

AMENDED

INTRODUCED BY: Councilmember Jeff Hales

DATE: October 25, 2021

BILL NO. 9446

ORDINANCE NO. 7166

AN ORDINANCE APPROVING A FIRST SUPPLEMENTAL TRUST INDENTURE IN CONNECTION WITH THE TAX INCREMENT REVENUE NOTES (OLIVE BOULEVARD COMMERCIAL CORRIDOR AND RESIDENTIAL CONSERVATION REDEVELOPMENT PROJECT AREA 1), SERIES A AND B, OF THE CITY OF UNIVERSITY CITY, MISSOURI, AND APPROVING CERTAIN ACTIONS RELATING THERETO.

WHEREAS, on March 29, 2021, the City issued its Tax Increment Revenue Notes (Olive Boulevard Commercial Corridor and Residential Conservation Redevelopment Project Area 1), Series A and B (the "Notes"), in the aggregate principal amount of not to exceed \$70,901,661.19, pursuant to a Trust Indenture dated as of March 1, 2021 (the "Original Indenture") between the City and BOKF, N.A., as trustee (the "Trustee"); and

WHEREAS, the owner of the Notes, U. City, L.L.C. (the "Owner"), has requested that the City and the Trustee modify certain provisions in the Original Indenture and the Notes; and

WHEREAS, the Developer (as defined in the Original Indenture) has advanced \$3,000,000 to the City as the "RPA 2/3 Advance Amount" as required by the Redevelopment Agreement between the City and the Developer, and therefore it is necessary to increase the authorized principal amount of the Notes by that amount; and

WHEREAS, the Council finds and determines that it is in the best interests of the City and its residents to modify the Original Indenture and the Notes for the above purposes.

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

Section 1. The City Council hereby approves the First Supplemental Trust Indenture (the "Supplemental Indenture") in substantially the form presented to and reviewed by the City Council at this meeting and attached to this Ordinance as **Exhibit A**, with such changes therein as shall be approved by the officer or officers of the City executing such document, such officer's or officers' signatures thereon being conclusive evidence of his, her or their approval thereof.

Section 2. The City Manager is hereby authorized and directed to execute and to deliver the Notes to the Trustee for authentication for and on behalf of and as the act and deed of the City in the manner provided in the Supplemental Indenture. The City Manager is hereby authorized and directed to execute and deliver, on behalf of the City, the Supplemental Indenture and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance. The City Clerk is hereby authorized and directed to attest to the Notes, the Indenture and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.


Section 3. The City shall, and the officers, agents and employees of the City are hereby authorized and directed to, take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Notes and the Supplemental Indenture.

Section 4. 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 5. This Ordinance shall be in full force and effect from and after the date of its passage and approval.

PASSED and ADOPTED THIS 8th DAY OF NOVEMBER, 2021.



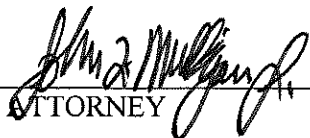


MAYOR



CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:



CITY ATTORNEY

EXHIBIT A

FORM OF FIRST SUPPLEMENTAL TRUST INDENTURE

CITY OF UNIVERSITY CITY, MISSOURI

and

**BOKF, N.A.,
as Trustee**

FIRST SUPPLEMENTAL TRUST INDENTURE

Dated as of November 1, 2021

Relating to

**\$73,901,661.19
City of University City, Missouri
Tax Increment Revenue Notes
(Olive Boulevard Commercial Corridor and Residential Conservation
Redevelopment Project Area 1)
Series A and B**

FIRST SUPPLEMENTAL TRUST INDENTURE

THIS FIRST SUPPLEMENTAL TRUST INDENTURE (this “Supplemental Indenture”), made and entered into as of November 1, 2021, by and between the **CITY OF UNIVERSITY CITY, MISSOURI**, an incorporated political subdivision of the State of Missouri (the “City”), and **BOKF, N.A.**, a national banking association duly organized and existing and authorized to accept and execute trusts of the character herein set forth under the laws of the United States of America, and having a corporate trust office located in St. Louis, Missouri, as trustee (the “Trustee”);

RECITALS:

1. On March 29, 2021, the City issued its Tax Increment Revenue Notes (Olive Boulevard Commercial Corridor and Residential Conservation Redevelopment Project Area 1), Series A and B (the “Notes”), in the aggregate principal amount of not to exceed \$70,901,661.19, pursuant to a Trust Indenture dated as of March 1, 2021 (the “Original Indenture”) between the City and the Trustee.

