

INTRODUCED BY: Councilmember Bwayne Smotherson

DATE: February 13, 2023

BILL NO. 9504

ORDINANCE NO. 7224

AMENDED

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

WHEREAS, the City and U. City, L.L.C. and U. City TIF Corporation (collectively, the “Developer”) entered into a Redevelopment Agreement dated June 13, 2019 and a First Amendment to Redevelopment dated June 29, 2020 (collectively, the “Redevelopment Agreement”) relating to the redevelopment of Redevelopment Project Area 1 as described in the Olive Boulevard Commercial Corridor and Residential Conservation Redevelopment Plan; and

WHEREAS, the City, the Developer and The Markets at Olive Community Improvement District (the “District”) entered into a District Project Agreement dated as of August 21, 2020 (the “District Agreement”), setting forth their rights and responsibilities regarding the construction and financing of certain portions of the redevelopment project as described in the Redevelopment Agreement; and

WHEREAS, the City Council finds and determines that it is in the best interests of the City to amend the Redevelopment Agreement and the District Agreement;

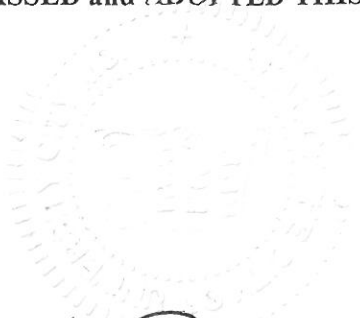
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF UNIVERSITY CITY, MISSOURI, AS FOLLOWS:

Section 1. The City Council hereby approves the Second Amendment to Redevelopment Agreement between the City and the Developer in substantially the form of **Exhibit A** attached hereto and the Amended and Restated District Project Agreement in substantially the form of **Exhibit B** attached hereto. The City Manager is hereby authorized and directed to execute such documents on behalf of the City in substantially the form attached with such changes therein as shall be approved by the City Manager. The City Clerk is hereby authorized and directed to attest to such documents and to affix the seal of the City thereto.

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

PASSED and ADOPTED THIS 13th DAY OF March, 2023.




MAYOR

(Seal)

ATTEST:


CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:


CITY ATTORNEY

EXHIBIT A

SECOND AMENDMENT TO REDEVELOPMENT AGREEMENT

[On file in the City Clerk's Office]

SECOND AMENDMENT TO REDEVELOPMENT AGREEMENT

This Second Amendment to Redevelopment Agreement (this "*Second Amendment*") is made as of March 15, 2023 (the "Effective Date"), by and among the CITY OF UNIVERSITY CITY, MISSOURI (the "*City*"), an incorporated political subdivision of the State of Missouri, and U. CITY, L.L.C., a Missouri limited liability company, and U. CITY TIF CORPORATION, a Missouri corporation (collectively, the "*Developer*"). *All capitalized terms not otherwise defined herein shall have meanings ascribed to such terms in the below-defined Agreement.*

RECITALS:

A. The City and the Developer are parties to that certain Redevelopment Agreement dated as of June 13, 2019, as amended by the First Amendment to Redevelopment Agreement dated June 29, 2020 (the "*Original Redevelopment Agreement*" and as further amended by this Second Amendment, the "*Agreement*") relating to the Olive Boulevard Commercial Corridor and Residential Conservation Redevelopment Plan and the "*RPA 1 Redevelopment Project*" described therein.

B. The City and the Developer desire to amend certain provisions of the Original Redevelopment Agreement, as provided herein, which amendments are necessary or desirable to facilitate further implementation of the RPA 1 Redevelopment Project.

AGREEMENT

NOW, THEREFORE, in consideration of the above premises and of the mutual promises and covenants set forth herein, the City and the Developer hereby agree as follows:

1. **Acknowledgement of Completion of North Phase.** The City and the Developer acknowledge that the North Phase has been substantially completed, as evidenced by the acceptance by the City of the Certificate of Substantial Completion relating to the North Phase, which Certificate was recorded with the St. Louis County Recorder of Deeds as Document Number 2022070700339 on July 7, 2022.

