



Industrial Development Authority

6801 Delmar Boulevard • University City, Missouri 63130 • 314-505-8542 • Fax: 314-862-0921

MEETING OF THE INDUSTRIAL DEVELOPMENT AUTHORITY (IDA)
VIA VIDEOCONFERENCE
Tuesday, May 16, 2023
10:00 a.m.

**IMPORTANT NOTICE REGARDING
PUBLIC ACCESS TO THE IDA MEETING & PARTICIPATION**

IDA will Meet Virtual (via Zoom) on May 16, 2023

Observe and/or Listen to the Meeting (your options to join the meeting are below):

Webinar - Via the link below:

<https://us02web.zoom.us/j/84170493829?pwd=V2VzVUNibEcxcms1eDNUYVYwdFBkUT09>

Passcode: 146073

Audio Only Call

Or One tap mobile :

+19292056099,,84170493829#,,,,*146073#US(NewYork)

+13017158592,,84170493829#,,,,*146073# US (Washington DC)

Or Telephone:

Dial(for higher quality, dial a number based on your current location):

+1 929 205 6099 US (New York) +1 301 715 8592 US (Washington DC) +1 305 224 1968 US

+1 309 205 3325 US +1 312 626 6799 US (Chicago) +1 646 931 3860 US +1 669 444 9171

+1 669 900 6833 US (San Jose) +1 689 278 1000 US +1 719 359 4580 US +1 253 205 0468

+1 253 215 8782 US (Tacoma) +1 346 248 7799 US (Houston) +1 360 209 5623 US +1 386 347

5053 US +1 507 473 4847 US +1 564 217 2000 US

Webinar ID: 841 7049 3829

Passcode: 146073

International numbers available: <https://us02web.zoom.us/j/kvJUK2iL8>

Citizen Participation

ALL written comments must be received **no later than May 15, 2023 at 5 p.m.** Comments

may be sent via email to: kcole@ucitymo.org – Attention Keith Cole, Director of Finance.

Such comments will be provided to the IDA prior to the meeting. Comments will be made a part of the official record and made accessible to the public online following the meeting.

Please note, when submitting your comments, a **name and address must be provided.**

Please also note if your comment is on an agenda item, and a name and address are not provided, the provided comment will not be recorded in the official record.

AGENDA

INDUSTRIAL DEVELOPMENT AUTHORITY (IDA)

Public notice is hereby given that a meeting of the Board of Directors of The Industrial Development Authority of University City, Missouri (the “Authority”) will be held at 10:00 a.m. on May 16, 2023, online via Zoom, to discuss the matters on the following tentative agenda and such other matters as may be presented at the meeting and determined to be appropriate for discussion.

1. Meeting Called to Order
2. Roll Call
3. Approval of Agenda
4. Approval of Minutes
 - i. March 14, 2023
 - ii. March 30, 2023
5. Consider a resolution authorizing the Industrial Development Authority of University, Missouri, to issue Taxable Special District Revenue Notes on behalf of The Markets at Olive Community Improvement District; and authorizing certain other actions in connection therewith.
6. Comments by Board of Directors, advisors and public.
7. Next meeting date - To Be Determined.
8. Adjournment

**MINUTES OF THE FIRST MEETING
OF THE BOARD OF DIRECTORS OF
THE INDUSTRIAL DEVELOPMENT AUTHORITY OF UNIVERSITY CITY, MISSOURI**

The first meeting of the Board of Directors of The Industrial Development Authority of University City, Missouri (the “Authority”) was held at 2:30 p.m. on March 14, 2023, online via Zoom.

Call to Order (Roll Call)

Board President Nowogrocki, called the meeting to order at 2:39pm.

The following persons were present or absent at the meeting as follows:

<u>Name</u>	<u>Present/Absent/Excused</u>
Susan Armstrong	Present
Chris Blumenhorst	Present
Dorothy Davis	Absent
Jeff Dobslaw	Absent
Cynthia Martin	Excused
Cirri Moran	Present
James Nowogrocki	Present

The following persons were also present at the meeting: City Manager Gregory Rose, City Attorney John Mulligan, Mark Grimm, and Keith Cole. Mayor Terry Crow was excused.

