, any utility tax revenues generated from RPA 1 shall be declared to be surplus by the City pursuant to the TIF Act. [

(c) The Developer hereby acknowledges and agrees that the City likely will be unable to readily identify whether use tax revenues are generated within RPA 1 and, therefore, subject to tax increment financing. Accordingly, the Developer hereby waives any claim to use tax revenues that the City cannot readily identify as having been generated in RPA 1, and hereby agrees to bring no suit, claim or other action against the City seeking deposit of such use tax revenues into the Special Allocation Fund. To

the extent any use tax revenues generated in RPA 1 qualify as Economic Activity Taxes, such taxes shall be declared as surplus under the TIF Act.

6.5. Obligation to Report TIF Revenues and District Revenues. Any purchaser or transferee of real property located within the Property, and any lessee or other user of real property located within the Property required to pay TIF Revenues and District Revenues, shall use all reasonable efforts to timely furnish to the City such documentation as is required by **Section 6.4**. So long as any TIF Obligations are outstanding, the Developer shall cause such obligation to be a covenant running with the land and shall be enforceable as if such purchaser, transferee, lessee or other user of such real property were originally a party to and bound by this Agreement.

6.6. Tax Abatement.

(a) Within six months following execution of this Agreement, the Developer shall submit the Development Plan to the City for consideration in accordance with the 353 Procedural Ordinance. Upon the determination by the City Attorney or special counsel retained by the City that the Development Plan meets the requirements of Chapter 353, the 353 Procedural Ordinance and the intent of this Agreement, the City Attorney or special counsel shall recommend that the City initiate the proceedings required under the 353 Procedural Ordinance to consider legislative approval of the Development Plan.

(b) The Developer shall make ad valorem real property tax payments on Property owned by the Developer within RPA 1 until such time as the tax abatement for such Property becomes effective as provided in this Section.

(c) If the 353 Approval Ordinance is duly enacted and subject to the provisions of this Agreement, all Property acquired by the Corporation pursuant to the Development Plan shall not be subject to assessment or payment of general ad valorem taxes imposed by St. Louis County, the State of Missouri, or any political subdivision thereof, except for the Base Property Tax Payment, for a period that commences on the first day of the calendar year following the fee title transfer of the Property to the Corporation and ending on the earliest of the following: (1) January __, 2042 (i.e., 23 years after the date of adoption of the TIF Ordinances); (2) the date upon which all TIF Obligations have been paid; or (3) the date upon which this Agreement is terminated.

(d) During the period identified in (c) above, the Developer (or any subsequent owner of the Property or portion thereof) shall make 353 PILOT Payments that, when coupled with the Base Property Tax Payments, will equal the payments that would have been made if the ad valorem taxes on the Property were measured by the assessed valuation as determined by the assessor based upon 50% of the true value of such real property, inclusive of land and improvements, in the year prior to the year in which the Corporation acquired title to the Property (i.e., the sum of the Base Property Tax Payments and the 353 PILOT Payments will equal the real property taxes paid on the Property in the calendar year prior to the Corporation's acquisition thereof).

(e) The obligation to make the 353 PILOT Payments shall constitute a lien against the Property. The 353 PILOT Payments shall be payable directly to the County Collector by December 31 of each year and enforceable by the County Collector in the same manner as general real estate taxes. Within 30 days after the execution of this Agreement, the City shall furnish the County Collector and the County Assessor with a copy of this Agreement. The County Collector shall allocate the revenues received from the 353 PILOT Payments among applicable taxing authorities in accordance with Section 353.110.4 of Chapter 353.

(f) Any amounts due under (d) above that are not paid when due shall bear interest at the interest rate of 18% per annum from the date such payment was first due

(g) Upon the conclusion of the period identified in (b) above, no tax abatement shall apply to RPA 1.

ARTICLE VII

GENERAL PROVISIONS

7.1. Developer's Right of Termination.

(a) At any time prior to the delivery of the Certificate of Substantial Completion with respect to the North Phase, the Developer may, by giving written notice to the City, abandon the Work and terminate this Agreement.

(b) At any time prior to the delivery of the Certificate of Substantial Completion with respect to the South Phase, the Developer may, by giving written notice to the City, abandon the Work with respect to the South Phase and terminate this Agreement.

7.2. City's Right of Termination.

(a) Subject to **Section 7.6**, the City may terminate this Agreement at any time prior to the delivery of a Certificate of Substantial Completion, but only if the Developer:

(1) defaults in or breaches any material provision of this Agreement and fails to cure such default or breach pursuant to **Section 7.6** (subject to extension in accordance with **Section 7.7** unless expressly stated otherwise herein); or

(2) materially breaches any representation or warranty contained in **Section 8.2**.

(b) Subject to **Section 7.6**, the City may terminate this Agreement with respect to the South Phase only at any time following the delivery of the Certificate of Substantial Completion for the North Phase and prior to the delivery of the Certificate of Substantial Completion for the South Phase, but only if the Developer:

(1) defaults in or breaches any material provision of this Agreement and fails to cure such default or breach pursuant to **Section 7.6** (subject to extension in accordance with **Section 7.7** unless expressly stated otherwise herein); or

(2) materially breaches any representation or warranty contained in **Section 8.2**.

7.3. Results of Termination. If this Agreement is terminated pursuant to **Section 7.1** or **Section 7.2**, then:

(1) all TIF Obligations shall remain outstanding and shall be on parity with any subsequent TIF Obligations issued in connection with the RPA 1 Redevelopment Project; and

(2) the Developer shall have no further obligations to the City with respect to the RPA 1 Redevelopment Project.

7.4. Term of Agreement. This Agreement, and all of the rights and obligations of the parties hereunder, shall terminate and shall become null and void on that date which is the latest of (a) 23 years from the date of adoption of the TIF Ordinances, (b) the payment of all Reimbursable Redevelopment Project Costs and the retirement in full of all TIF Obligations, or (c) the delivery of a written notice by the City (and recordation of a copy of such notice with the St. Louis County Recorder) that this Agreement has been fully terminated pursuant to **Section 7.1** or **7.2**.

7.5. Successors and Assigns; Transfers to Tax-Exempt Organizations.

(a) *Successor and Assigns.*

(1) This Agreement shall be binding on and shall inure to the benefit of the parties named herein and their respective successors and assigns.

(2) Without limiting the generality of the foregoing, all or any part of the Property or any interest therein may be sold, transferred, encumbered, leased, or otherwise disposed of at any time, and the rights of the Developer named herein or any successors in interest under this Agreement or any part hereof may be assigned at any time before, during or after redevelopment of the RPA 1 Redevelopment Project, whereupon the party disposing of its interest in the Property or assigning its interest under this Agreement shall be thereafter released from further obligation under this Agreement (although any such Property so disposed of or to which such interest pertains shall remain subject to the terms and conditions of this Agreement); provided, except as set forth below, prior to the City's acceptance of a Certificate of Substantial Completion, the Developer may not sell any Property it owns or assign its rights or obligations hereunder without the City's prior written approval, which such approval shall not be unreasonably withheld, conditioned or delayed.

(3) The Developer may, without the City's prior approval:

(A) assign all of its rights, duties and obligations hereunder to a Related Party if (i) such entity expressly assumes all of the Developer's rights, duties and obligations hereunder, (ii) such entity provides evidence as required by **Section 7.10**, (iii) the Developer provides at least 15 days' advance written notice of the proposed assignment (and a copy of the proposed assignment agreement) to the City, and (iv) the Developer promptly provides a copy of the executed assignment to the City; or

(B) encumber or collaterally assign its interests in the Property or any portion thereof to secure loans, advances or extensions of credit to finance or from time to time refinance all or any part of the Redevelopment Project Costs or associated costs, or the right of the holder of any such encumbrance or transferee of any such collateral assignment (or trustee or agent on its behalf) to transfer such interest by foreclosure or transfer in lieu of foreclosure under such encumbrance or collateral assignment and for the successor to further transfer the property to its successors; or

(C) lease or sell portions of RPA 1 to tenants or other end-users in the ordinary course of the development; and/or

(D) designate the entity or party to which the TIF Notes shall be issued or endorsed by delivering written notice of such designation to the City and assign or endorse all of Developer's rights in any TIF Notes to such entity or party.

(b) *Tax-Exempt Organizations.* Except in connection with relocating any tenants within RPA 1, the Developer, without the prior written consent of the City, shall not, until all Reimbursable Redevelopment Project Costs have been paid (including TIF Obligations issued to finance such Reimbursable Redevelopment Project Costs), sell all or any portion of the Property to an organization exempt from payment of ad valorem property taxes, unless such organization agrees to pay to the City, for deposit into the Special Allocation Fund, payments in lieu of taxes equal to the ad valorem real property taxes that would be due on such portion of the Property, but for the organization's exempt status. Any organization that is or may become exempt from payment of ad valorem property taxes shall, by its purchase of a portion of the Property and for each year that it is exempt from paying ad valorem property taxes on such portion of the Property, agree to pay to the City, for deposit into the Special Allocation Fund, payments in lieu of taxes equal to the ad valorem real property taxes that would be due on such portion of the Property, but for the organization's exempt status. This obligation to make payments in lieu of taxes shall terminate upon the retirement of all TIF Obligations. This requirement shall be a covenant running with the land and shall be enforceable for such period as if such purchaser or other transferee or possessor thereof were originally a party to and bound by this Agreement.

7.6. Remedies. Notwithstanding anything to the contrary contained herein, in the case of any default in or breach of any term or condition of this Agreement by either party, the defaulting or breaching party shall, upon written notice from the other party specifying such default or breach, cure or remedy such default or breach within 30 days after receipt of notice (or such longer period as shall be reasonably required to cure such default, provided that the breaching party (a) has commenced such cure within said 30-day period and (b) diligently pursues such cure to completion. If such cure or remedy is not completed or diligently pursued, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including, but not limited to proceedings to compel specific performance by the defaulting or breaching party or to terminate this Agreement (provided, however, that any termination after the issuance of any TIF Obligations shall not affect the validity of the TIF Obligations or the City's obligations to apply Available Revenues in the manner described in **Section 6.3**).

7.7. Extensions of Time for Performance.

(a) Upon satisfaction of the provisions of paragraph (b) of this Section, neither the City nor the Developer nor any successor in interest shall be considered in breach or default of their respective obligations under this Agreement, and times for performance of obligations hereunder shall be extended in the event of any delay caused by force majeure, including, without limitation, damage or destruction by fire or casualty; strike; lockout; civil disorder; acts of terrorism; significant escalation of hostilities involving U.S. armed forces; lack of issuance of any permits and/or legal authorization by the governmental entity necessary for the Developer to proceed with construction of the applicable portion of the Work, including approval of the Approved Site Plan for the RPA 1 Redevelopment Project (but only if the Developer files all necessary documentation relating thereto in a timely manner considering the dates set forth in **Section 3.3** of this Agreement); shortage or delay in shipment of material or fuel; acts of God; unusually adverse weather or wet soil conditions; or other causes beyond the reasonable control of the party required to perform, including, but not limited to, any referendum, litigation, court order or judgment resulting from any litigation affecting the validity of the Redevelopment Plan, the RPA 1 Redevelopment Project, the TIF Obligations, this Agreement or any other litigation that adversely affects the acquisition of the Property and/or development of the RPA 1 Redevelopment Project. The parties agree that, to their knowledge, no event of force majeure exists at the time of execution of this Agreement.

(b) No event under (a) shall be deemed to exist (1) as to any matter that could have been avoided by the exercise of due care in accordance with industry standards, (2) as to any matter unreasonably perpetuated by the Developer, and (3)(A) unless the Developer uses good faith efforts to provide the City

Manager with a written notice within 20 days of the Developer's knowledge of the commencement of such claimed event specifying the event of force majeure, or (B) the Developer demonstrates to the City Manager's reasonable satisfaction that the Developer has diligently pursued its obligations under this Agreement, but for reasons beyond the Developer's control, has been unable to complete such obligations within the time specified in this Agreement. Times for performance shall be extended only for the amount of delay resulting from the event of force majeure. In no event shall times for performance be extended by more than one year for all events of force majeure.