2. **Amendments to Exhibits. Concept Site Plan.** Exhibit B (Concept Site Plan) to the Original Redevelopment Agreement is hereby deleted in its entirety and replaced with Exhibit B attached to this Second Amendment.

3. **Amendments to Definitions.**

A. Section 1.1 of the Original Redevelopment Agreement is hereby amended by adding the following definitions:

"*North Phase Anchor Site*" means the area labeled as North Phase Anchor Site on the Concept Site Plan and including Lot 1 of Market at Olive, a subdivision plat, according to the Plat thereof recorded at Book 369 Page 124 of the St. Louis County Recorder of Deeds. The North Phase Anchor Site is owned in fee by Costco Wholesale Corporation.

"*Parcel Development Agreement*" means a parcel development among the City, the Developer, the Sub-Developer and, if applicable, the District, pursuant to which the Sub-Developer will agree to undertake a portion of the RPA 1 Redevelopment Project and, if applicable, the District Project.

"RPA 2/3 Annual Retainage Amount" means: (1) the amount of \$92,000 per calendar year, beginning with calendar year 2023, of TIF Revenues generated within RPA 1 or (2) the amount of \$200,000 per calendar year, beginning with the calendar year in which the South Phase Anchor opens for business, and ending June 9, 2042. The RPA 2/3 Annual Retainage Amount per (1) shall be *prorated* (on a daily basis using 365 days) for 2023 from and after the Effective Date, and the increased RPA 2/3 Annual Retainage Amount per (2) shall be prorated (on a daily basis using 365 days) in the initial year based on the number of days that the South Phase Anchor is open for business. The RPA 2/3 Annual Retainage Amount will be paid from TIF Revenues on deposit in the Special Allocation Fund and not funded from any District Revenues.

"Second Amendment" means this Second Amendment to Redevelopment Agreement dated as of the Effective Date by and between the City and the Developer.

"South Phase Anchor" means a grocery operator occupying at least 65,000 square feet in the South Phase.

"South Phase Remaining Properties" means, collectively, the following properties: 8608 Mayflower Court; 8609 Mayflower Court; 8612 Mayflower Court; 8615 Mayflower Court; 8618 Mayflower Court; 8619 Mayflower Court; 8625 Mayflower Court; 8628 Mayflower Court; 8633 Mayflower Court; 8637 Mayflower Court; 8638 Mayflower Court; 1157 N. McKnight Road; and 1151 N. McKnight Road.

"Sub-Developer" means an entity designated as "Sub-Developer" in a Parcel Development Agreement for a portion of the RPA 1 Redevelopment Project.

B. Section 1.1 of the Original Redevelopment Agreement is hereby amended by deleting the definitions of City Revenues and City Revenues Account. All references to those terms in the Redevelopment Agreement, including but not limited to the definitions, Section 5.3(b), Section 6.1, Section 6.1(c), Section 6.3(a), Section 6.3(d), Section 6.4(a)(2), and Exhibit E, are hereby stricken.

C. Section 1.1 of the Original Redevelopment Agreement is hereby amended by deleting the definitions of Available Revenues, District, District Project Agreement and Initial Work, and inserting the following definitions in lieu thereof:

"Available Revenues" means (a) all money on deposit from time to time (including investment earnings thereon, but not including any moneys needed to fund the RPA 2/3 Annual Retainage Amount), in (1) the PILOTS Account and (2) subject to annual appropriation, the EATS Account and the District 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.

"District" means the Markets at Olive Community Improvement District formed in connection with the RPA 1 Redevelopment Project pursuant to the CID Act and **Section 3.12**.

"District Project Agreement" means the Amended and Restated District Project Agreement dated as of March 15, 2023, by and among the City, the Developer and the District, as may be amended from time to time.