Approval of Agenda

Director Armstrong made a motion to approve the Agenda, seconded by Director Blumenhorst. The motion carried unanimously.

Approval of Minutes

Director Armstrong made a motion to approve the February 24, 2023, minutes, seconded by Director Blumenhorst. The motion carried unanimously.

Intent to Issue Tax Increment and Special District Revenue Bonds

Director Blumenhorst made a motion, seconded by Director Moran, to adopt Resolution No. 2023-5, entitled as follows, and all exhibits:

**RESOLUTION AUTHORIZING THE INDUSTRIAL DEVELOPMENT
AUTHORITY OF UNIVERSITY CITY, MISSOURI TO ISSUE TAX
INCREMENT AND SPECIAL DISTRICT REVENUE BONDS RELATING
TO THE MARKETS AT OLIVE PROJECT; AND AUTHORIZING
CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH.**

After consideration and discussion by the Board of Directors, the motion was put to a vote and passed unanimously.

Comments by Board, Advisors and Public

None noted.

Call of and Date for Next Board Meeting

The next meeting of the Board of Directors is to be determined at a later date.

Adjournment

The meeting adjourned at 2:53 pm with a motion by Board President Nowogrocki, seconded by Director Armstrong, and the motion carried unanimously.

**MINUTES OF THE FIRST MEETING
OF THE BOARD OF DIRECTORS OF
THE INDUSTRIAL DEVELOPMENT AUTHORITY OF UNIVERSITY CITY, MISSOURI**

The meeting of the Board of Directors of The Industrial Development Authority of University City, Missouri (the “Authority”) was held at 9:30 a.m. on March 30, 2023, online via Zoom.

Call to Order (Roll Call)

Board President Nowogrocki, called the meeting to order at 9:33 a.m.

The following persons were present or absent at the meeting as follows:

<u>Name</u>	<u>Present/Absent/Excused</u>
Susan Armstrong	Present
Chris Blumenhorst	Present
Dorothy Davis	Present
Jeff Dobslaw	Present
Cynthia Martin	Excused
Cirri Moran	Present
James Nowogrocki	Present

The following persons were also present at the meeting: City Manager Gregory Rose, Mark Grimm, Mark Spykerman and Keith Cole. Mayor Terry Crow was excused.

Approval of Agenda

Director Dobslaw made a motion to approve the Agenda, seconded by Director Armstrong. The motion carried unanimously.

Approval of Minutes

None noted.

Intent to Approve a Tax-Exempt Financing Compliance Procedure

Director Davis made a motion, seconded by Director Blumenhorst, to adopt Resolution No. 2023-6, entitled as follows:

**RESOLUTION AUTHORIZING THE INDUSTRIAL DEVELOPMENT
AUTHORITY OF UNIVERSITY CITY, MISSOURI TO APPROVE A TAX-
EXEMPT FINANCING COMPLIANCE PROCEDURE.**

After consideration and discussion by the Board of Directors, the motion was put to a vote and passed unanimously.

Comments by Board, Advisors and Public

Director Dobslaw asked who the Bond Compliance Officer was, and Board President stated it was Keith Cole.

Call of and Date for Next Board Meeting

The next meeting of the Board of Directors is to be determined at a later date.

Adjournment

The meeting adjourned at 9:39 a.m. with a motion by Director Armstrong, seconded by Director Davis, and the motion carried unanimously.

RESOLUTION NO. 2023-7

A RESOLUTION AUTHORIZING THE INDUSTRIAL DEVELOPMENT AUTHORITY OF UNIVERSITY CITY, MISSOURI, TO ISSUE TAXABLE SPECIAL DISTRICT REVENUE NOTES ON BEHALF OF THE MARKETS AT OLIVE COMMUNITY IMPROVEMENT DISTRICT; AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH.

