

INTRODUCED BY: Councilmember Steve McMahon

DATE: September 12, 2022

BILL NO. 9486

ORDINANCE NO. 7203

AN ORDINANCE DESIGNATING A CERTAIN TRACT OF LAND IN THE CITY OF UNIVERSITY CITY AS A BLIGHTED AREA; APPROVING THE DEVELOPMENT PLAN FOR THE DELMAR BOULEVARD REDEVELOPMENT AREA; APPROVING A DEVELOPMENT AND PERFORMANCE AGREEMENT IN CONNECTION WITH THE DEVELOPMENT PLAN; AND AUTHORIZING THE CITY TO ENTER INTO CERTAIN AGREEMENTS AND TAKE CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH.

WHEREAS, the City of University City, Missouri (the “City”), is authorized and empowered to undertake certain redevelopment projects pursuant to Chapter 353 of the Revised Statutes of Missouri (“Chapter 353”) and Chapter 510 of the University City Code (the “Urban Redevelopment Ordinance”); and

WHEREAS, the Development Plan for Delmar Boulevard Redevelopment Area (the “Development Plan”) attached hereto as **Exhibit A** has been prepared and submitted to the City in connection with the proposed redevelopment of approximately 6.2 acres of real property located south of Delmar Boulevard between McKnight Place and Kingdel Drive (the “Redevelopment Area”); and

WHEREAS, the Development Plan contemplates the use of real property tax abatement to incentivize a redevelopment project consisting of the development of approximately 262 residential apartments, 1,300 square feet of commercial space, and related parking and infrastructure within the Redevelopment Area (the “Redevelopment Project”); and

WHEREAS, included as Appendix B to the Development Plan is an analysis prepared by Development Dynamics, LLC (the “Blighting Study”), which documents the current conditions of the Redevelopment Area and supports a finding that the Redevelopment Area is a “blighted area” as defined in Chapter 353; and

WHEREAS, implementation of the Development Plan through the completion of the Redevelopment Project will remediate the conditions that cause the Redevelopment Area to be a blighted area; and

WHEREAS, in accordance with the Urban Redevelopment Ordinance, the City’s Plan Commission reviewed the Development Plan and reported its recommendations to the Mayor and the City Council (the “Plan Commission Recommendation”); and

WHEREAS, in accordance with Chapter 353 and the Urban Redevelopment Ordinance, the City Council held a public hearing regarding the blight designation, the proposed Development Plan and the contemplated grant of tax abatement on September 27, 2022, at which hearing all interested persons and taxing districts were given the opportunity to be heard (the “Public Hearing”); and

WHEREAS, the City Council hereby finds and determines that it is desirable for the improvement of the economic welfare and development of the City to approve the Development Plan; and

WHEREAS, the Project is also the subject of the Plan for Industrial Development Project (the “Chapter 100 Plan”) approved by Ordinance No. ____ (Bill No. ____), which Chapter 100 Plan allows for a sales tax exemption on construction materials used to construct the Redevelopment Project; and

WHEREAS, the City Council further finds and determines that it is necessary and desirable in connection with the implementation of the Development Plan and the Chapter 100 Plan to enter into a Development and Performance Agreement (the "Development and Performance Agreement") in substantially the form of **Exhibit B** attached hereto with the developer of the Redevelopment Project (the "Development and Performance Agreement").

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

Section 1. Application of Chapter 353 Amendment. The City Council acknowledges that the definition of "blighted area" in the Urban Redevelopment Ordinance is inconsistent with the amended definition of "blighted area" in Chapter 353 (which was amended in 2021 by Senate Bills 153 and 97). Accordingly, for purposes of this Ordinance, including, without limitation, the finding of blight in **Section 2** below, the definition of "blighted area" in Section 510.040 of the Urban Redevelopment Ordinance shall not apply and any references to "blighted area" in the Urban Redevelopment Ordinance shall be deemed to mean a "blighted area" as defined in Chapter 353.

Section 2. Findings. Upon due consideration of the Development Plan, the Blighting Study and the testimony presented at the Public Hearing, the City Council finds that:

(a) the Redevelopment Area is a "blighted area" as defined in the Urban Redevelopment Ordinance (as amended above with respect to this Ordinance), and redevelopment of the Redevelopment Area is necessary for the public interest, convenience and necessity; and

(b) the approval of the Development Plan and its implementation is necessary for the health, safety, morals and welfare of the public.

Section 2. Approval of Development Plan. The City Council further finds that the Development Plan materially conforms to the requirements for development plans set forth in the Urban Redevelopment Ordinance and waives any procedural noncompliance with the Urban Redevelopment Ordinance. The Development Plan is hereby approved.

Section 3. Approval of Development and Performance Agreement. The City is hereby authorized to enter into the Development and Performance Agreement, in substantially the form presented to and approved by the City Council and attached to this Ordinance as **Exhibit B**, with such changes therein as shall be approved by the officials of the City executing the Development and Performance Agreement, such officials' signatures thereon being conclusive evidence of their approval thereof. The City Manager is hereby authorized to execute the Development and Performance Agreement and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk is hereby authorized to attest to and affix the seal of the City to the Development and Performance Agreement 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 4. Developer Substitution. Notwithstanding the form of the Development and Performance Agreement approved in substantially final form pursuant to **Section 3**, at the request of Charles Deutsch & Company, any entity controlled by Charles Deutsch & Company or Charles J. Deutsch or under common control with Charles Deutsch & Company may be inserted as the Developer in the Development and Performance Agreement prior to execution.

Section 5. Further Authority. The City shall, and the officials, agents and employees of the City are hereby authorized 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 Development Plan and the Development and Performance Agreement. The City Manager is hereby authorized, through the term of the

Development and Performance Agreement, to execute all documents on behalf of the City (including documents pertaining to the financing or refinancing of the Redevelopment Project by the Developer) as may be required to carry out and comply with the intent of this Ordinance and the Development and Performance Agreement. The City Manager is further authorized, on behalf of the City, to grant such consents, estoppels and waivers relating to the Development and Performance Agreement as may be requested during the term thereof; provided, such consents, estoppels and/or waivers shall not increase the amount or duration of the economic incentives provided in the Development and Performance Agreement, waive an event of default or materially change the nature of the transaction. The City Clerk is authorized to attest to and affix the seal of the City to any document authorized by this Section.

Section 6. Severability. 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 7. Effective Date. This Ordinance shall be in full force and effect from and after the date of its passage and approval.

PASSED and ADOPTED THIS 27th DAY OF September, 2022.

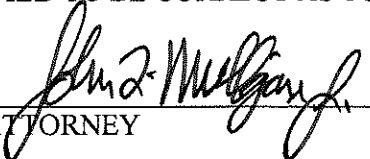

MAYOR

(Seal)

ATTEST:


CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:


CITY ATTORNEY

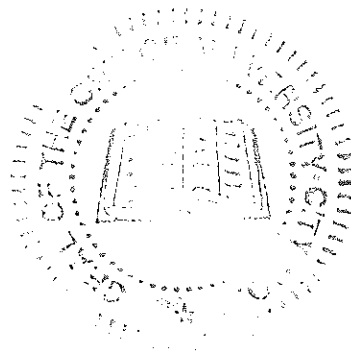


EXHIBIT A
DEVELOPMENT PLAN

(On file in the office of the City Clerk)

EXHIBIT B

DEVELOPMENT AND PERFORMANCE AGREEMENT

(On file in the office of the City Clerk)