“Initial Work” means:

(a) with respect to the North Phase:

(1) acquiring approximately 16 acres of Property for the North Phase Anchor Site, and

(2) the Developer’s sale or lease to an end-user or tenant of the North Phase Anchor Site, as shown on the Concept Site Plan (i.e., an end-user or tenant that will occupy at least 140,000 square feet), and

(b) with respect to the South Phase:

(1) acquisition by the Developer or a Sub-Developer of all Property necessary for the South Phase (which need not include the South Phase Remaining Properties), and

(2) the Developer or a Sub-Developer undertaking all Work required to commence the construction of at least 25,000 square feet of commercial space in the South Phase (which may include space to be constructed by or on behalf of third party end users pursuant to an executed sale contract or lease), and *either*:

(A) the Developer has entered into a purchase and sale agreement to sell at least seven acres of property in the South Phase to a Sub-Developer to construct facilities for the South Anchor Tenant, *or*

(B) the Developer or a Sub-Developer undertakes all Work required to commence the construction of at least an additional 55,000 square feet of commercial space within RPA 1 (which may include space to be constructed by or on behalf of third-party end users pursuant to an executed sale contract or lease).

4. **Funding of RPA 2 and RPA 3 Costs.** Section 2.3 of the Original Redevelopment Agreement is hereby deleted in its entirety and replaced with the following:

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 agree as follows:

(a) The City acknowledges prior receipt of the RPA 2/3 Advance Amount (\$3,000,000) to be used to fund Redevelopment Project Costs associated with RPA 2, as described in the Redevelopment Plan.

(b) The City expects to receive and make available for payment of Redevelopment Project Costs for RPA 2 the sum of \$368,000 from the proceeds of the TIF Bonds referenced in Section 9 hereof, which represents \$92,000 per fiscal year from the date of this Agreement through June 30, 2023.

(c) The City expects to receive and make available for payment of Redevelopment Project Costs for RPA 2 at least \$6,632,000 between July 1, 2023 and June 9, 2042, through a combination of (i) the total RPA 2/3 Annual Retainage Amounts

and (ii) funds from the City's parks and stormwater sales tax (which do not constitute TIF Revenues).

(d) RPA 3, net of a 50% PILOTS surplus declaration, is expected to generate in excess of \$5,000,000 of TIF Revenues that will be available for payment of Redevelopment Project Costs for RPA 3.

5. Ownership and Acquisition of Property. Sections 3.1(a), (b), (d), (e)(1), (f) and (g) of the Original Redevelopment Agreement are hereby deleted and replaced with the following:

3.1. Ownership and Acquisition of Property.

(a) *Control of Property.* As of the date of this Second Amendment, the Developer represents that it, a Related Entity, or with respect to the North Phase Anchor Site, the end-user of such property, has acquired all parcels within RPA 1 except for the South Phase Remaining Properties.

(b) *Acquisition of South Phase Remaining Properties.*

(1) The Developer will continue its efforts to acquire the South Phase Remaining Properties by negotiation. If the Developer is unable to acquire the South Phase Remaining Properties or any portion thereof by negotiation, it may request in writing that the City initiate condemnation proceedings for the acquisition of one or more of those parcels; provided, however, that the City may, in its sole discretion, refuse to initiate condemnation proceedings if the request to initiate condemnation proceedings is received after December 31, 2023.

(2) Notwithstanding the time limit set forth in (1) above, 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 at any time (subject to the limitations set forth in Section 99.810.1(3) of the TIF Act).

(3) 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 unless otherwise consented to by the City Council in its sole and absolute discretion.

(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 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 and subject to the limitations set forth in Section 99.810.1(3) of the TIF Act, the City will cooperate in and participate in any actions necessary to clear title, condemn an easement, vacate right-of-way or similar activity or encumbrance, as may be necessary for the orderly acquisition and redevelopment 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) The City acknowledges that the Developer has posted an irrevocable letter of credit, naming the City as beneficiary, in an amount equal to \$1,000,000, as security for its obligations under this Agreement. The previously provided irrevocable letter of credit shall be released and returned to Developer on the Effective Date. Notwithstanding any provision of the Agreement to the contrary, after the letter of credit is released, the City will not initiate any new condemnation actions unless and until the City and the Developer enter into an agreement regarding security for the Developer's obligations under the Agreement.