2. The owner of the Notes, U. City, L.L.C. (the “Owner”), has requested that the City and the Trustee execute this Supplemental Indenture to modify certain provisions in the Original Indenture and the Notes.

3. The Developer has advanced \$3,000,000 to the City as the “RPA 2/3 Advance Amount” as required by the Redevelopment Agreement, and therefore it is necessary to increase the authorized principal amount of the Notes by that amount.

4. Terms that are not defined herein shall have the meanings assigned to such terms in the Original Indenture.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the City and the Trustee agree as follows:

Section 1. Definitions of Words and Terms. The following term as used in the Original Indenture shall have the following meaning, and **Section 101** of the Original Indenture is hereby amended and supplemented to so provide:

“**Indenture**” means the Original Indenture as supplemented and amended by this Supplemental Indenture.

Section 2. Authorization of Notes.

(a) All references in the Original Indenture to \$70,901,661.19 are hereby changed to \$73,901,661.19.

(b) **Section 205(c)** of the Original Indenture is hereby amended by deleting the original text and inserting the following in substitution thereof:

(c) The Notes shall bear interest (computed on the basis of a 360-day year of twelve 30-day months) at a fixed rate equal to (1) 8.00%, if the interest on the Notes (in the opinion of Bond Counsel) is not excluded from gross income for federal income tax purposes (the “*Taxable Rate*”) or (2) the *Taxable Rate* less 150 basis points if the interest

on the Notes (in the opinion of Bond Counsel) is excluded from gross income for federal income tax purposes (the “*Tax-Exempt Rate*”).

Section 3. Redemption of Notes. Section 302(a) of the Original Indenture is hereby amended by deleting the original text and inserting the following in substitution thereof:

(a) *Optional Redemption.* The Notes are subject to optional redemption by the City, in whole or in part at any time on or after May 1, 2031, at a redemption price of 100% of the principal amount of the Notes to be redeemed, plus accrued interest thereon to the date fixed for redemption.

Section 4. Form of Bond. On the date of delivery of this Supplemental Indenture, the Trustee shall cancel Bond R-1 held by the Trustee pursuant to Section 201(h) of the Original Indenture, the Trustee shall, following execution thereof by the City, endorse Bond R-2 (which shall be in the form attached as Exhibit A hereto) in the same principal amount as the cancelled Bond R-1, and the Trustee shall hold Bond R-2 for the benefit of the Owner pursuant to Section 201(h) unless otherwise directed in writing by the Owner.

Section 5. Applicability of Original Indenture. Except as otherwise provided in this Supplemental Indenture, the provisions of the Original Indenture are hereby ratified, approved and confirmed.

Section 6. Consent of Bond Owners and Lender. The Owner of 100% of the Bonds Outstanding and the Lender have consented to and directed the Trustee to execute, and approved the execution by the City and the Trustee of this Supplemental Indenture and hereby waives all notices required under the Original Indenture, including but not limited to Section 1102 thereof.

Section 7. Severability. If any provision of this Supplemental Indenture is held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstances, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or Sections in this Indenture contained shall not affect the remaining portions of this Indenture, or any part thereof.

Section 8. Execution in Counterparts. This Supplemental Indenture may be simultaneously executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 9. Governing Law. This Supplemental Indenture shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 10. Electronic Transactions. Unless otherwise specified herein, the transactions and other activities described herein may be conducted and related documents may be sent, received or stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents will be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

IN WITNESS WHEREOF, the City of University City, Missouri, has caused these presents to be signed in its name and behalf and its corporate seal to be hereunto affixed and attested by its duly authorized officers, and to evidence its acceptance of the trusts hereby created, BOKF, N.A. has caused these presents to be signed in its name by a duly authorized officer, all as of the day and year first above written.