WHEREAS, The Industrial Development Authority of University City, Missouri (the “Authority”), is authorized and empowered under Chapter 349 of the Revised Statutes of Missouri (the “Act”) to issue bonds and notes for the purpose of paying all or part of the cost of a “project,” as defined in the Act; and

WHEREAS, pursuant to the Community Improvement District Act, Sections 67.1401 to 67.1571 of the Revised Statutes of Missouri (the “CID Act”), and Ordinance No. 7131 adopted on July 13, 2020, by the City Council of University City, Missouri (the “City”), the City approved the formation of The Markets at Olive Community Improvement District (the “District”); and

WHEREAS, pursuant to Ordinance Nos. 7153 and 7208, adopted by the City Council on June 14, 2021 and November 28, 2022, respectively, the City approved expansions to the District’s boundaries; and

WHEREAS, the City, the District, U. City, L.L.C. and U. City TIF Corporation are parties to an Amended and Restated District Project Agreement dated as of March 15, 2023 (the “District Project Agreement”) relating to the construction and financing of the “District Project” defined therein; and

WHEREAS, the District Project Agreement contemplates that parcel development agreements may be entered into with sub-developers to complete portions of the District Project; and

WHEREAS, pursuant to Resolution No. 2023-004 adopted by the District’s Board of Directors on March 15, 2023 and Ordinance No. 7226 adopted by the City Council on May 8, 2023, the District and the City, respectively, approved a Parcel Development Agreement in substantially the form of **Exhibit A** attached hereto (the “Parcel Development Agreement”) among the City, the District, the Authority, U. City, L.L.C., U. City TIF Corporation and Dierbergs University City, LLC (the “South Parcel Project Sub-Developer”) relating to the portion of the District Project described therein as the “South Parcel Project;” and

WHEREAS, the Parcel Development Agreement contemplates that the Authority will, on behalf of the District, issue its Taxable Special District Revenue Notes (The Markets at Olive Community Improvement District – South Parcel Project), Series 2023, in the principal amount of not to exceed \$2,600,000 plus issuance costs (the “Notes”) for the purpose of financing certain costs of the South Parcel Project and issuing the Notes; and

WHEREAS, the Authority finds and determines that it is within the authority and public purposes of the Act that the Authority (a) issue the Notes for the aforementioned purposes, (b) approve certain documents related to the Notes, including the Parcel Development Agreement and the hereinafter-defined Indenture and Financing Agreement, and (c) take certain other actions as herein provided.

NOW, THEREFORE, BE IT RESOLVED BY THE BOARD OF DIRECTORS OF THE INDUSTRIAL DEVELOPMENT AUTHORITY OF UNIVERSITY CITY, MISSOURI, AS FOLLOWS:

Section 1. Definitions. All capitalized terms not elsewhere defined herein shall have the meanings set forth in **Section 101** of the herein-authorized Indenture.

Section 2. Authorization of the Notes. The Authority is hereby authorized to issue and deliver the Notes to the South Parcel Project Sub-Developer in accordance with the terms of the Indenture. The Notes shall bear such dates, shall mature at such times, shall be in such denominations, shall bear interest at such rates, shall be in such forms, shall be subject to redemption, shall have such other terms and provisions, and shall be issued, executed and delivered in such manner subject to the provisions, covenants and agreements, as are set forth in the Indenture.

Section 3. Special, Limited Obligations. The Notes and the interest thereon shall be special, limited obligations of the Authority payable solely from Note proceeds, the Pledged Revenues and other moneys pledged thereto and held by the Trustee as provided herein, and shall be secured by a transfer, pledge and assignment of and a grant of a security interest in the Trust Estate to the Trustee and in favor of the Owners of the Notes, as provided in the Indenture. The Notes and interest thereon shall not be deemed to constitute a debt or liability of the District, the State of Missouri or any political subdivision thereof within the meaning of any constitutional, charter or statutory provision or limitation, and shall not constitute a pledge of the full faith and credit of the Authority, the District, the State of Missouri or of any political subdivision thereof. The Notes shall be payable solely from the funds provided for in the Indenture and in the herein-authorized Financing Agreement. The issuance of the Notes shall not directly, indirectly or contingently obligate the District, the State of Missouri or any political subdivision thereof to levy any form of taxation therefor or to make any appropriation for their payment.

Section 4. Authorization of Documents. The Authority is hereby authorized to enter into the following documents (collectively, the “Authority Documents”), in substantially the forms attached to this Resolution (copies of which documents shall be filed in the records of the Authority), with such changes therein as shall be approved by the officers of the Authority executing such documents and as may be necessary or desirable to carry out and comply with the intent of this Resolution, such officers’ signatures thereon being conclusive evidence of their approval thereof:

- (a) Parcel Development Agreement in substantially the form attached hereto as **Exhibit A**;
- (b) Trust Indenture (the “Indenture”) by and between the Authority and the Trustee, in substantially the form attached hereto as **Exhibit B**; and
- (c) Financing Agreement (the “Financing Agreement”) by and between the Authority and the District, in substantially the form attached hereto as **Exhibit C**.