6. Construction Schedule. Section 3.3(a) of the Original Redevelopment Agreement is hereby deleted in its entirety and replaced with the following:

(a) The City acknowledges that a Certificate of Substantial Completion has been approved for the North Phase. The Developer shall complete the Initial Work (as evidenced by the City's acceptance or deemed acceptance of a Certificate of Substantial Completion for the Initial Work) for the South Phase no later than December 31, 2024.

7. Special Development Conditions. Section 3.9 of the Original Redevelopment Agreement is hereby amended by adding the following as Section 3.9(a)(5):

(5) Any ordinance passed after June 10, 2019 that is in conflict with any of the foregoing special development conditions shall supersede to the extent thereof.

8. Community Improvement District. Section 3.12 of the Original Redevelopment Agreement is hereby amended by adding a new subsection (g) as follows:

(g) The City and the Developer may enter into one or more Parcel Development Agreements with Sub-Developers and the District to complete portions of the RPA 1 Redevelopment Project. Notwithstanding anything to the contrary in this Agreement, the Parcel Development Agreements may provide for the use of District Revenues generated from a portion of RPA 1 described in the applicable Parcel Development Agreement, to the extent those District Revenues are not captured by tax increment financing by operation of the TIF Act and are not otherwise pledged to the payment of bonds or other obligations, to be used to reimburse the Sub-Developer for eligible costs of the District Project. The terms of any such reimbursement will be described in the applicable Parcel Development Agreement.

9. Amended Certificates of Reimbursable Redevelopment Project Costs. Section 4.2 of the Original Redevelopment Agreement is hereby amended by adding a new subsection (d) as follows:

(d) Notwithstanding the foregoing, the Developer may, from time to time, amend previously approved Certificates of Reimbursable Redevelopment Project Costs for the purpose of increasing the amount of Reimbursable Redevelopment Project Costs associated with the District Project so long as the total amount of Reimbursable Redevelopment Project Costs represented by approved Certificates of Reimbursable Project Costs, as may be amended pursuant to this subsection, does not exceed sum of the Maximum Reimbursement Amount and the RPA 2/3 Advance Amount. An amended Certificate of Reimbursable Redevelopment Project Costs (1) shall

be subject to the procedures described in subsection (b) above with respect to submittal and approval and (2) shall clearly identify (i) which Reimbursable Redevelopment Project Costs on the previously approved Certificate of Reimbursable Redevelopment Project Costs are being deleted or revised, (ii) which Reimbursable Redevelopment Project Costs are being substituted in lieu of the deleted or revised Reimbursable Redevelopment Project Costs, and (iii) the amount of substituted Reimbursable Redevelopment Project Costs that were incurred in connection with the District Project.

10. TIF Notes Holdback. Section 5.1(d) of the Original Redevelopment Agreement is hereby deleted in its entirety and replaced with the following:

(d) *Holdback.* Except as otherwise set forth below, the principal amount of the TIF Notes shall not be endorsed above \$58,500,000 plus Issuance Costs until:

(1) the Developer has closed or, simultaneously with the endorsement of the TIF Notes, will close, on the private financing for the construction of at least 25,000 square feet of commercial space in the South Phase (which may include space to be constructed by or on behalf of third-party end users pursuant to an executed sale contract or lease); and

(2) the Developer has completed the Initial Work (as evidenced by the City's acceptance or deemed acceptance of a Certificate of Substantial Completion).

11. TIF Bonds. Section 5.2 of the Original Redevelopment Agreement is hereby amended by inserting the following:

(c) *Refunding of TIF Notes with TIF Bonds.* The parties intend to cause the issuance of TIF Bonds by The Industrial Development Authority of University City, Missouri (the "IDA"). The parties expect the TIF Bonds to be issued in two series: a series of senior TIF Bonds that are publicly offered and a series of subordinate TIF Bonds that will be owned by or at the direction of the Developer. The TIF Bonds collectively will refund all of the TIF Notes. If the TIF Bonds are issued as contemplated by this paragraph, the following provisions shall apply:

(1) the TIF Bonds may have a final maturity of not later than June 15, 2053;