7.8. Notices. Any notice, demand or other communication required by this Agreement to be given by one party hereto to another shall be in writing and shall be sufficiently given or delivered if dispatched by certified United States first class mail, postage prepaid, delivered personally, or transmitted electronically (and receipt confirmed by telephone or electronic read receipt):

(a) If to the City:

City of University City
6801 Delmar Boulevard
University City, Missouri 63301
Attention: City Manager
grose@ucitymo.org

with copies to:

John F. Mulligan, Jr.
Attorney at Law
101 South Hanley Road, Suite 1280
Clayton, Missouri 63105
jfmulliganjr@aol.com

and

Gilmore & Bell, P.C.
One Metropolitan Square
211 N. Broadway, Suite 2000
St. Louis, Missouri 63102
Attention: Mark D. Grimm, Esq.
mgrimm@gilmorebell.com

(b) If to the Developer:

U. City, L.L.C. and U. City TIF Corporation
c/o Novus Development
20 Allen Avenue, Suite 400
Webster Groves, Missouri 63119
Attention: Jonathan Browne
jpbrowne@novusdev.com

with a copy to:

Carmody MacDonald P.C.
120 S. Central Ave., Suite 1800

St. Louis, Missouri 63105
Attention: Kevin M. Cushing
kmc@carmodymacdonald.com

or to such other address with respect to either party as that party may, from time to time, designate in writing and forward to the other as provided in this paragraph. A duplicate copy of each notice or other communication given hereunder shall be given to each other party.

7.9. Insurance; Damage or Destruction of Redevelopment Project.

(a) In accordance with **Section 3.4**, the Developer will obtain or cause its contractors to maintain the insurance policies as hereinafter set forth at all times during the process of constructing the Work and continuing so long as any TIF Obligations are outstanding. The Developer shall, from time to time at the request of the City, furnish the City with proof of payment of premiums on:

(1) During the construction of the Work, builder's risk insurance in a commercially reasonable amount;

(2) Commercial liability insurance with coverages of not less than the current absolute statutory waivers of sovereign immunity in Sections 537.600 and 537.610 of the Revised Statutes of Missouri, as amended (which for calendar year 2019 is equal to $2,865,330 for all claims arising out of a single accident or occurrence and $429,799 for any one person in a single accident or incurrence). Further, the policy shall be adjusted upward annually, to remain at all times not less than the inflation-adjusted sovereign immunity limits as published in the Missouri Register on an annual basis by the Department of Insurance pursuant to Section 537.610 of the Revised Statutes of Missouri, as amended; and

(3) Workers' Compensation insurance, with statutorily required coverage.

(b) The policies of insurance required pursuant to clause (2) above shall be in form and content reasonably satisfactory to the City and shall be placed with financially sound and reputable insurers licensed to transact business in the State with a financial strength rating of not less than A- and a financial size category of not less than VIII as designated in the most current available "Best's" insurance reports. The policies of insurance delivered pursuant to clause (2) above shall name the City as an additional insured, shall be primary and non-contributory with respect to any insurance maintained by the City, and shall contain an agreement of the insurer to give not less than thirty (30) days advance written notice to the City in the event of cancellation of such policy or change affecting the coverage thereunder. The Developer shall deliver or cause to be delivered to the City evidence, in the form of certificates of insurance, of all insurance to be maintained hereunder. The certificates of insurance shall state that "the City of University City is an additional insured on a primary and non-contributory basis."

(c) The Developer shall provide evidence (in form and substance reasonably acceptable to the City Attorney or special counsel retained by the City) that the insurance policy referenced in paragraph (a)(2) or another applicable policy includes contractual liability insurance covering the Developer's obligations to indemnify the City, as provided in this Agreement, by an insurance company with a rating by a reputable rating agency indicating excellent or superior financial strength (i.e., an A.M. Best rating of "A-" or better). Simultaneously with the delivery of this Agreement and annually thereafter prior to the acceptance or deemed acceptance of the Certificate of Substantial Completion for the North Phase portion of the Work, the Developer shall provide to the City Attorney evidence of continued insurance demonstrating compliance with this subsection. The Developer agrees to provide immediate written notice to the City when the cancellation, termination, expiration or modification of the applicable contractual liability policy occurs.

(d) The Developer hereby agrees that, so long as any TIF Obligations are outstanding, if any portion of the RPA 1 Redevelopment Project is damaged or destroyed, in whole or in part, by fire or other casualty (whether or not covered by insurance), or by any taking in condemnation proceedings or the exercise of any right of eminent domain, the RPA 1 Redevelopment Project may be restored, replaced or rebuilt with such alterations or changes as may be approved in writing by the City, which approval shall not be unreasonably withheld or delayed; subject, however, to the rights and prior claims of (and subject to the application of such proceeds pursuant to the direction of) any Project Lender. The Developer (upon learning of the same) shall give prompt written notice to the City of any damages or destruction to any portion of the RPA 1 Redevelopment Project by fire or other casualty, irrespective of the amount of such damage or destruction, and in such circumstances the Developer shall make the portions of RPA 1 that it controls safe and in compliance with all applicable laws as provided herein.

(e) These covenants are for the benefit of the City and may be enforced by the City by a suit for specific performance or for damages, or both.

7.10. Inspection. The City may conduct such periodic inspections of the Work as may be generally provided in the Municipal Code. In addition, the Developer shall allow other authorized representatives of the City access to the site from time to time upon reasonable advance notice for inspection of the RPA 1 Redevelopment Project. The Developer shall also allow the City and its employees, agents and representatives to inspect, upon request, all architectural, engineering, demolition, construction and other contracts and documents pertaining to the construction of their respective portions of the Work as the City determines is reasonable and necessary to verify the Developer's compliance with the terms of this Agreement. The Developer shall advise each contractor for the RPA 1 Redevelopment Project of the contractor's obligations under the Municipal Code regarding permits and inspections. The provisions of this Section shall terminate upon the approval or deemed approval of the Certificate of Substantial Completion relating to the applicable portion of the Work.

7.11. Choice of Law. This Agreement shall be taken and deemed to have been fully executed, made by the parties in, and governed by the laws of State for all purposes and intents. Any action arising out of, or concerning, this Agreement shall be brought only in the Circuit Court of St. Louis County, Missouri. All parties to this Agreement consent to the jurisdiction and venue of such court.

7.12. Entire Agreement; Amendment. This Agreement constitutes the entire agreement among the parties. This Agreement shall be amended only in writing and effective when signed by the authorized agents of the parties.

7.13. Counterparts. This Agreement is executed in multiple counterparts, each of which shall constitute one and the same instrument.

7.14. Severability. If any term or provision of this Agreement is held to be unenforceable by a court of competent jurisdiction, the remainder shall continue in full force and effect, to the extent the remainder can be given effect without the invalid provision.

7.15. Representatives Not Personally Liable. No elected or appointed official, agent, employee or representative of the City shall be personally liable to the Developer in the event of any default or breach by any party under this Agreement, or for any amount which may become due to any party or on any obligations under the terms of this Agreement.

7.16. Actions Contesting the Validity and Enforceability of the Redevelopment Plan.

(a) Before the issuance of the TIF Bonds, if a third party brings an action against the City or the City's officials, agents, employees or representatives contesting the validity or legality of the TIF Ordinances, the Redevelopment Area, the RPA 1 Redevelopment Project, the Redevelopment Plan, the TIF Notes, this Agreement or the TIF Commission's consideration of any of the foregoing, the Developer may, at its option, assume the defense of such claim or action with counsel of the Developer's choosing, but the Developer may not settle or compromise any claim or action for which the Developer has assumed the defense without the prior approval of the City. If the City does not approve a settlement or compromise which the Developer would agree to, the Developer shall not be responsible for any costs or expenses incurred thereafter in the defense of such claim or action or any portion of any settlement or compromise in excess of the settlement or compromise the Developer would agree to. The parties expressly agree that so long as no conflicts of interest exist between them with regard to the handling of such litigation, the same attorney or attorneys may simultaneously represent the City and the Developer in any such proceeding; provided, the Developer and their counsel shall consult with the City throughout the course of any such action and the Developer shall pay all reasonable and necessary costs incurred by the City in connection with such action. All costs of any such defense, whether incurred by the City or the Developer, shall be deemed to be Reimbursable Redevelopment Project Costs and reimbursable from any amounts in the Special Allocation Fund, subject to **Article IV** hereof. The City shall have no obligation to defend the validity or legality of the TIF Ordinances, the Redevelopment Area, the RPA 1 Redevelopment Project, the Redevelopment Plan, the TIF Notes, this Agreement or the TIF Commission's consideration of the foregoing if the Developer chooses not to assume the defense of such claim or action as described above.

(b) In addition, if a third party brings an action against the City or the City's officials, agents, employees or representatives with respect to any other matter as to which the Developer is obligated to indemnify pursuant to **Section 7.17(b)**, the Developer may, at its option, assume the defense of such claim or action with counsel of the Developer' choosing, but the Developer may not settle or compromise any claim or action for which the Developer have assumed the defense without the prior approval of the City. If the City does not approve a settlement or compromise which the Developer would agree to, the Developer shall not be responsible for any costs or expenses incurred thereafter in the defense of such claim or action or any portion of any settlement or compromise in excess of the settlement or compromise the Developer would agree to. The parties expressly agree that so long as no conflicts of interest exist between them with regard to the handling of such litigation, the same attorney or attorneys may simultaneously represent the City and the Developer in any such proceeding; provided, the Developer and their counsel shall consult with the City throughout the course of any such action and the Developer shall pay all reasonable and necessary costs incurred by the City in connection with such action.

7.17. Release and Indemnification.

(a) *Releases.* Notwithstanding anything herein to the contrary, the City and its elected officials, officers, agents, servants, employees and independent contractors shall not be liable to the Developer for any damages or losses (including injuries and deaths) (1) resulting from any part of the TIF Act, or any ordinance adopted in connection with either the TIF Act, this Agreement or the Redevelopment Plan, being declared invalid or unconstitutional in whole or in part by the final (as to which all rights of appeal have expired or have been exhausted) judgment of any court of competent jurisdiction, and by reason thereof either the City is prevented from performing any of the covenants and agreements herein or the Developer is prevented from enjoying the rights and privileges hereof, (2) occurring at or about or resulting from the construction of the Work and the maintenance of the RPA 1 Redevelopment Project or (3) resulting from any lawful decision made or position taken by the City relating in any manner whatsoever to this Agreement, the Redevelopment Plan, the RPA 1 Redevelopment Project, the Approved Site Plan, the Work or the Property. The Developer hereby acknowledges and agrees that (A) all covenants, stipulations, promises, agreements and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City and not of any of its elected officials, officers, agents, servants or employees in their individual capacities and (B) no official, employee or representative of the City shall be personally liable to the Developer.

(b) *Indemnifications.* The Developer covenants and agrees to indemnify, defend and hold harmless the City, its elected officials, officers, agents, servants, employees and independent contractors against any loss or damage to property or any injury to or death of any person:

(1) occurring or resulting from (A) the acquisition of the Property, including, but not limited to, damages related to the abandonment of condemnation proceedings and (B) the construction of the Work, including, but not limited to, the location of hazardous wastes, hazardous materials or other environmental contaminants on the Property and the design and development of the RPA 1 Redevelopment Project;

(2) connected in any way to the negligence or willful misconduct of the Developer, their employees, agents or independent contractors; or

(3) resulting from the lack of compliance by the Developer with any state, federal or local environmental law, regulation or ordinance applicable to the Property.

The indemnification provided under this Section includes all costs of defense, including attorneys' fees, interest fees and other penalties. Notwithstanding anything to the contrary contained herein, the indemnity provided in this Section will not extend to any matters arising out of the negligence or intentional misconduct of the City and its elected officials, officers, agents, servants, employees and independent contractors and, further, the Developer retains a contractual remedy against the City in the event of a material breach of this Agreement on the part of the City.

(c) The releases and indemnifications contained in this Section shall survive termination or expiration of this Agreement, but nothing in this Agreement (including **Section 7.19**) shall be construed to require the Developer to indemnify the City, its elected officials, officers, employees, agents and independent contractors for any claims related to actions or events that occur after the termination of this Agreement.

7.18. Survival. Notwithstanding anything to the contrary in this Agreement, the following provisions shall survive the expiration or termination of this Agreement: (a) the Developer's reimbursement

obligation in **Section 2.2** with respect to costs incurred by the City prior to termination of this Agreement; (b) the limitation on liability in **Section 7.15**; and (c) the provisions of **Sections 7.16** and **7.17**.