Section 5. Execution of Documents. The President, the Vice President and the Executive Director of the Authority are hereby authorized and directed to execute the Notes and to deliver the Notes to the Trustee for authentication for and on behalf of and as the act and deed of the Authority in the manner provided in the Indenture. The President, the Vice President and the Executive Director of the Authority are hereby authorized and directed to execute and deliver the Authority Documents for and on behalf of and as the act and deed of the Authority. The Secretary or any Assistant Secretary of the Authority is hereby authorized and directed to attest to the Notes and such Authority Documents and other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

Section 6. Further Authority. The Authority shall, and the officials, agents and employees of the Authority are hereby authorized and directed to, take such further action and execute and deliver such other documents and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution, and to carry out, comply with and perform the duties of the Authority with respect to the Authority Documents.

Section 7. Designation of Trustee, Paying Agent and Registrar. The Authority hereby approves and designates UMB Bank, N.A., as Trustee, Paying Agent and Registrar under the Indenture.

Section 8. Severability. The sections, paragraphs, sentences, clauses and phrases of this Resolution shall be severable. In the event that any such section, paragraph, sentence, clause or phrase of this Resolution is found by a court of competent jurisdiction to be invalid, the remaining portions of this Resolution are valid, unless the court finds the valid portions of the Resolution are so essential to and inseparably connected with and dependent upon the void portion that it cannot be presumed that the Authority has enacted the valid portions without the void 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 9. Governing Law. This Resolution shall be governed exclusively by and construed in accordance with the applicable laws of the State of Missouri.

Section 10. Effective Date. This Resolution shall take effect and be in full force immediately after its adoption by the Authority.

ADOPTED by The Industrial Development Authority of University City, Missouri, this 16th day of May, 2023.

President

(SEAL)

ATTEST:

Secretary

EXHIBIT A

FORM OF PARCEL DEVELOPMENT AGREEMENT

EXHIBIT B

FORM OF TRUST INDENTURE

EXHIBIT C

FORM OF FINANCING AGREEMENT

INTRODUCED BY: Councilmember Bwayne Smotherson

DATE: February 27, 2023

BILL NO. 9509

ORDINANCE NO. 7226

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

WHEREAS, U. City, L.L.C. and U. City TIF Corporation (collectively, the “Developer”) and the City entered into a Redevelopment Agreement dated June 13, 2019 and a First Amendment to Redevelopment dated June 29, 2020 (collectively and as subsequently amended, the “Redevelopment Agreement”) relating to the redevelopment of Redevelopment Project Area 1 (“RPA 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, setting forth their rights and responsibilities regarding the funding of certain public improvements and certain activities and improvements related to the remediation of blight within RPA 1 (the “District Project”); and

WHEREAS, the City Council finds and determines that it is in the best interests of the City to enter into a Parcel Development Agreement with the Developer, the District and Dierbergs University City, LLC (“Dierbergs”) regarding the implementation of a portion of the District Project;

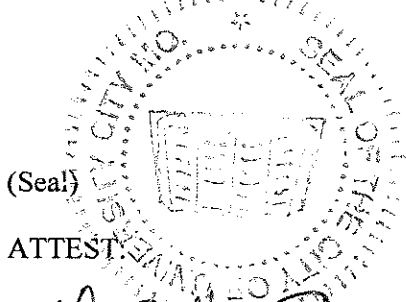
NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF UNIVERSITY CITY, MISSOURI, AS FOLLOWS:

Section 1. The City Council hereby approves the Parcel Development Agreement among the City, the Developer, the District and Dierbergs in substantially the form of **Exhibit A** attached hereto. The City Manager is hereby authorized and directed to execute such document 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 document 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 8th DAY OF MAY, 2023.