(2) the Developer will allow the TIF Notes to be refunded simultaneous with the issuance of the TIF Bonds at par, without premium;

(3) the TIF Bonds held by or at the direction of the Developer will be fully subordinate to the publicly-offered TIF Bonds, but otherwise will have the same terms as the TIF Notes that are being refunded, except the maturity date will match the publicly-offered TIF Bonds as set out above;

(4) the provisions of the Redevelopment Agreement applicable to the TIF Notes (including but not limited to Sections 5.1(d) and 7.2) will apply to the subordinate TIF Bonds;

(5) proceeds of the TIF Bonds in the amount of \$368,000 shall be paid to the City and used for payment of Redevelopment Project Costs for RPA 2; and

(6) any portion of the subordinate TIF Bonds that are initially issued with a final maturity of earlier than June 15, 2053, may, upon request of the Developer, be amended or reissued to extend the maturity date to not later than June 15, 2053, without further action by the City.

12. Termination of South Phase. Section 7.2(c)(v) of the Original Redevelopment Agreement is hereby deleted in its entirety and replaced with the following:

(v) the City may terminate this Agreement with respect to the South Phase if the Developer (and/or a Sub-Developer operating pursuant to a Parcel Development Agreement) does not complete the Initial Work (as evidenced by the City's acceptance or deemed acceptance of a Certificate of Substantial Completion for the Initial Work) for the South Phase by December 31, 2024.

13. Notice to Developer. Section 7.8(b) of the Original Redevelopment Agreement is hereby deleted in its entirety and replaced with the following:

(b) If to the Developer:

U. City, L.L.C. and U. City TIF Corporation
c/o Seneca Commercial Real Estate
1401 S. Brentwood Boulevard, Suite 625
St. Louis, Missouri 63144
Attn: Larry Chapman
lchapman@seneca-cre.com

With a copy to:

Schott Hamilton
1610 Des Peres Road, Suite 385
St. Louis, Missouri 63131
Attn: Caroline Saunders
caroline@schotthamilton.com

14. Reimbursement to City. Simultaneous with the execution of this Second Amendment, the Developer will pay \$20,000 to or at the direction of the City to pay or reimburse the City for costs associated with the negotiation and execution of this Agreement and associated activities, including, without limitation the expansion of the District and the negotiation and execution of this Second Amendment.

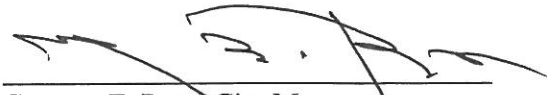
15. Effect of Amendment. Except as expressly modified hereby, the provisions of the Original Redevelopment Agreement shall remain unaltered and in full force and effect.

16. Counterparts. This Second Amendment may be executed simultaneously in several counterparts, each of which shall be deemed to be an original and all of which shall constitute but one and the same instrument.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, the City and the Developer have caused this Second Amendment 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

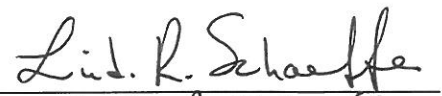
By: 
Gregory E. Rose, City Manager

Attest: 
LaRette Reese, City Clerk

STATE OF MISSOURI)
) SS
COUNTY OF ST. LOUIS)

On this 3rd day of April, 2023, 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.

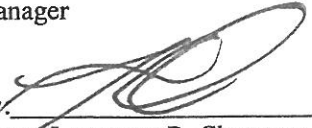

Name: Linda R. Schaeffer
Notary Public - State of Missouri
Commissioned in St. Louis County

(SEAL)

My Commission Expires:




U. CITY, L.L.C.
By: CRG Services Management, LLC, its
Manager

By: 
Name: Lawrence R. Chapman, Jr.
Title: Vice-President

STATE OF MISSOURI)
) SS
COUNTY OF ST. LOUIS)

On this 15th day of March, 2023, before me appeared Lawrence R. Chapman, Jr., to me personally known, who, being by me duly sworn, did say that he is the Vice-President of CRG Services Management, the Manager 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.