7.19. Maintenance of the Property. The RPA 1 Redevelopment Project shall remain in compliance with all provisions of the Municipal Code relating to maintenance and appearance during the construction of the RPA 1 Redevelopment Project or any portions thereof. The obligations under this Section shall be a covenant running with the land, enforceable as if any subsequent transferee thereof were originally a party to and bound by this Agreement.

7.20. Enforcement of Agreement. The parties hereto agree that irreparable damage would occur in the event any provision of this Agreement was not performed in accordance with its specific terms or was otherwise breached. It is accordingly agreed that the parties shall be entitled to obtain an injunction or injunctions to prevent breaches of this Agreement and to enforce specifically the terms and provisions hereof.

7.21. Recording of Agreement. Promptly after its acquisition of the Property, the Developer shall cause the obligations arising pursuant to this Agreement to be a covenant running with the land by recording this Agreement or a memorandum of this Agreement in the real estate records of St. Louis County, Missouri. Upon the expiration or termination of this Agreement, the City will, at the expense and request of the Developer, join with the Developer to execute and record a notice of such expiration or termination in the real estate records of St. Louis County.

7.22. No Waiver of Sovereign Immunity. Nothing in this Agreement shall be construed or deemed to constitute a waiver of the City's sovereign immunity.

7.23. No Third Party Beneficiaries. This Agreement constitutes a contract solely between the City and the Developer. No third party has any beneficial interest in or derived from this Agreement.

ARTICLE VIII

REPRESENTATIONS, WARRANTIES AND COVENANTS OF THE PARTIES

8.1. Representations of the City. The City makes the following representations and warranties, which are true and correct on the date hereof:

(a) *No Violations.* The execution and delivery of this Agreement, the consummation of the transactions contemplated thereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any agreement or instrument to which it is now a party, and do not and will not constitute a default under any of the foregoing.

(b) *No Litigation*. To the City's knowledge, with the exception of an investigation by the Missouri Attorney General's office regarding the City's compliance with the Missouri Sunshine Law, Chapter 610 of the Revised Statutes of Missouri, as amended, no litigation, proceedings or investigations are pending or threatened against the City with respect to the RPA 1 Redevelopment Project or this Agreement. In addition, no litigation, proceedings or investigations are pending or, to the knowledge of the City, threatened against the City seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of the City to enter into and carry out the

transactions described in or contemplated by the execution, delivery, validity or performance by the City of, the terms and provisions of this Agreement.

(c) *Governmental or Corporate Consents*. No consent or approval is required to be obtained from, and no action need be taken by, or document filed with, any governmental body or corporate entity in connection with the execution and delivery by the City of this Agreement.

(d) *No Default*. No default or event of default has occurred and is continuing, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a default or an event of default in any material respect on the part of the City under this Agreement.

(e) *Authority*. The City has full constitutional and lawful right, power and authority, under current applicable law, to execute and deliver and perform the terms and obligations of this Agreement, including, but not limited to, the right, power and authority to issue and sell the TIF Obligations, and all of the foregoing have been or will be, upon adoption of ordinances authorizing the issuance of the TIF Obligations, duly and validly authorized and approved by all necessary City proceedings, findings and actions. Accordingly, this Agreement constitutes the legal, valid and binding obligation of the City, enforceable in accordance with its terms.

8.2. Representations of the Developer. The Developer makes the following representations and warranties, which representations and warranties are true and correct on the date hereof:

(a) *No Violations.* The execution and delivery of this Agreement, the consummation of the transactions contemplated thereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any corporate or organizational restriction or of any agreement or instrument to which it is now a party, and do not and will not constitute a default under any of the foregoing.

(b) *No Litigation*. To the Developer's knowledge (including the knowledge of any member of the Developer executing this Agreement), no litigation, proceedings or investigations are pending or threatened against the Developer (or any member of the Developer) with respect to the RPA 1 Redevelopment Project or against the RPA 1 Redevelopment Project. In addition, to the Developer's knowledge (including the knowledge of any member of the Developer executing this Agreement), no litigation, proceedings or investigations are pending or threatened against the Developer (or any member of the Developer) seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of the Developer (or any member of the Developer) to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by the Developer (or any member of the Developer) of, the terms and provisions of this Agreement.

(c) *Governmental or Corporate Consents*. To the Developer's knowledge, no consent or approval is required to be obtained from, and no action need be taken by, or document filed with, any governmental body or corporate entity in connection with the execution, delivery and performance by the Developer of this Agreement, except for certain consents required by the current owner of the Property in connection with the sale of the Property and other consents that must be secured subsequent to the execution of this Agreement.

(d) *No Default*. No default or event of default has occurred and is continuing, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both,

would constitute a default or an event of default in any material respect on the part of the Developer under this Agreement, or any other material agreement or material instrument related to the Developer's ability to perform pursuant to this Agreement to which the Developer is a party or by which the Developer is or may be bound.

(e) *Authority*. The Developer has been authorized to execute and deliver and perform the terms and obligations of this Agreement. This Agreement constitutes the legal, valid and binding obligation of the Developer, enforceable in accordance with its terms.

(f) *Compliance with Laws*. With respect to its ability to perform pursuant to this Agreement, the Developer is, to its knowledge, in compliance with all valid laws, ordinances, orders, decrees, decisions, rules, regulations and requirements of every duly constituted governmental authority, commission and court applicable to any of its affairs, business, operations as contemplated by this Agreement.

(g) *Accuracy of Project Data.* The Developer has provided certain financial and other information regarding the RPA 1 Redevelopment Project (the *"Project Data"*) to the City and its consultants. The parties agree that project costs, project rents and other financial information included within the Project Data have changed and will further change as the RPA 1 Redevelopment Project evolves from concept to completion, and such changes may be material. Accordingly, the Developer cannot and will not make any representation that the Project Data previously provided is currently true and accurate. Nevertheless, the Developer represents that (1) the most recently supplied Project Data was, to the Developer's knowledge, developed and provided in good faith and (2) to the Developer's knowledge, the Concept Site Plan set forth as **Exhibit B**, attached hereto and incorporated herein by reference, is a good faith representation of the uses that the Developer will endeavor to locate on the Property and the Project Budget set forth as **Exhibit H**, attached hereto and incorporated herein by reference, is a good faith representation of the Developer's estimate of the anticipated development costs.

8.3. Community Children Service's Fund. The City and the Developer acknowledge that, in compliance with the Missouri General Assembly's intent expressed in Section 67.1776 of the Revised Statutes of Missouri, as amended, tax increment financing within RPA 1 will not capture any of the Community Children's Services Fund sales tax revenues, and neither party will institute a claim or challenge under the TIF Act asserting otherwise.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the City and the Developer have caused this Agreement to be executed in their respective names and the City has caused its seal to be affixed thereto, and attested as to the date first above written.

CITY OF UNIVERSITY CITY, MISSOURI

By: _____
Gregory E. Rose, City Manager

ATTEST:

_____
LaRette Reese, City Clerk

STATE OF MISSOURI)
) SS
COUNTY OF ST. LOUIS)

On this ___ day of _____, 2019, before me appeared **GREGORY E. ROSE**, to me personally known, who, being by me duly sworn, did say that he is the City Manager of the **CITY OF UNIVERSITY CITY, MISSOURI**, an incorporated political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed in behalf of said City by authority of its City Council, and said **GREGORY E. ROSE** acknowledged said instrument to be the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

_____
Name: _____
Notary Public – State of Missouri
Commissioned in St. Louis County

(SEAL)

My Commission Expires:

U. CITY, L.L.C.

By: _____
Name: Jonathan Browne
Title: Authorized Representative

STATE OF MISSOURI)
) **SS**
COUNTY OF ST. LOUIS)

On this 11th day of January 2019, before me appeared **JONATHAN BROWNE**, to me personally known, who, being by me duly sworn, did say that he is the authorized Repres. of **U. CITY, L.L.C.**, a Missouri limited liability company, and that he is authorized to sign the foregoing instrument on behalf of said limited liability company, and acknowledged to me that he executed the within instrument as said limited liability company's free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Nancy J. Hoeing
Notary Public

(SEAL)

My Commission Expires:

11-24-19

NANCY J. HOEING
Notary Public, Notary Seal
State of Missouri
St. Louis City
Commission # 15737236
My Commission Expires November 24, 2019

U. CITY TIF CORPORATION

By: _____
Name: Jonathan Browne
Title: President

STATE OF MISSOURI)
) **SS**
COUNTY OF ST. LOUIS)

On this 11th day of January 2019, before me appeared **JONATHAN BROWNE**, to me personally known, who, being by me duly sworn, did say that he is the President of **U. CITY TIF CORPORATION**, a Missouri corporation, and that he is authorized to sign the foregoing instrument on behalf of said corporation, and acknowledged to me that he executed the within instrument as said corporation's free act and deed.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Nancy J. Hoeing
Notary Public

(SEAL)

My Commission Expires:

11-24-2019

NANCY J. HOEING
Notary Public, Notary Seal
State of Missouri
St. Louis City
Commission # 15737236
My Commission Expires November 24, 2019

EXHIBIT A

LEGAL DESCRIPTION OF RPA 1

[To be added prior to execution.]

EXHIBIT B

CONCEPT SITE PLAN

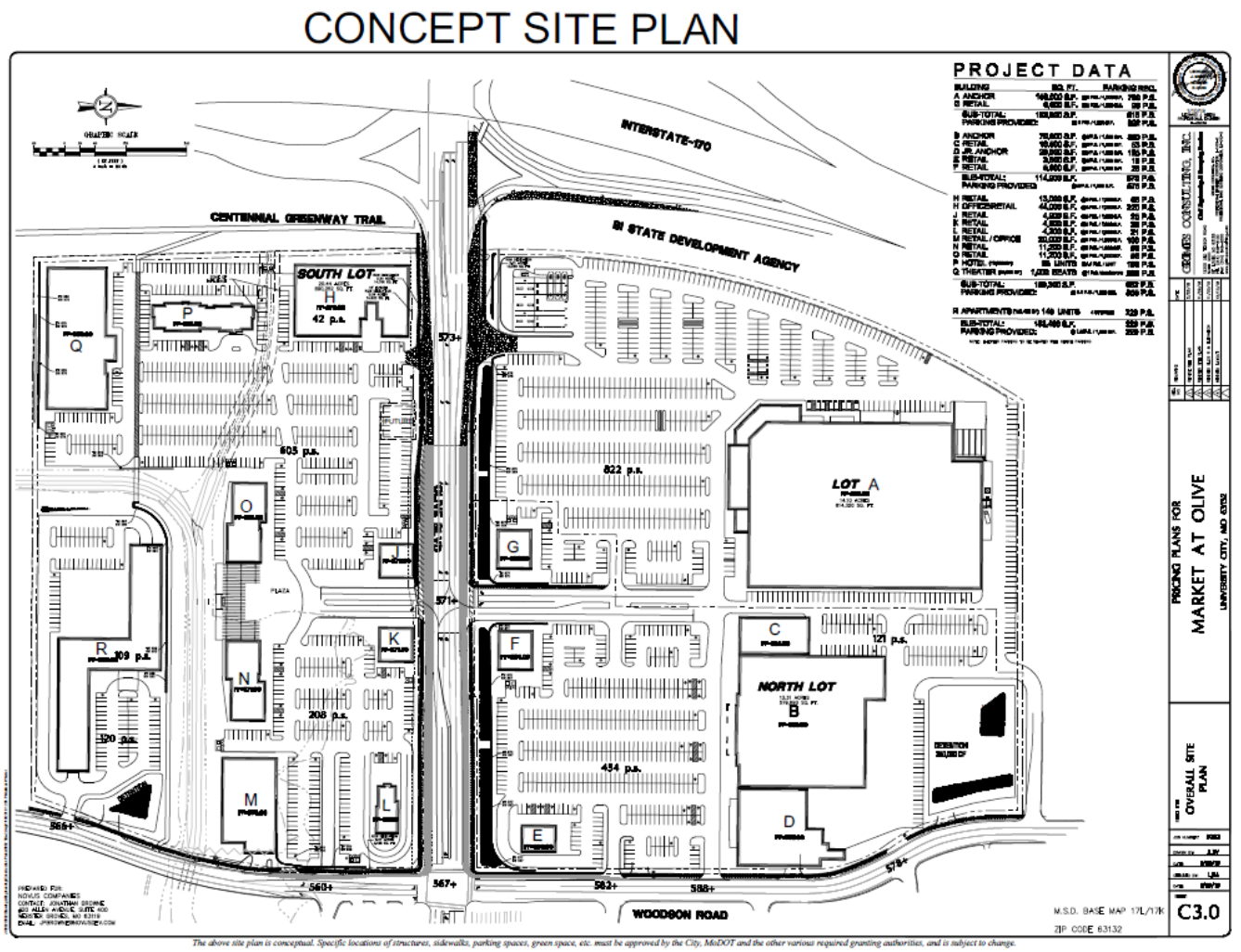


EXHIBIT C

FORM OF CERTIFICATE OF SUBSTANTIAL COMPLETION

Certificate of Substantial Completion
[North Phase / South Phase]

The undersigned, U. City, L.L.C. and U. City TIF Corporation (collectively, the "Developer"), pursuant to that certain Redevelopment Agreement dated as of _____, 2019, between the City of University City, Missouri (the "*City*") and the Developer (the "*Agreement*"), hereby certifies to the City as follows:

1. As of _____, 20___, the [*Initial Work with respect to the North Phase / Initial Work with respect to the South Phase*] (as such terms are defined in the Agreement) has been substantially completed in accordance with the Agreement.