CITY OF UNIVERSITY CITY, MISSOURI

[SEAL]

By: _____
City Manager

ATTEST:

City Clerk

[Supplemental Indenture]

**BOKF, N.A.,
as Trustee**

By: _____
Name: _____
Title: _____

[Supplemental Indenture]

The undersigned, as Owner of 100% of the Bonds Outstanding hereby consents to and directs the Trustee to execute, and approve the execution by the City and the Trustee of this Supplemental Indenture and hereby waives all notices required under the Original Indenture, including but not limited to **Section 1102** thereof.

Date: _____, 2021

U. CITY, L.L.C., a Missouri limited liability company

By: _____
Name: _____
Title: _____

The undersigned, as Lenders, hereby consent to and direct the Trustee to execute, and approve the execution by the City and the Trustee of this Supplemental Indenture and hereby waive all notices required under the Original Indenture, including but not limited to **Section 1102** thereof.

Date: _____, 2021

CEDAR RAPIDS BANK AND TRUST COMPANY

By: _____
Name: _____
Title: _____

THE ROBERT G. CLARK REVOCABLE LIVING TRUST U/A/D 12/14/1994

By: _____
Name: Robert G. Clark
Title: Trustee

[Supplemental Indenture]

EXHIBIT A

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
No. R-___**

**Registered
Up to \$ _____
(See Schedule A attached)**

CITY OF UNIVERSITY CITY, MISSOURI

**[TAXABLE] TAX INCREMENT REVENUE NOTE
(OLIVE BOULEVARD COMMERCIAL CORRIDOR AND RESIDENTIAL CONSERVATION
REDEVELOPMENT PROJECT AREA 1)
SERIES [A/B]**

Rate of Interest: 8.00%/6.50%

Maturity Date: June 9, 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 defined below. 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 semi-annually.

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 June 13, 2019 among the City, U. City, L.L.C. and U. City TIF Corporation, as amended by the First Amendment to Redevelopment Agreement dated as of June 29, 2020 among the City, U. City, L.L.C. and U. City TIF Corporation, and as may be further amended or supplemented from time to time (collectively, the "Agreement").

THE OBLIGATIONS OF THE CITY WITH RESPECT TO THIS NOTE TERMINATE ON JUNE 9, 2042, WHETHER OR NOT THE PRINCIPAL AMOUNT OR INTEREST HEREON

HAS BEEN PAID IN FULL. NOTWITHSTANDING ANYTHING TO THE CONTRARY HEREIN OR IN THE INDENTURE, THIS NOTE MAY BECOME SUBORDINATED TO OTHER OBLIGATIONS OF THE CITY AS PROVIDED IN SECTION 5.2(b) OF THE AGREEMENT. REFERENCE IS MADE TO THE INDENTURE AND THE AGREEMENT 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 at the maturity or redemption date hereof, upon presentation and surrender of this Note at the principal corporate trust office in St. Louis, Missouri of BOKF, N.A., as trustee (the "Trustee"). 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 and signed by such registered owner, not less than 5 days prior to the Record Date for such interest, containing the electronic transfer instructions including the bank (which shall be in the United States), ABA routing number 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 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 Redevelopment Project Area 1), Series _____," which together with other authorized series of fully-registered Notes of the City designated "City of University City, Missouri, Tax Increment Revenue Notes (Olive Boulevard Commercial Corridor and Residential Conservation Redevelopment Project Area 1), Series _____," aggregate a principal amount of \$73,901,661.19 (collectively the "Notes"). The Notes are being issued for the purpose of paying a portion of the Reimbursable Redevelopment Project Costs in connection with the redevelopment of RPA 1 of the Olive Boulevard Commercial Corridor and Residential Conservation Redevelopment Area, under the authority of and in full compliance with 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 of the Revised Statutes of Missouri (the "Act"), the Community Improvement District Act, Sections 67.1401 to 67.1571 of the Revised Statutes of Missouri (the "CID Act"), and pursuant to a Trust Indenture dated as of March 1, 2021, 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 Notes constitute special, limited obligations of the City payable as to principal, premium, if any, and interest solely from Note proceeds, Net Proceeds and 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, (1) subject to **Section 6.3(a)(1)** of the Redevelopment Agreement, all Economic Activity Taxes on deposit in the EATS Account of the Special Allocation Fund, (2) all District Revenues on deposit in the District Revenues Account of the Special Allocation Fund, (3) all City Revenues on deposit in the City Revenues Account of the Special Allocation Fund and (4) monies on deposit in any other account of the Special Allocation Fund that have been appropriated to the payment of the Notes. Net Proceeds do not include (1) any amount paid under protest until the protest is withdrawn or resolved against the taxpayer and (2) any sum received by the City that is the subject of a suit or other claim communicated to the City which suit or claim challenges the collection of such sum.