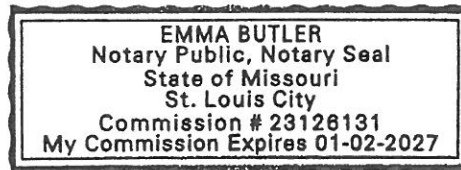


Notary Public


(SEAL)

My Commission Expires:

01-02-2027



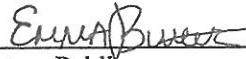
U. CITY TIF CORPORATION

By: 
Name: Lawrence R. Chapman, Jr.
Title: President

STATE OF MISSOURI)
) SS
COUNTY OF ST. LOUIS)

On this 15th day of March, 2023, before me appeared Lawrence R. Chapman, Jr., 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.

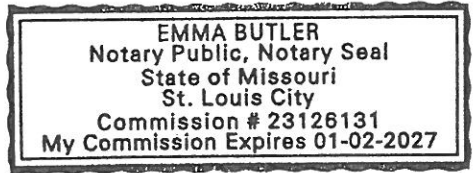


Notary Public

(SEAL)

My Commission Expires:

01-02-2027

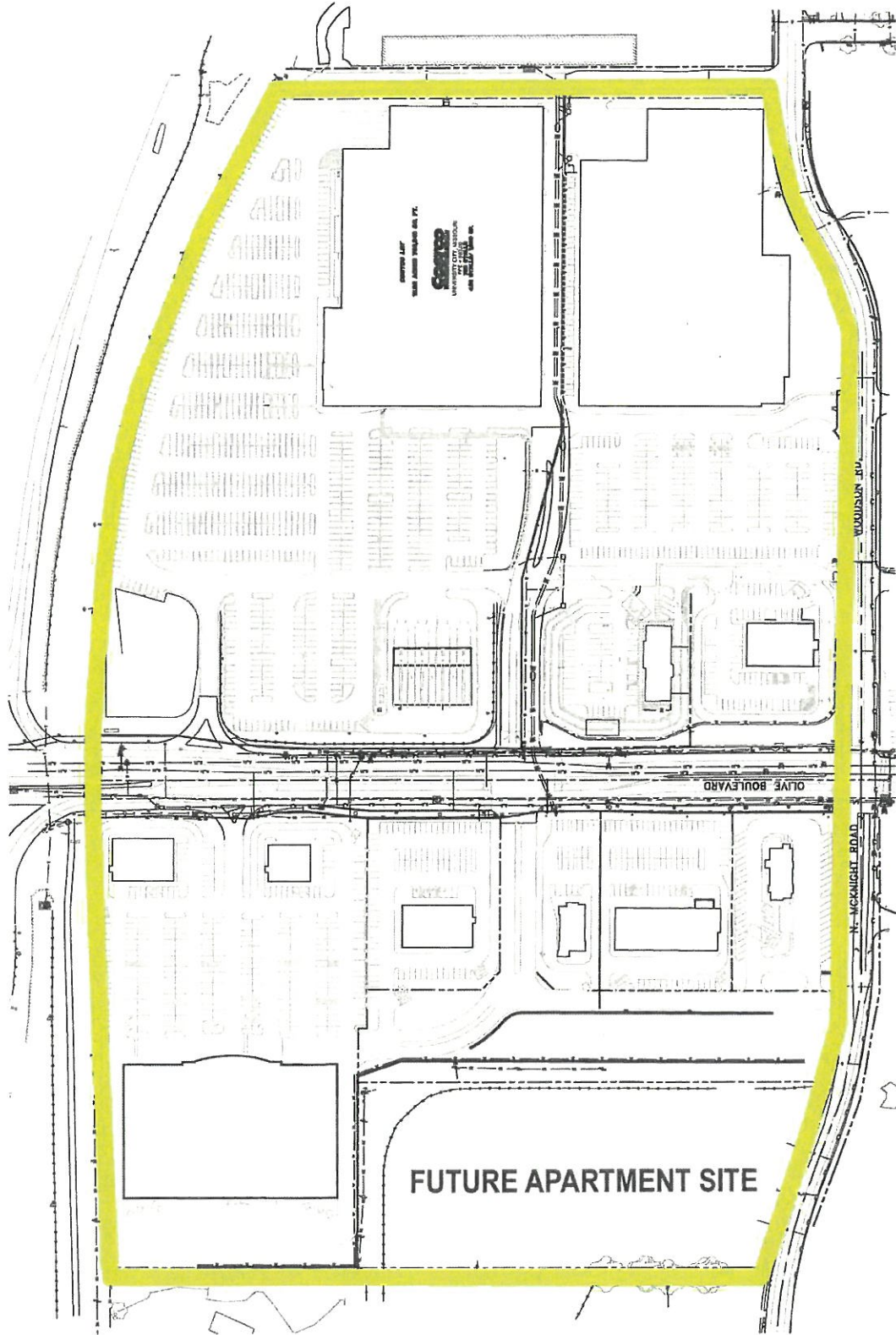


[Second Amendment to Redevelopment Agreement]

EXHIBIT B

CONCEPT SITE PLAN

MARKET AT OLIVE - RPA I



AMENDED AND RESTATED DISTRICT PROJECT AGREEMENT

THIS AMENDED AND RESTATED DISTRICT PROJECT AGREEMENT (this "*Agreement*") is made and entered into as of March 15, 2023, by and among the **CITY OF UNIVERSITY CITY, MISSOURI**, an incorporated political subdivision of the State of Missouri (the "*City*"), **THE MARKETS AT OLIVE 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*"). All capitalized terms not otherwise defined herein shall have the meanings ascribed to such terms in the hereinafter-defined Redevelopment Agreement.

RECITALS:

A. The District was established pursuant to Ordinance No. 7131 passed on July 13, 2020 (the "*Formation Ordinance*") and the Community Improvement District Act, Sections 67.1401 to 67.1571 of the Revised Statutes of Missouri (the "*CID Act*").

B. Pursuant to the Formation Ordinance and the CID Act, the District was created for the purpose of assisting in funding certain public improvements and 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 June 13, 2019 (as amended, the "Redevelopment Agreement") by and between the City and the Developer.

C. The Parties entered into a District Project Agreement dated as of August 21, 2020 (the "*Original Agreement*"), to set forth their respective rights and responsibilities regarding the construction and financing of the District Project.

D. Pursuant to Ordinance Nos. 7153 and 7208, approved by the City Council on June 14, 2021 and November 28, 2022, respectively, the City approved expansions to the District's boundaries.