2. The applicable portion of the Work has been performed in a workmanlike manner and in accordance with the Construction Plans (as defined in the Agreement).

3. Lien waivers for the applicable portion of the Work have been obtained.

4. This Certificate of Substantial Completion is accompanied by one or more architect's or engineer's certificate(s) of substantial completion on AIA Form G-704 (or the substantial equivalent thereof), a copy of which is attached hereto as **Appendix A** and by this reference incorporated herein), which, when taken together, certify that the applicable portion of the Work has been substantially completed in accordance with the Agreement.

5. This Certificate of Substantial Completion is being issued by the Developer to the City in accordance with the Agreement to evidence the Developer's satisfaction of all obligations and covenants with respect to the applicable portion of the Work.

6. The City's acceptance (below) or the City's failure to object in writing to this Certificate within 30 days from the receipt of written notice of its failure to approve or provide written objections to this Certificate pursuant to **Section 3.11** of the Agreement (which written objection, if any, must be delivered to the Developer prior to the end of such 30-day period), and the recordation of this Certificate with the St. Louis County Recorder shall evidence the satisfaction of the Developer's agreements and covenants to perform the applicable portion of the Work.

This Certificate shall be recorded in the office of the St. Louis County Recorder. This Certificate is given without prejudice to any rights against third parties which exist as of the date hereof or which may subsequently come into being.

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

IN WITNESS WHEREOF, the undersigned has hereunto set his/her hand this _____ day of _____, 20___.

U. CITY, L.L.C.

By: _____
[Name], [Title]

U. CITY TIF CORPORATION

By: _____
[Name], [Title]

ACCEPTED:

CITY OF UNIVERSITY CITY, MISSOURI

By: _____
[Name], [Title]

(Insert Notary Form(s) and Legal Description)

EXHIBIT D

FORM OF CERTIFICATE OF
REIMBURSABLE REDEVELOPMENT PROJECT COSTS

Certificate of Reimbursable Redevelopment Project Costs

TO: City of University City, Missouri
6801 Delmar Boulevard
University City, Missouri 63301
Attention: City Manager

Re: City of University City, Missouri, RPA 1 of the Olive Boulevard Commercial Corridor and Residential Conversation Redevelopment Area

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Redevelopment Agreement dated as of _____, 2019 (the "*Agreement*") between the City of University City, Missouri (the "*City*") and U. City, L.L.C. and U. City TIF Corporation (collectively, the "*Developer*"). In connection with said Agreement, the undersigned hereby states and certifies that:

1. Each item listed on **Schedule 1**, attached hereto and incorporated herein by reference, is a Reimbursable Redevelopment Project Cost and was incurred in connection with the construction of the RPA 1 Redevelopment Project.

2. These Reimbursable Redevelopment Project Costs have been paid by the Developer and are reimbursable under the TIF Ordinances and the Agreement and have not been, and will not be, reimbursed by the District.

3. Each item listed on **Schedule 1** has not previously been paid or reimbursed from money derived from the Special Allocation Fund or any money derived from the Project Fund established pursuant to the Note Ordinance, and no part thereof has been included in any other certificate previously filed with the City.

4. There has not been filed with or served upon the Developer any notice of any lien, right of lien or attachment upon or claim affecting the right of any person, firm or corporation to receive payment of the amounts stated in this request, except to the extent any such lien is being contested in good faith.

5. All necessary permits and approvals required for the portion of the Work for which this certificate relates have been issued and are in full force and effect.

6. All Work for which payment or reimbursement is requested has been performed in a good and workmanlike manner and in accordance with the Approved Site Plan and the Agreement.

7. If any cost item to be reimbursed under this Certificate is deemed not to constitute a "redevelopment project cost" within the meaning of the TIF Act and the Agreement, the Developer shall have the right to substitute other eligible Reimbursable Redevelopment Project Costs for payment hereunder.

8. The Developer believes that all or a portion of the costs to be reimbursed under this Certificate may constitute advances qualified for Tax-Exempt Notes.

Yes:_____ No:_____

9. The Developer is not in material default or breach of any term or condition of the Agreement.

Dated this _____ day of _____, 20___.

U. CITY, L.L.C.

By: _____
[Name], [Title]

U. CITY TIF CORPORATION

By: _____
[Name], [Title]

Approved for Payment this _____ day of _____, 20___:

CITY OF UNIVERSITY CITY, MISSOURI

By: _____
[Name], [Title]

EXHIBIT E

FORM OF TIF NOTES

THIS NOTE OR ANY PORTION HEREOF MAY BE TRANSFERRED, ASSIGNED OR NEGOTIATED ONLY AS PROVIDED IN THE HEREIN DESCRIBED INDENTURE.

UNITED STATES OF AMERICA
STATE OF MISSOURI

Registered **Registered**
No. R-_____ **Up to $_____***
(See **Schedule A** attached)

CITY OF UNIVERSITY CITY, MISSOURI
[TAX-EXEMPT] [TAXABLE] TAX INCREMENT REVENUE NOTE
(OLIVE BOULEVARD COMMERCIAL CORRIDOR AND RESIDENTIAL CONSERVATION RPA 1 REDEVELOPMENT PROJECT)
SERIES [A/B]

Interest Rate: _____ **Maturity Date: [_____], 2042**

REGISTERED OWNER:

PRINCIPAL AMOUNT: **See SCHEDULE A attached hereto.**

The **CITY OF UNIVERSITY CITY, MISSOURI**, an incorporated political subdivision duly organized and validly existing under the Constitution and laws of the State of Missouri (the "*City*"), for value received, hereby promises to pay to the registered Owner shown above, or registered assigns, the Principal Amount shown from time to time on **Schedule A** attached hereto on the Maturity Date shown above unless called for redemption prior to the Maturity Date, and to pay interest thereon from the effective date of registration shown from time to time on **Schedule A** attached hereto or from the most recent Interest Payment Date to which interest has been paid or duly provided for (computed on the basis of a 360-day year of twelve 30-day months) at the Interest Rate set forth above (as may be adjusted pursuant to the below-defined Agreement).

Interest shall be payable semiannually on May 1 and November 1 in each year (each, an "*Interest Payment Date*"), beginning on the first Interest Payment Date following the initial transfer of moneys to the Special Allocation Fund. Interest that remains unpaid on any Interest Payment Date shall be compounded on each Interest Payment Date.

Except as otherwise provided herein, the capitalized terms herein shall have the meanings as provided in the Indenture (as hereinafter defined) or the Redevelopment Agreement dated as of _____, 2019 (the "Agreement"), between the City and U. City, L.L.C. and U. City TIF Corporation (collectively, the "Developer").

THE OBLIGATIONS OF THE CITY WITH RESPECT TO THIS NOTE TERMINATE ON THE MATURITY DATE, WHETHER OR NOT THE PRINCIPAL AMOUNT OR INTEREST HEREON HAS BEEN PAID IN FULL. REFERENCE IS MADE TO THE AGREEMENT AND THE INDENTURE FOR A COMPLETE DESCRIPTION OF THE CITY'S OBLIGATIONS HEREUNDER.

The principal of this Note shall be paid at maturity or upon earlier redemption to the Person in whose name this Note is registered on the Register at the maturity or redemption date hereof, upon presentation and surrender of this Note at the principal corporate trust office of [_____], St. Louis, Missouri (the "*Trustee*") or such other office as the Trustee shall designate. The interest payable on this Note on any Interest Payment Date shall be paid to the Person in whose name this Note is registered on the Register at the close of business on the fifteenth day (whether or not a Business Day) of the calendar month next preceding such Interest Payment Date. Such interest shall be payable (a) by check or draft mailed by the Trustee to the address of such registered Owner shown on the Register or (b) by electronic transfer to such registered owner upon written notice given to the Trustee by such registered Owner, not less than 15 days prior to the Record Date for such interest, containing the electronic transfer instructions including the name and address of the bank, its ABA routing number, the name and account number to which such registered Owner wishes to have such transfer directed and an acknowledgement that an electronic transfer fee may be applicable. The principal or redemption price of and interest on the TIF Notes shall be payable by check or draft in any coin or currency that, on the respective dates of payment thereof, is legal tender for the payment of public and private debts.

This Note is one of an authorized series of fully-registered notes of the City designated "City of University City, Missouri, [Tax-Exempt] [Taxable] Tax Increment Revenue Notes (Olive Boulevard Commercial Corridor and Residential Conservation RPA 1 Redevelopment Project), Series [A/B]," which together with other authorized series of fully-registered Notes of the City designated "City of University City, Missouri, [Tax-Exempt] [Taxable] Tax Increment Revenue Notes (Olive Boulevard Commercial Corridor and Residential Conservation RPA 1 Redevelopment Project), Series [A/B]," aggregate a principal amount of up to $_____ (collectively the "*TIF Notes*"). The TIF Notes are being issued for the purpose of paying a portion of the Redevelopment Project Costs in connection with the RPA 1 Redevelopment Project described in the Olive Boulevard Commercial Corridor and Residential Conservation Redevelopment Plan, under the authority of and in full compliance with the City Charter, the Constitution and laws of the State of Missouri, including particularly the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 through 99.865, inclusive, of the Revised Statutes of Missouri, as amended (the "*Act*"), and pursuant to a Trust Indenture dated as of _____, 20__, between the City and the Trustee (said Trust Indenture, as amended and supplemented in accordance with the terms thereof, being herein called the "*Indenture*").

The TIF Notes constitute special, limited obligations of the City payable as to principal, premium, if any, and interest solely from the Pledged Revenues and other moneys pledged thereto and held by the Trustee pursuant to the Indenture.

"*Pledged Revenues*" means all Available Revenues and all moneys held in the Revenue Fund and the Debt Service Fund under the Indenture, together with investment earnings thereon.

"*Net Proceeds*" means (a) all Payments in Lieu of Taxes on deposit in the PILOTS Account of the Special Allocation Fund, and (b) subject to annual appropriation, all Economic Activity Tax Revenues on deposit in the EATS Account and all District Revenues on deposit in the District Revenues Account of the Special Allocation Fund that have been appropriated to the repayment of the TIF Notes, and (c) all City Revenues in the City Revenues Account, excluding in all cases (i) any amount paid under protest until the

protest is withdrawn or resolved against the taxpayer and (ii) any sum received by the City which is the subject of a suit or other claim communicated to the City that challenges the collection of such sum.

"*Payments in Lieu of Taxes*" means those payments in lieu of taxes (as defined in Sections 99.805 and 99.845 of the Act) attributable to the increase in the current equalized assessed valuation of all taxable lots, blocks, tracts and parcels of real property in RPA 1 over and above the certified total initial equalized assessed valuation of the real property in RPA 1, as provided for by Section 99.855 of the Act.

"*Economic Activity Tax Revenues*" means 50% of the total additional revenues from taxes which are imposed by the City or any other taxing district (as that term is defined in Section 99.805 of the Act) and which are generated by economic activities within RPA 1 over the amount of such taxes generated by economic activities within RPA 1 in the calendar year prior to the adoption of tax increment financing within RPA 1, but excluding therefrom personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, licenses, fees or special assessments and taxes imposed pursuant to Section 94.660 of the Revised Statutes of Missouri, as amended, and any other taxes excluded from tax increment financing by Missouri law.