“Interest Rate” means a fixed rate equal to (i) 8.00%, if the interest on the 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 Notes (in the opinion of Bond Counsel) is excluded from gross income for federal income tax purposes (the “*Tax-Exempt Rate*”).

The 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 Tax Increment Financing Commission of the City of University City, Missouri, the commissioners of said Commission, the officers and employees of the City or the District, nor any person executing the Notes shall be personally liable for such obligations by reason of the issuance thereof.

NOTWITHSTANDING ANY PROVISION IN THE AGREEMENT OR IN THE NOTES TO THE CONTRARY, THE NOTES ARE SUBJECT TO CANCELLATION AND DISCHARGE BY THE CITY IN WHOLE OR IN PART WITHOUT PENALTY UNDER THE CONDITIONS SET FORTH IN SECTION 3.1 OF THE AGREEMENT.

The Notes are subject to optional redemption by the City, in whole or in part at any time on or after May 1, 2031, at a redemption price of 100% of the principal amount of the Notes to be redeemed, plus accrued interest thereon to the date fixed for redemption.

The 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 equal to the amount which, 40 days prior to each Interest Payment Date (10 days if all of the Notes are owned by a single party), is on deposit in the Debt Service Fund and which will not be required for the payment of interest on such Interest Payment Date.

If any of the 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 (10 days if all of the Notes are owned by a single party) 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 Notes or portions of 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 Notes or portions of 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.

Notes shall be redeemed only in Authorized Denominations. When less than all of the outstanding Notes are to be redeemed and paid prior to maturity, such Notes or portions of Notes to be redeemed shall be redeemed in the order of maturity designated by the City, and, within any maturity, the Trustee shall select the Notes to be redeemed in Authorized Denominations in such equitable manner as the Trustee may determine. All Taxable TIF Notes shall be redeemed prior to the Tax-Exempt TIF Notes.

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 DEFINED BELOW. 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 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. For the purposes of this Note, "Approved Investor" means (a) the Developer, (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, (d) any general business corporation or enterprise with total assets in excess of \$50,000,000, (e) the Lender or (f) the Purchaser.

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 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 signature of its City Manager and attested by the manual 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

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 Notes described in the within-mentioned Indenture.

<u>Date⁽¹⁾</u>	<u>Additions to Principal Amount⁽²⁾</u>	<u>Principal Amount Paid/Cancelled</u>	<u>Outstanding Principal Amount</u>	<u>Authorized Signatory of Trustee</u>
_____, 20__	\$	\$	\$	
_____, 20__				
_____, 20__				
_____, 20__				
_____, 20__				
_____, 20__				
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_____, 20__				
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_____, 20__				
_____, 20__				
_____, 20__				

(1) Date of Advance (which constitutes Date of Registration with respect to such portion of the Note) or Interest Payment Date. Advances are limited to one per calendar month.

(2) **Additions to the Principal Amount may not exceed the amounts permitted by Section 5.1 of the Redevelopment Agreement.**