E. Pursuant to Ordinance No. 7224, approved by the City Council on March 13, 2023, the City is authorized to enter into this Agreement for the purpose of amending and restating the Original Agreement to include references to the expanded District boundaries and revise certain terms associated with the 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 this 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 this 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 this 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. The District imposes a community improvement district sales and use tax (the "*District Sales Tax*") in the amount of one percent (1.0%). The District Sales Tax shall not be reduced or terminated so long as any Project Obligations (as defined in **Section 8**) remain outstanding.

Section 5. 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 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 6. 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 meet 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 7. 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 8**.

Section 8. Funding of the District Project.

(a) To reimburse the Developer for eligible costs incurred or advanced toward the Work, the City has issued its Tax Increment Revenue Notes (Olive Boulevard Commercial Corridor and Residential Conservation Redevelopment Project Area 1), Series B (the "*TIF Notes*") pursuant to a Trust Indenture dated as of March 1, 2021 (the "*Note Indenture*") between the City and BOKF, N.A., as trustee (the "Note Trustee"). The Parties agree that the District Project is part of such Work. The District shall, subject to annual appropriation, transfer all of the CID Portion of District Sales Tax Revenues (as defined in (g) below) collected by the District to the Note Trustee on the 15th day of each month (or if the 15th is not a Business Day (as defined in the Note Indenture), the next Business Day), for application to the payment of the TIF Notes.