"*District Revenues*" means any and all revenues generated by the District Sales Tax, District Special Assessments, and District Hotel Assessments that are appropriated by the District and deposited into the District Revenues Account.

The Owner understands that, if the Developer does not provide information required by the Agreement with respect to utility usage within RPA 1, the City will not be able to calculate the amount of Economic Activity Tax Revenues attributable to utility tax revenues. By purchasing this Note, the Owner hereby waives any claim to utility tax revenues and use tax revenues and agrees to bring no suit, claim or other action against the City seeking the deposit of utility tax revenues or use tax revenues into the Special Allocation Fund. Except as otherwise provided in the Agreement, all utility tax revenues and use tax revenues generated from RPA 1 will be declared as surplus by the City pursuant to the TIF Act.

The TIF Notes shall not constitute debts or liabilities of the City, the District, the State of Missouri or any political subdivision thereof within the meaning of any constitutional, statutory or charter debt limitation or restriction. Neither the City, the District, the TIF Commission, the commissioners of said TIF Commission, the officers and employees of the City, the officers and employees of the District nor any person executing the TIF Notes shall be personally liable for such obligations by reason of the issuance thereof.

Net Proceeds shall be applied to the payment of the TIF Notes in the manner prescribed in the Indenture.

The City agrees to direct the officer of the City charged with the responsibility of formulating budget proposals to include in the budget proposal submitted to the City Council for each fiscal year that Notes are outstanding a request for an appropriation of all moneys on deposit in the EATS Account and the District Revenues Account of the Special Allocation Fund for application in the manner described above.

The TIF Notes are subject to optional redemption by the City in whole at any time or in part on any Interest Payment Date at a redemption price of 100% of the principal amount of the TIF Notes to be redeemed, plus accrued interest thereon to the date fixed for redemption, as provided in the Indenture.

The TIF Notes are subject to special mandatory redemption by the City on any Interest Payment Date, at the redemption price of 100% of the principal amount being redeemed, together with accrued interest thereon to the date fixed for redemption, in an amount (subject to the Indenture) equal to the amount

which, 40 days (10 days if all of the TIF Notes are owned by the Developer) prior to each Interest Payment Date, is on deposit in the Debt Service Fund and which will not be required for the payment of interest on such Interest Payment Date.

All Taxable Notes shall be redeemed prior to the Tax-Exempt Notes.

If any of the TIF Notes are to be called for redemption as aforesaid, notice of redemption, unless waived, is to be given by the Trustee by mailing an official redemption notice by first class mail at least 30 days (5 days if all of the TIF Notes are owned by the Developer) and not more than 60 days prior to the date fixed for redemption to the registered Owner of each Note to be redeemed at the address shown on the Register as of the date of such notice, as more fully described in the Indenture. Notice of redemption having been given as aforesaid, and provided that moneys are on deposit with the Trustee to effect the required redemption, the TIF Notes or portions of TIF Notes so to be redeemed shall, on the redemption date, become due and payable at the redemption price therein specified, and from and after such date (unless the City defaults in the payment of the redemption price) such TIF Notes or portions of TIF Notes so called for redemption shall cease to bear interest, shall no longer be secured by the Indenture and shall not be deemed to be Outstanding under the provisions of the Indenture. Any defect in any notice or the failure of any parties to receive any notice of redemption shall not cause any Note called for redemption to remain Outstanding.

The TIF Notes are issuable in the form of fully-registered TIF Notes in the denomination of $0.01 or any integral multiple thereof.

This Note may be transferred or exchanged, as provided in the Indenture, only upon the Register, upon surrender of this Note together with a written instrument of transfer satisfactory to the Trustee duly executed by the registered owner or the registered owner's duly authorized agent. THE OWNER HEREOF EXPRESSLY AGREES, BY SUCH OWNER'S ACCEPTANCE HEREOF, THAT THE RIGHT TO TRANSFER, ASSIGN OR NEGOTIATE THIS NOTE SHALL BE LIMITED TO TRANSFER, ASSIGNMENT OR NEGOTIATION TO APPROVED INVESTORS, AS THAT TERM IS DEFINED IN THE INDENTURE. Accordingly, this Note will be transferable only upon prior delivery to the Trustee of a letter in substantially the form attached to the Indenture as **Exhibit B**, signed by the transferee, showing that such transferee is an Approved Investor. After the Trustee receives the foregoing statement, a new Note of the same maturity and in the same principal amount outstanding as the Note which was presented for transfer or exchange shall be issued to the transferee in exchange therefor as provided in the Indenture, and upon payment of the charges therein prescribed. The City and the Trustee may deem and treat the Person in whose name this Note is registered on the Register as the absolute owner hereof for the purpose of receiving payment of, or on account of, the principal or redemption price hereof and interest due hereon and for all other purposes.

This Note shall not be valid or binding on the City or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon has been executed by the Trustee.

IT IS HEREBY CERTIFIED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the TIF Notes have existed, happened and been performed in due time, form and manner as required by law.

IN WITNESS WHEREOF, the **CITY OF UNIVERSITY CITY, MISSOURI** has executed this Note by causing it to be signed by the manual or facsimile signature of its City Manager and attested by the manual or facsimile signature of its City Clerk, and its official seal to be affixed or imprinted hereon, and this Note to be dated as of the effective date of registration as shown on **Schedule A**.

CITY OF UNIVERSITY CITY, MISSOURI

By: _____
City Manager

(SEAL)

Attest:

_____
City Clerk

CERTIFICATE OF AUTHENTICATION

This TIF Note is one of the TIF Notes described in the within mentioned Indenture.

Dated: _____, 20__

[TRUSTEE], as Trustee

By:_____
Authorized Signatory

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

_____

(Print or Type Name, Address and Social Security Number
or other Taxpayer Identification Number of Transferee)

the within Note and all rights thereunder, and hereby irrevocably constitutes and appoints _____ agent to transfer the within Note on the books kept by the Trustee for the registration thereof, with full power of substitution in the premises.

Dated: _____.

NOTICE: The signature to this assignment must correspond with the name of the Registered Owner as it appears on the face of the within Note in every particular.

Medallion Signature Guarantee:

_____

SCHEDULE A

CERTIFICATE OF AUTHENTICATION

This Note is one of the TIF Notes described in the within-mentioned Indenture.

Date[(1)]	**Additions to Principal Amount**[(2)]	**Principal Amount Paid**	**Outstanding Principal Amount**	**Authorized Signatory of Trustee**
_____ __, 20__	$	$	$	_____
_____ __, 20__				_____
_____ __, 20__				_____
_____ __, 20__				_____
_____ __, 20__				_____
_____ __, 20__				_____
_____ __, 20__				_____
_____ __, 20__				_____
_____ __, 20__				_____
_____ __, 20__				_____
_____ __, 20__				_____
_____ __, 20__				_____
_____ __, 20__				_____

(1) Date of Acceptance by the City of related Certificate of Reimbursable Redevelopment Project Costs (which constitutes Date of Registration with respect to such portion of the Note) or Interest Payment Date. Advances are limited to one per month.

(2) Additions to Principal Amount may not exceed $55,500,000 until the conditions set forth in Section 5.1(d) of the Redevelopment Agreement are satisfied.

EXHIBIT F

FORM OF DISTRICT PROJECT AGREEMENT

DISTRICT PROJECT AGREEMENT

THIS DISTRICT PROJECT AGREEMENT (this "Agreement") is made and entered into as of _____ 2019, by and among the **CITY OF UNIVERSITY CITY, MISSOURI,** an incorporated political subdivision of the State of Missouri (the "City"), the _____ **COMMUNITY IMPROVEMENT DISTRICT**, a community improvement district and political subdivision of the State of Missouri (the "District") and **U. CITY, L.L.C.**, a Missouri limited liability company, and **U. CITY TIF CORPORATION**, a Missouri corporation (collectively, the "Developer" and together with the City and the District, the "Parties").

RECITALS:

1. The District was established pursuant to Ordinance No. _____ dated _____, 201_ (the "Formation Ordinance") and the Community Improvement District Act, Sections 67.1401 to 67.1571 of the Revised Statutes of Missouri, as amended (the "CID Act").

2. Pursuant to the Formation Ordinance and the CID Act, the District was created for the purpose of assisting in funding certain activities and improvements related to the remediation of blight within the District (the "District Project"), as described in the Formation Ordinance and a Redevelopment Agreement dated as of _____, 2019 (the "Redevelopment Agreement") by and between the City and the Developer.

3. The City, the District and the Developer desire to enter into this Agreement, as contemplated by the Redevelopment Agreement, to set forth their respective rights and responsibilities regarding the construction and financing of the District Project.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained in this Agreement, the Parties agree as follows:

Section 1. Authority of the City. The City has full constitutional and lawful right, power and authority, under current applicable law, to execute and deliver and perform the terms and obligations of this Agreement, and the Agreement has been duly and validly authorized and approved by all necessary City proceedings, findings and actions. Accordingly, this Agreement constitutes the legal, valid and binding obligation of the City, enforceable in accordance with its terms.

Section 2. Authority of the District. The District has the full constitutional and lawful right, power and authority, under current applicable law, to execute and deliver and perform the terms and obligations of this Agreement, and the Agreement has been duly and validly authorized and approved by all necessary District proceedings, findings and actions. Accordingly, this Agreement constitutes the legal, valid and binding obligation of the District, enforceable in accordance with its terms.

Section 3. Authority of the Developer. The Developer has full corporate and lawful right, power and authority, under current applicable law, to execute and deliver and perform the terms and obligations of this Agreement, and the Agreement has been duly and validly authorized and approved by

all necessary corporate proceedings, findings and actions. Accordingly, this Agreement constitutes the legal, valid and binding obligation of the Developer, enforceable in accordance with its terms.

Section 4. District Sales Tax. Promptly following the approval of this Agreement by the CID Board of Directors, the CID shall adopt a resolution to impose a community improvement district sales and use tax (the "District Sales Tax"). The Developer will promptly cause, through its representatives appointed to the District's Board of Directors and its capacity as a qualified voter, the CID Sales Tax to be levied by the Board of Directors and approved by the qualified voters at the rate of up to one percent (1.0%). The District Sales Tax shall be imposed as soon as possible pursuant to the terms of the CID Act and any other applicable laws and shall not be terminated so long as any Project Obligations (as defined in **Section 9**) remain outstanding.

Section 5. District Special Assessments and District Hotel Assessments.

(a) Promptly following the approval of this Agreement by the CID Board of Directors, the Developer will, through its representatives appointed to the District's Board of Directors and in its capacity as a property owner within the District, cause petitions to be submitted to the CID Board of Directors for imposition of the below-described "District Special Assessments" and "District Hotel Assessements" and for the CID Board of Directors to approve such petitions and duly impose the District Special Assessments and the District Hotel Assessments.

(b) The District Special Assessments shall be imposed in not less than the total annual amounts set forth in the table below. The total annual amount may be divided amongst all tracts, lots or parcels within the District based on any allocation method permitted by the CID Act, as set forth in the petition for imposition of the District Special Assessments.

Year	Annual Assessment	Year	Annual Assessment
2020	$ 1,000,000	2031	$ 2,898,185
2021	2,000,000	2032	2,898,185
2022	2,500,000	2033	2,985,131
2023	2,575,000	2034	2,985,131
2024	2,575,000	2035	3,000,000
2025	2,652,250	2036	3,000,000
2026	2,625,250	2037	3,000,000
2027	2,731,818	2038	3,000,000
2028	2,731,818	2039	3,000,000
2029	2,813,772	2040	3,000,000
2030	2,813,772	2041	3,000,000

The parties agree that the assessments shown above were based on the total square feet shown in the Concept Site Plan, and the final assessments will be adjusted proportionately based on the total square feet shown in the Approved Site Plan.

(c) The District Hotel Assessments shall be imposed on all tracts, lots or parcels within the District that are used for the purpose of renting sleeping rooms to transient guests at the rate of $5.00 per occupied room or suite per night.

(d) The District Special Assessments shall be imposed as soon as possible pursuant to the terms of the CID Act and any other applicable laws and shall not be terminated prior to the payment of the assessment due for calendar year 2041 unless all Project Obligations have been paid before such date. The District Hotel

Assessments shall be imposed as soon as possible pursuant to the terms of the CID Act and any other applicable laws and shall not be terminated so long as any Project Obligations remain outstanding.

(e) Notwithstanding anything to the contrary herein, the Developer and the District will have no obligation to impose the District Special Assessments if the City does not approve the 353 Approval Ordinance (as defined in the Redevelopment Agreement) and real property tax abatement, as contemplated by the Redevelopment Agreement, is not granted to the real property within the District.

Section 6. Continuing Existence of the District. Neither the District nor the Developer will take any action to dissolve the District or reduce the rate of the District Sales Tax, the District Special Assessments or the District Hotel Assessments until the funding and construction of the District Project are completed, including the retirement of the hereinafter-defined Project Obligations or any bonds, notes or other obligations issued to refund or refinance the Project Obligations.

Section 7. Governance of the District. The Parties acknowledge that under the terms of the Formation Ordinance and the CID Act, the District will be governed by a Board of Directors made up of five representatives of the owners of real property or businesses operating within the real property, who will be appointed by the Mayor with the consent of the City Council. The Developer, as an owner of real property in the District, will authorize the appointment to the CID Board of Directors of two persons designated by the City who meets all other qualifications to serve on the CID Board of Directors, by designating such persons as an authorized representative of the Developer with respect to the CID. The District shall employ or engage an administrator or legal counsel with experience managing special taxing districts to ensure that the District complies with this Agreement and all applicable laws and regulations.

Section 8. Construction of the District Project. The District Project shall be constructed and maintained pursuant to the terms of the Redevelopment Agreement. The Developer shall be reimbursed for the costs of constructing the District Project from the proceeds of the Project Obligations as described in **Section 9**.

Section 9. Project Obligation Funding of the District Project.

(a) Pursuant to **Article V** of the Redevelopment Agreement, the City will issue (or cooperate in the issuance by another issuer of) tax increment financing notes, bonds or other obligations (the "Project Obligations") to reimburse the Developer for eligible costs incurred or advanced toward the Work, as defined in the Redevelopment Agreement. The Parties agree that the District Project is part of such Work. Accordingly, the District shall, subject to annual appropriation, transfer all District Revenues (as defined in the Redevelopment Agreement) collected by the District to the City (or, at the direction of the City, the Trustee) on the 15th day of each month (or if the 15th is not a business day for City offices, the next day that City offices are open) for deposit into the District Revenues Account of the appropriate fund described in the Redevelopment Agreement for application as described in such documents. The City agrees that all ordinances or indentures entered into in connection with the Project Obligations will provide for the distribution of District Expenses prior to payment of debt service on the Project Obligations. If the applicable ordinance or indenture does not provide for the distribution of District Expenses to the District, the District may withhold District Expenses from the transfer of District Revenues to the City or the Trustee. "District Expenses" means, beginning with calendar year 2019, the actual costs and expenses incurred by the District to administer the District and necessary to comply with the CID Act, the Redevelopment Agreement, and this Agreement, which, for calendar year 2019 shall equal $12,000 and, for each subsequent year, shall equal the preceding year's District Expenses increased by 3% (unless a lesser amount is requested by the District).

(b) The District shall not issue any notes, bonds or other obligations of its own without the prior written permission of the City.

Section 10. Federal Work Authorization Program. Simultaneously with the execution of this Agreement, the Developer shall provide the District and the City with an affidavit and documentation meeting the requirements of Section 285.530 of the Revised Statutes of Missouri, as amended.

Section 11. Insurance. The District will maintain reasonable levels of insurance throughout its existence, including but not limited to the procurement of a directors and officers liability or similar policy which includes coverage for all suits, claims, costs of defense, damages, injuries, liabilities, costs and/or expenses, including court costs and attorneys' fees and expenses, resulting from, arising out of, or in any way connected with the proceedings of the Board of Directors pursuant to the CID Act and Chapter 610 of the Revised Statutes of Missouri, as amended.

Section 12. Successors and Assigns. This Agreement may be assigned by the Developer in the same manner as allowed for the assignment of the Redevelopment Agreement.

Section 13. Severability. If any term or provision of this Agreement is held to be unenforceable by a court of competent jurisdiction, the remainder shall continue in full force and effect, to the extent the remainder can be given effect without the invalid provision.

Section 14. Waiver. The City's failure at any time hereafter to require strict performance by the District or the Developer of any provision of this Agreement shall not waive, affect or diminish any right of the City thereafter to demand strict compliance and performance therewith.

Section 15. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement.

Section 16. Cooperation of the City; Payment of City Fees. The City will cooperate with and assist the Developer in all proceedings relating to the creation and certification of the District. Pursuant to Section 67.1461.3, RSMo., the District shall annually reimburse reasonable and actual costs incurred by the City in connection with the creation of the District, the negotiation and execution of this Agreement and review of annual budgets and reports required to be submitted by the District to the City, which shall not exceed one and one-half percent of the District Revenues collected by the District in such year less the amount paid by the District for a directors and officers liability policy.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names and attested as to the date first above written.

CITY OF UNIVERSITY CITY, MISSOURI

(SEAL)

By: _____
City Manager

Attest:

_____
City Clerk

[_____] COMMUNITY IMPROVEMENT DISTRICT

(SEAL)

Attest:

By: _____
Name: _____
Title: Chairman

By: _____
Name: _____
Title: Secretary

U. CITY, L.L.C.

By: _____
Name: _____
Title: _____

U. CITY TIF CORPORATION

By: _____
Name: Jonathan Browne
Title: President

EXHIBIT G

SPECIAL DEVELOPMENT CONDITIONS

The RPA 1 Redevelopment Project shall be designed, constructed and operated in a manner that incorporates the following:

1. **Olive Boulevard Design Guidelines**: The site plan for the RPA 1 Redevelopment Project will be designed to adhere to the Olive Boulevard Design Guidelines (http://www.ucitymo.org/468/Olive-Blvd-Design-Guidelines) unless otherwise specified in the Redevelopment Agreement or as otherwise determined by the City in its sole discretion.

2. **Landscape Architecture**: The Developer will hire a professional Landscape Architecture Firm to design all landscaping within RPA 1.

3. **Detention/Retention**: In coordination with the Landscape Architecture Firm, the Developer will design detention/retention basins as productive, aesthetically-pleasing spaces.

4. **Signage**:
   a. Monument Signs: The City will allow a maximum of two signs at 20' wide x 15' tall, with a maximum of 300 square feet for each face, two faces per sign. The base is to be constructed with materials compatible with those used in retail buildings.

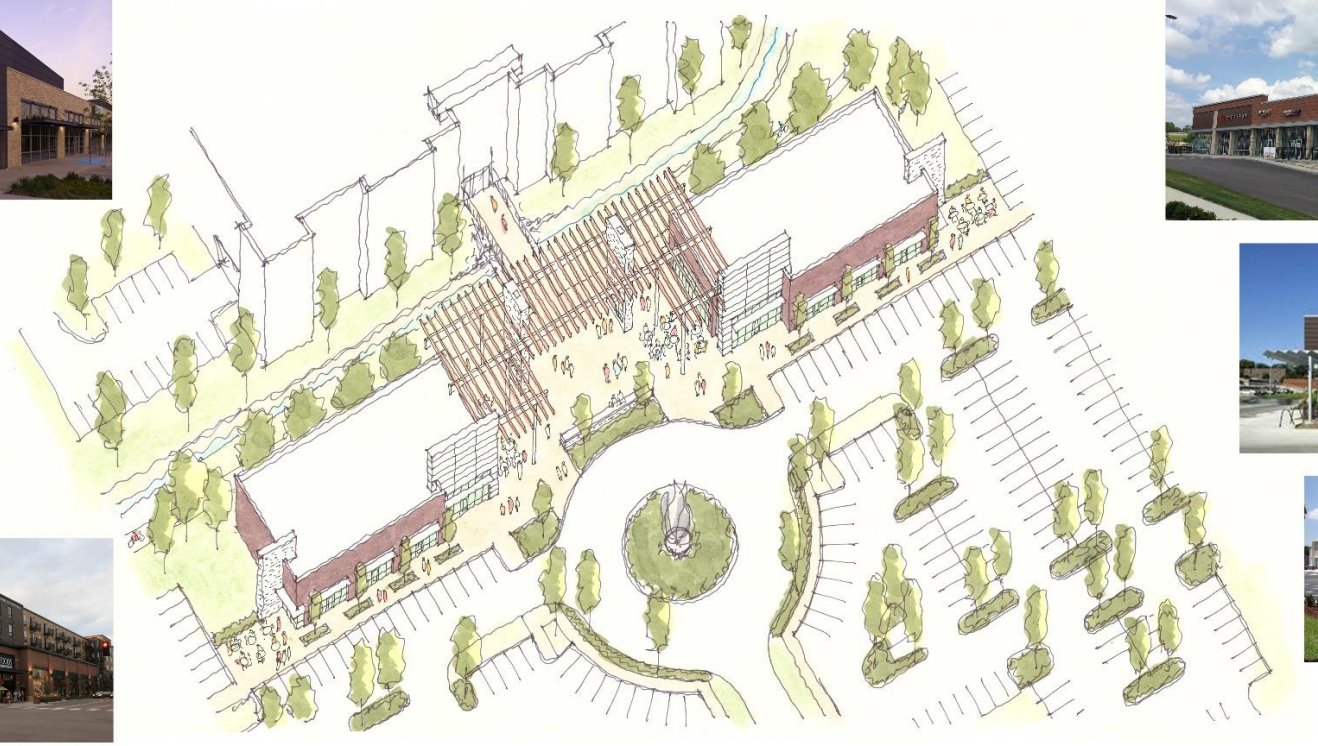
   b. Interstate Signs: The City will allow a maximum of one sign at maximum 130' height with 1,000 square feet for each face, two faces per sign. The sign shall identify only the retail center and/or its tenants. The sign is to be architecturally compatible with the materials and style of retail buildings.

   c. Pylon Signs: The City will allow a maximum of two signs at maximum 30' height with 325 square feet for area each face, two faces per sign. The bases are to be constructed with materials compatible with those used in retail buildings.

   d. The above restrictions apply to the North Phase and the South Phase separately.

5. **Quality Level:** The Developer will construct the buildings within RPA 1 to the quality level as demonstrated in the sample developments on the following page.

6. **Plaza:** The Developer will construct a plaza similar in quality and magnitude as shown in the Concept Site Plan and as illustrated on the following page.



Architects of the Possible®
9812 Manchester Road
St. Louis, Missouri 63119

INTERSTATE 170 AND OLIVE BLVD.

UNIVERSITY CITY, MISSOURI
17-016 PSP 4.4 09-12-18

AXON AND CONCEPT IMAGES

EXHIBIT H

PROJECT BUDGET

[To be added before first reading]

EXHIBIT I

RELOCATION POLICY

University City, Missouri
Olive Boulevard Commercial Corridor
and Residential Conservation Redevelopment Plan
Redevelopment Project Area 1

Relocation Assistance Plan

As part of the implementation of the Redevelopment Project Area 1 Redevelopment Project described in the Olive Boulevard Commercial Corridor and Residential Conservation Redevelopment Plan, parcels within the area identified as "RPA 1" on the attached map will be acquired, replatted and redeveloped. The City has selected U. CITY, L.L.C. (the "Developer"), an affiliate of the Novus Companies, to be the developer for RPA 1. The Developer needs to acquire title to all of the property located within RPA 1. The purpose of this Relocation Plan is to describe the assistance and benefits available to impacted property owners, residents and businesses.

I. Overview of Relocation Assistance Plan

Sections 523.200 to 523.215 of the Revised Statutes of Missouri (the "State Relocation Statute") and City Ordinance No. 6789 (the "City Relocation Ordinance") require assistance to be provided to occupants of properties relocated in connection with any tax increment financing project. In addition, this Relocation Assistance Plan provides certain additional benefits to residents and businesses affected by the Redevelopment Project for RPA 1 (the "RPA 1 Redevelopment Project").

To the extent that an occupant is allowed to waive its relocation benefits, the Developer will ask the occupant to do so in any contract between an occupant and the Developer (including, but not limited to, any option agreement, purchase or sale agreement, or other agreement).