(b) The City and the Developer intend to cause the issuance of tax increment revenue bonds (the "*TIF Bonds*") by The Industrial Development Authority of University City, Missouri (the "*IDA*"). The Parties expect the TIF Bonds to be issued in two series: a series of senior TIF Bonds that are publicly offered and a series of subordinate TIF Bonds that will be owned by or at the direction of the Developer. The TIF Bonds collectively will refund all of the TIF Notes. If the TIF Bonds are issued as contemplated

by this paragraph, the District shall, subject to annual appropriation and subsection (c) below with respect to South Phase Anchor Revenues, transfer all CID Portion of District Sales Tax Revenues collected by the District to the trustee for the TIF Bonds (the "*Bond Trustee*") on the 15th day of each month (or if the 15th is not a Business Day (as defined in the indenture authorizing the TIF Bonds), the next Business Day), for application to the payment of the TIF Bonds.

(c) Notwithstanding anything in subsection (b) to the contrary, the City, the District, the Developer and a Sub-Developer may, from time to time, enter into Parcel Development Agreements regarding completion of portions of the District Project, which Parcel Development Agreements may provide for District Sales Tax Revenues generated from a certain property or properties that would otherwise be included in the CID Portion of District Sales Tax Revenues to be used to reimburse a Sub-Developer for District Project costs (or pay debt service on obligations issued by or on behalf of the CID to reimburse the Sub-Developer for District Project costs) ("*Sub-Developer Reimbursement Obligations*"). However, no Parcel Development Agreement may provide for the use of District Sales Tax Revenues to pay Sub-Developer Reimbursement Obligations unless such use is (1) specifically contemplated by the trust indenture associated with the TIF Bonds or (2) subordinate to the TIF Bonds.

(d) The City agrees that all ordinances or indentures entered into in connection with the TIF Notes and any TIF Bonds (collectively, 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 the CID Portion of District Sales Tax Revenues to the Note Trustee or Bond Trustee, as applicable. "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).

(e) The District shall not issue any notes, bonds or other obligations of its own without the prior written permission of the City. Following payment of or expiration of the Project Obligations and any Sub-Developer Reimbursement Obligations, District Sales Tax Revenues may be used for any purpose under the CID Act; provided, however, that the District shall take such steps as necessary to terminate the imposition of the District Sales Tax.

(f) The District will not impose any special assessment or other tax on property within the District without the written consent of the fee owner(s) of such parcel.

(g) For purposes of this Section:

(1) "*CID Portion of District Sales Tax Revenues*" means the District Sales Tax Revenues, less (1) the TIF Portion of District Sales Tax Revenues, (2) any District Sales Tax Revenues described in a Parcel Development Agreement, which shall be used to reimburse a Sub-Developer for costs associated with a portion of the District Project and (3) District Expenses. For avoidance of doubt, after June 9, 2042 (i.e., the expiration of tax increment financing in RPA 1), there will be no further TIF Portion of District Sales Tax Revenues.

(2) "*District Sales Tax Revenues*" means the revenues from the District Sales Tax actually received by the District from the Missouri Department of Revenue.

(3) "*TIF Portion of District Sales Tax Revenues*" means 50% of the District Sales Tax Revenues, to the extent tax increment financing remains in effect within the District.

Section 9. 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 10. 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 11. 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 12. 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 13. 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 14. 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 15. 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 of the CID Act, 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 Sales Tax 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.

(SEAL)

Attest:


LaBette Reese
City Clerk

CITY OF UNIVERSITY CITY, MISSOURI

By:


City Manager

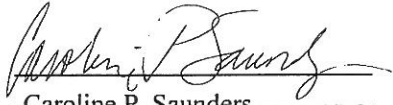
**THE MARKETS AT OLIVE COMMUNITY
IMPROVEMENT DISTRICT**

(SEAL)




By: _____
Name: Lawrence R. Chapman, Jr.
Title: Chair, Board of Directors


Attest:

By: 
Name: Caroline P. Saunders
Title: Secretary

U. CITY, L.L.C.
**By: CRG Services Management, LLC, its
Manager**

By: 
Name: Lawrence R. Chapman, Jr.
Title: Vice-President

U. CITY TIF CORPORATION

By: 
Name: Lawrence R. Chapman, Jr.
Title: President