The purpose of this Relocation Assistance Plan is to provide property owners, residents and businesses within RPA 1 with information regarding the available relocation assistance, including, but not limited to, relocation payments.

If you are eligible for assistance or payments under this Relocation Assistance Policy, the assistance will be coordinated by the City's Office of Relocation Assistance, which will be established as part of the implementation of this Relocation Assistance Plan.

II. Available Relocation Assistance

The State Relocation Statute and the City Relocation Ordinance both provide for relocation assistance for those individuals or businesses that will be displaced by any tax increment financing project. This Relocation Assistance Plan incorporates the provisions of the State Relocation Statutes and the City Relocation Ordinance and also provides certain additional benefits to residents and businesses within RPA 1 who are displaced.

A. Eligibility

Businesses. Businesses located in RPA 1 may be eligible for relocation assistance under the State Relocation Statute and the City Relocation Ordinance. As used in the Relocation Statute and the City Relocation Ordinance, a "business" is a lawful activity conducted:

1. Primarily for the purchase, sale or use of real or personal property, or the manufacture, processing or marketing of products or commodities;

2. Primarily for the sale of services to the public; or

3. On a non-profit basis by any veteran's organization or other organization that has obtained an exemption from the payment of federal income taxes as provided § 501(c)(3) of the Internal Revenue Code.

Additionally, the business must be a tenant or the owner-occupant of real property located in RPA 1.

If the business qualifies as described above, the business will be eligible for relocation assistance.

Residents. Relocation assistance is also available to those residents of RPA 1 who qualify as "displaced persons." Displaced persons are persons who voluntarily and permanently move from the property (or move their personal property from the real property) as a direct result of the RPA 1 Redevelopment Project. Displaced persons who are residents must be either tenants or owner-occupants of real property located in RPA 1.

B. Services Available In Connection With Relocation

Residents and businesses that will be relocated because of the RPA 1 Redevelopment Project are eligible to receive certain kinds of relocation services. These services include the following.

Businesses. Eligible businesses subject to relocation in connection with the RPA 1 Redevelopment Project may receive the following services:

1. The identification by the Developer or the Office of Relocation Assistance of any special needs of the business after considering the nature of the business and other related factors.

2. At least ninety (90) days' notice before the eligible business is required to vacate its current location.

3. A program of referrals by which each displaced business may receive a minimum of three (3) referrals to alternative space and at least 90 days' notice of such referral sites before the date on which the business is required to vacate its current location.

4. Arrangements for transportation to and from such referral sites.

5. Assistance in obtaining any relocation payments (described below) for which the business might be eligible.

Residents. Eligible residents subject to relocation in connection with the RPA 1 Redevelopment Project may receive the following services:

1. The identification by the Developer or the Office of Relocation Assistance of any

special needs of the resident after considering the income, age, family size and other related factors.

2. At least ninety (90) days' notice before the resident is required to vacate its current location.

3. A program of referrals by which each displaced resident may receive a minimum of three (3) referrals to decent, safe and sanitary dwelling alternatives[1] and at least 90 days' notice of such referral sites before the date on which the resident is required to vacate its current location.

4. Arrangements for transportation to and from such referral sites.

5. Assistance in obtaining any relocation payments (described below) for which the resident might be eligible.

6. For Section 8 displaced tenants, assistance requesting a new Small Area Fair Market Rent program voucher from the St. Louis County Housing Authority.

In addition, those residents who are handicapped persons (deaf, legally blind or orthopedically disabled) may be entitled to additional assistance to the extent that they have a greater burden in finding a replacement residence.

C. Relocation Payments to Businesses and Residents

Relocation Payments to Businesses. To be eligible for a relocation payment, a business must qualify as a "business" under the State Relocation Statute and the City Relocation Ordinance (described above) and have occupied its property in RPA 1 for a period beginning at least 90 days before the Developer initiated negotiations for the acquisition of the property.

All displaced businesses eligible for payments shall be provided with relocation payments based upon one (1) of the below options. The displaced business may elect one of the following options:

1. A three thousand dollar ($3,000.00) fixed moving expense payment and up to an additional ten thousand dollars ($10,000.00) for reestablishment expenses. Reestablishment expenses are limited to costs incurred for physical improvements to the replacement property to accommodate the particular business at issue; OR

2. Actual costs of moving including costs for packing, crating, disconnection, dismantling, reassembling and installing all personal equipment and costs for relettering similar signs and similar replacement stationery, and up to an additional ten thousand dollars ($10,000.00) for reestablishment expenses. Reestablishment expenses are limited to costs incurred for physical improvements to the replacement property to accommodate the particular business at issue.

In addition, the City will, on a case-by-case basis, consider TIF assistance for businesses that relocate in the areas identified as "RPA 2" or "RPA 3" on the attached map. The amount of the TIF assistance will be subject to negotiation and will be based on a variety of factors, including (a) what improvements are needed

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[1] "Decent, safe and sanitary dwelling[s]" are those which comply with applicable occupancy and housing codes, and are watertight, structurally sound, in good repair, have an electrical wiring system which is safe, have an adequate heating system, are of adequate size (with respect to the number of rooms necessary to accommodate the displaced person), and, for a handicapped person, are free of barriers which would interfere or preclude reasonable use or access to and from the replacement dwelling.

to a property to accommodate the business, (b) whether the business will provide desirable neighborhood services, (c) the number of employees employed by the business and (d) the benefit to the tax base associated with keeping the business in the City.

Relocation Payments to Residents. To be eligible for a relocation payment, a resident must qualify for relocation assistance as "displaced persons" under the State Relocation Statute and the City Relocation Ordinance (described above) and the resident must have occupied his or her (or their) property in RPA 1 for a period beginning at least 90 days before the initiation of negotiations for the acquisition of the property by the Developer.

All displaced residential persons eligible for payments shall be provided with relocation payments based upon one (1) of the below options. The displaced person may elect one of the following options:

1. A one thousand dollar ($1,000.00) fixed moving expense payment; OR

2. Actual reasonable moving costs of relocation including, but not limited to, actual moving costs, utility deposits, key deposits, storage of personal property up to one (1) month, the reasonable costs of packing and un-packing of personal items (for example, clothes, dishes, books, photographs, stereo equipment, televisions, etc.), utility transfer and connection fees and other initial rehousing deposits including first (1st) and last month's rent and security deposit. Such costs of relocation shall not include the cost of a replacement property or any capital improvements thereto.

Additionally, all households that include one or more displaced persons residing in RPA 1 on or before May 1, 2017 through their date of application for relocation benefits will receive:

1. For households seeking to purchase a new home, a grant of ten thousand dollars ($10,000.00) if the household purchases a new home in RPA 2 or two thousand dollars ($2,000.00) if the household purchases a new home elsewhere in the City. These grants can be used to pay closing costs, a down payment, renovation costs or temporary rent while a permanent home is being renovated.

2. For households seeking to rent a new home, a grant equal to the difference between the rental costs at the new home compared to the rental costs at the prior home, measured over a period of one year and not to exceed six thousand dollars ($6,000.00).

3. For households seeking to relocate to senior assisted housing in the City, a grant of ten thousand dollars ($10,000.00).

The City is also developing a program to provide grants and/or loans to owner-occupants of homes in RPA 2. Persons relocating from RPA 1 will be able to utilize this program to obtain additional grants and loans to assist in acquiring and renovating homes within RPA 2.

Miscellaneous Information Regarding Relocation Payments. If a business or a resident is entitled to a relocation payment and the displaced business or resident can demonstrate a need for the relocation payment in advance to reduce or avoid a hardship, the Developer or the City will issue the payment in

advance subject to reasonable safeguards to ensure the object of the payment is achieved. Otherwise, claims for a relocation payment must be filed with the Office of Relocation Assistance:

1. For displaced tenants of property, within six (6) months of the date of displacement; or

2. For displaced owner-occupants of property, within six (6) months of the later of the date of displacement or the final payment for acquisition of real property.

D. Waiver of Relocation Assistance and Payments

The Developer intends to acquire most of the property within RPA 1 by providing the property owners with an offer for their property. This offer may take the form of an option agreement, a purchase and sale agreement, or another agreement. In the offer, the Developer will ask the owner of the property to waive any rights to relocation assistance and/or relocation payments that the owner may be entitled to under the State Relocation Statute, the City Relocation Ordinance and this Relocation Assistance Plan. The amount of the Developer's offer to an owner of property within RPA 1 will exceed the fair market value of the owner's property; part of the excess amount offered to the owner of the property is offered in consideration of the owner's waiver of relocation assistance and/or relocation payments. Even though the Developer will ask an owner of property within RPA 1 to waive relocation assistance and/or relocation payments as a condition of its offer to purchase the property, there are certain notices that cannot be waived and are statutorily required to be given regarding an occupant's right to relocation assistance and/or relocation payments. These notices will be provided to all occupants, including those that have waived any rights to relocation assistance and/or relocation payments.

III. Additional Information

Additional information regarding the Redevelopment Plan is available at http://www.ucitymo.org/798/Olive-and-170-TIF.

The City's Office of Relocation Assistance can be reached at (314) 862-6767 during normal business hours.

* * *

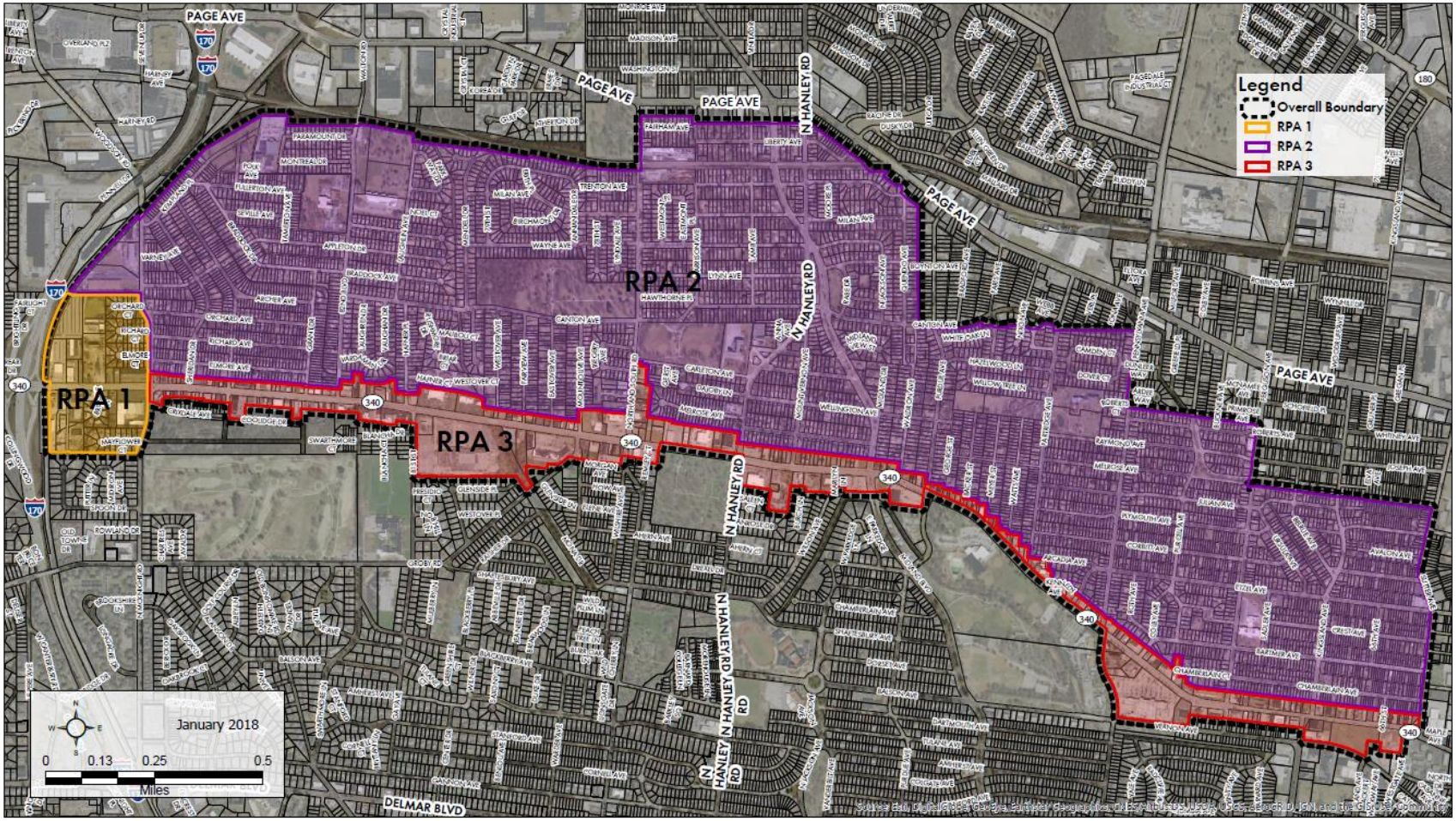

Exhibit A
Overall TIF Boundary and Redevelopment Project Area Boundaries

Redevelopment Project Area
University City, Missouri

Neighborhood to the World University City

PGAV PLANNERS

EXHIBIT J

M/WBE GOALS

FINDING 5.
MWBE AVAILABILITY

SUMMARY OF MWBE AVAILABILITY WITHIN THE RELEVANT MARKET
(Using the Master Vendor File)
St. Louis County, MO Disparity Study

Business Category	African American %	Asian American %	Hispanic American %	Native American %	Caucasian Women %	Non WMBE %
Construction	20.17%	.74%	1.72%	.25%	9.47%	66.30%
A&E	9.07%	2.83%	2.83%	.85%	15.30%	68.56%
Other Professional Services	12.28	2.21%	1.50%	.71%	12.42%	67.52%
Other Services	9.63%	1.22%	.69%	.30%	9.59%	76.40%
Goods	6.59%	1.10%	.87%	1.00%	13.94%	75.44%

Griffin & Strong, P.C. 2017

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EXHIBIT B

DISTRICT PROJECT AGREEMENT

[On file in the City Clerk's Office]

EXHIBIT F

FORM OF DISTRICT PROJECT AGREEMENT

DISTRICT PROJECT AGREEMENT

THIS DISTRICT PROJECT AGREEMENT (this "Agreement") is made and entered into as of _____ 2019, by and among the **CITY OF UNIVERSITY CITY, MISSOURI,** an incorporated political subdivision of the State of Missouri (the "City"), the _____ **COMMUNITY IMPROVEMENT DISTRICT**, a community improvement district and political subdivision of the State of Missouri (the "District") and **U. CITY, L.L.C.**, a Missouri limited liability company, and **U. CITY TIF CORPORATION**, a Missouri corporation (collectively, the "Developer" and together with the City and the District, the "Parties").

RECITALS:

1. The District was established pursuant to Ordinance No. _____ dated _____, 201_ (the "Formation Ordinance") and the Community Improvement District Act, Sections 67.1401 to 67.1571 of the Revised Statutes of Missouri, as amended (the "CID Act").

2. Pursuant to the Formation Ordinance and the CID Act, the District was created for the purpose of assisting in funding certain activities and improvements related to the remediation of blight within the District (the "District Project"), as described in the Formation Ordinance and a Redevelopment Agreement dated as of _____, 2019 (the "Redevelopment Agreement") by and between the City and the Developer.

3. The City, the District and the Developer desire to enter into this Agreement, as contemplated by the Redevelopment Agreement, to set forth their respective rights and responsibilities regarding the construction and financing of the District Project.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained in this Agreement, the Parties agree as follows:

Section 1. Authority of the City. The City has full constitutional and lawful right, power and authority, under current applicable law, to execute and deliver and perform the terms and obligations of this Agreement, and the Agreement has been duly and validly authorized and approved by all necessary City proceedings, findings and actions. Accordingly, this Agreement constitutes the legal, valid and binding obligation of the City, enforceable in accordance with its terms.

Section 2. Authority of the District. The District has the full constitutional and lawful right, power and authority, under current applicable law, to execute and deliver and perform the terms and obligations of this Agreement, and the Agreement has been duly and validly authorized and approved by all necessary District proceedings, findings and actions. Accordingly, this Agreement constitutes the legal, valid and binding obligation of the District, enforceable in accordance with its terms.

Section 3. Authority of the Developer. The Developer has full corporate and lawful right, power and authority, under current applicable law, to execute and deliver and perform the terms and obligations of this Agreement, and the Agreement has been duly and validly authorized and approved by

all necessary corporate proceedings, findings and actions. Accordingly, this Agreement constitutes the legal, valid and binding obligation of the Developer, enforceable in accordance with its terms.

Section 4. District Sales Tax. Promptly following the approval of this Agreement by the CID Board of Directors, the CID shall adopt a resolution to impose a community improvement district sales and use tax (the "District Sales Tax"). The Developer will promptly cause, through its representatives appointed to the District's Board of Directors and its capacity as a qualified voter, the CID Sales Tax to be levied by the Board of Directors and approved by the qualified voters at the rate of up to one percent (1.0%). The District Sales Tax shall be imposed as soon as possible pursuant to the terms of the CID Act and any other applicable laws and shall not be terminated so long as any Project Obligations (as defined in **Section 9**) remain outstanding.

Section 5. District Special Assessments and District Hotel Assessments.

(a) Promptly following the approval of this Agreement by the CID Board of Directors, the Developer will, through its representatives appointed to the District's Board of Directors and in its capacity as a property owner within the District, cause petitions to be submitted to the CID Board of Directors for imposition of the below-described "District Special Assessments" and "District Hotel Assessements" and for the CID Board of Directors to approve such petitions and duly impose the District Special Assessments and the District Hotel Assessments.

(b) The District Special Assessments shall be imposed in not less than the total annual amounts set forth in the table below. The total annual amount may be divided amongst all tracts, lots or parcels within the District based on any allocation method permitted by the CID Act, as set forth in the petition for imposition of the District Special Assessments.

Year	Annual Assessment	Year	Annual Assessment
2020	$ 1,000,000	2031	$ 2,898,185
2021	2,000,000	2032	2,898,185
2022	2,500,000	2033	2,985,131
2023	2,575,000	2034	2,985,131
2024	2,575,000	2035	3,000,000
2025	2,652,250	2036	3,000,000
2026	2,625,250	2037	3,000,000
2027	2,731,818	2038	3,000,000
2028	2,731,818	2039	3,000,000
2029	2,813,772	2040	3,000,000
2030	2,813,772	2041	3,000,000

The parties agree that the assessments shown above were based on the total square feet shown in the Concept Site Plan, and the final assessments will be adjusted proportionately based on the total square feet shown in the Approved Site Plan.

(c) The District Hotel Assessments shall be imposed on all tracts, lots or parcels within the District that are used for the purpose of renting sleeping rooms to transient guests at the rate of $5.00 per occupied room or suite per night.

(d) The District Special Assessments shall be imposed as soon as possible pursuant to the terms of the CID Act and any other applicable laws and shall not be terminated prior to the payment of the assessment due for calendar year 2041 unless all Project Obligations have been paid before such date. The District Hotel

Assessments shall be imposed as soon as possible pursuant to the terms of the CID Act and any other applicable laws and shall not be terminated so long as any Project Obligations remain outstanding.

(e) Notwithstanding anything to the contrary herein, the Developer and the District will have no obligation to impose the District Special Assessments if the City does not approve the 353 Approval Ordinance (as defined in the Redevelopment Agreement) and real property tax abatement, as contemplated by the Redevelopment Agreement, is not granted to the real property within the District.

Section 6. Continuing Existence of the District. Neither the District nor the Developer will take any action to dissolve the District or reduce the rate of the District Sales Tax, the District Special Assessments or the District Hotel Assessments until the funding and construction of the District Project are completed, including the retirement of the hereinafter-defined Project Obligations or any bonds, notes or other obligations issued to refund or refinance the Project Obligations.

Section 7. Governance of the District. The Parties acknowledge that under the terms of the Formation Ordinance and the CID Act, the District will be governed by a Board of Directors made up of five representatives of the owners of real property or businesses operating within the real property, who will be appointed by the Mayor with the consent of the City Council. The Developer, as an owner of real property in the District, will authorize the appointment to the CID Board of Directors of two persons designated by the City who meets all other qualifications to serve on the CID Board of Directors, by designating such persons as an authorized representative of the Developer with respect to the CID. The District shall employ or engage an administrator or legal counsel with experience managing special taxing districts to ensure that the District complies with this Agreement and all applicable laws and regulations.

Section 8. Construction of the District Project. The District Project shall be constructed and maintained pursuant to the terms of the Redevelopment Agreement. The Developer shall be reimbursed for the costs of constructing the District Project from the proceeds of the Project Obligations as described in **Section 9**.

Section 9. Project Obligation Funding of the District Project.

(a) Pursuant to **Article V** of the Redevelopment Agreement, the City will issue (or cooperate in the issuance by another issuer of) tax increment financing notes, bonds or other obligations (the "Project Obligations") to reimburse the Developer for eligible costs incurred or advanced toward the Work, as defined in the Redevelopment Agreement. The Parties agree that the District Project is part of such Work. Accordingly, the District shall, subject to annual appropriation, transfer all District Revenues (as defined in the Redevelopment Agreement) collected by the District to the City (or, at the direction of the City, the Trustee) on the 15th day of each month (or if the 15th is not a business day for City offices, the next day that City offices are open) for deposit into the District Revenues Account of the appropriate fund described in the Redevelopment Agreement for application as described in such documents. The City agrees that all ordinances or indentures entered into in connection with the Project Obligations will provide for the distribution of District Expenses prior to payment of debt service on the Project Obligations. If the applicable ordinance or indenture does not provide for the distribution of District Expenses to the District, the District may withhold District Expenses from the transfer of District Revenues to the City or the Trustee. "District Expenses" means, beginning with calendar year 2019, the actual costs and expenses incurred by the District to administer the District and necessary to comply with the CID Act, the Redevelopment Agreement, and this Agreement, which, for calendar year 2019 shall equal $12,000 and, for each subsequent year, shall equal the preceding year's District Expenses increased by 3% (unless a lesser amount is requested by the District).

(b) The District shall not issue any notes, bonds or other obligations of its own without the prior written permission of the City.

Section 10. Federal Work Authorization Program. Simultaneously with the execution of this Agreement, the Developer shall provide the District and the City with an affidavit and documentation meeting the requirements of Section 285.530 of the Revised Statutes of Missouri, as amended.

Section 11. Insurance. The District will maintain reasonable levels of insurance throughout its existence, including but not limited to the procurement of a directors and officers liability or similar policy which includes coverage for all suits, claims, costs of defense, damages, injuries, liabilities, costs and/or expenses, including court costs and attorneys' fees and expenses, resulting from, arising out of, or in any way connected with the proceedings of the Board of Directors pursuant to the CID Act and Chapter 610 of the Revised Statutes of Missouri, as amended.

Section 12. Successors and Assigns. This Agreement may be assigned by the Developer in the same manner as allowed for the assignment of the Redevelopment Agreement.

Section 13. Severability. If any term or provision of this Agreement is held to be unenforceable by a court of competent jurisdiction, the remainder shall continue in full force and effect, to the extent the remainder can be given effect without the invalid provision.

Section 14. Waiver. The City's failure at any time hereafter to require strict performance by the District or the Developer of any provision of this Agreement shall not waive, affect or diminish any right of the City thereafter to demand strict compliance and performance therewith.

Section 15. Counterparts. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same agreement.

Section 16. Cooperation of the City; Payment of City Fees. The City will cooperate with and assist the Developer in all proceedings relating to the creation and certification of the District. Pursuant to Section 67.1461.3, RSMo., the District shall annually reimburse reasonable and actual costs incurred by the City in connection with the creation of the District, the negotiation and execution of this Agreement and review of annual budgets and reports required to be submitted by the District to the City, which shall not exceed one and one-half percent of the District Revenues collected by the District in such year less the amount paid by the District for a directors and officers liability policy.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the Parties hereto have caused this Agreement to be executed in their respective names and attested as to the date first above written.

CITY OF UNIVERSITY CITY, MISSOURI

(SEAL)

By: _____
City Manager

Attest:

_____
City Clerk

[_____] COMMUNITY IMPROVEMENT DISTRICT

(SEAL)

Attest:

By: _____
Name: _____
Title: Chairman

By: _____
Name: _____
Title: Secretary

U. CITY, L.L.C.

By: _____
Name: _____
Title: _____

U. CITY TIF CORPORATION

By: _____
Name: Jonathan Browne
Title: President