MAYOR

ATTEST

CITY CLERK

CERTIFIED TO BE CORRECT AS TO FORM:


CITY ATTORNEY

EXHIBIT A

PARCEL DEVELOPMENT AGREEMENT

[On file in the City Clerk's Office]

PARCEL DEVELOPMENT AGREEMENT

This PARCEL DEVELOPMENT AGREEMENT (this “Agreement”) is made and entered into as of the __ date of _____, 2023, by and among the undersigned MARKETS AT OLIVE COMMUNITY IMPROVEMENT DISTRICT, a political subdivision of the State of Missouri (“District”), THE CITY OF UNIVERSITY CITY, MISSOURI, a political subdivision of the State of Missouri (“City”), THE INDUSTRIAL DEVELOPMENT AUTHORITY OF UNIVERSITY CITY, MISSOURI, a corporation organized pursuant to Chapter 349 of the Revised Statutes of Missouri (the “IDA”), U. CITY, L.L.C., a Missouri limited liability company, (“UCLLC”), U.CITY TIF CORPORATION, a Missouri corporation (“TIF Corp” and, together with UCLLC, the “Primary Developer”) and DIERBERGS UNIVERSITY CITY, LLC, a Missouri limited liability company (together with its successors and assigns, “DUCLLC”).

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 Primary Developer.

C. 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, which expansions included the property legally described on Exhibit A attached hereto and incorporated by this reference (the “South Parcel”).

D. Pursuant to Ordinance No. 7224, approved by the City Council on March 13, 2023, the City entered into that certain Amended and Restated District Project Agreement (the “ARDPA”) with the District and the Primary Developer for the funding of the District Project.

E. Section 8(c) of the ARDPA contemplates the development of all or a portion of the DUCLLC Property (as hereinafter described, the “South Parcel Project”) by a sub-developer other than Primary Developer, and provides for the funding of such development with proceeds from the community improvement district sales and use tax imposed by the District in the amount of one percent (1.0%) pursuant to Resolution No. 2020-004 of the District (the “District Sales Tax”).

F. The City intends to provide additional support for the South Parcel Project by entering into a lease and leaseback transaction with DUCLLC for the purpose of effectuating an exemption from certain sales taxes on the purchase of construction materials relating to the South Parcel Project.

G. Pursuant to Ordinance No. ____, approved by the City Council on _____, 2023, the City authorized the execution of this Agreement, and pursuant to Resolution No. ____, approved by the IDA on _____, 2023, the IDA approved execution of this Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained in this Agreement, the parties hereto 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 Primary Developer. The Primary 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 Primary Developer, enforceable in accordance with its terms.

Section 4. Authority of DUCLLC. DUCLLC 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 DUCLLC, enforceable in accordance with its terms.

Section 5. Authority of the IDA. The IDA 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 IDA, enforceable in accordance with its terms.

Section 6. Covenants Regarding the South Parcel Project. The “South Parcel Project” shall consist (but shall not be limited to), the preparation of the South Parcel and

construction thereon of (a) a building suitable for occupation by a grocery user of at least 65,000 square feet, and (b) adjacent retail uses as may be determined by DUCLLC in its sole discretion. In consideration for the financing and support contemplated under this Agreement, DUCLLC agrees to complete or cause the substantial completion of the South Parcel Project by [December 31 2025], subject to extension due to events of force majeure; *provided, however*, that the sole remedy of the District, the IDA, the Primary Developer, or the City for DUCLLC's failure to complete the South Parcel Project within such timeframe shall (after the provision of written notice and one hundred eighty (180) days opportunity to cure) be the termination of this Agreement, the obligation to cause the issuance of the South Parcel CID Notes, and the repayment of the sales tax referenced in Section 8.

Section 7. South Parcel Project – District Financing.

(a) Subject to DUCLLC's compliance with the other terms of this Agreement, and subject to approval of the governing board of the IDA, the IDA, the District, the City and the Primary Developer shall cooperate to cause the IDA to issue one or more revenue notes (collectively, the "South Phase CID Note") to or at the direction of DUCLLC, to evidence DUCLLC's right to reimbursement for costs incurred by or on behalf of DUCLLC with respect to the South Parcel Project, to the extent that such costs are eligible for reimbursement under the CID Act. The South Phase CID Note shall be in the principal amount of \$2,600,000 plus costs of issuance, shall have a final maturity of not later than June 15, 2053 and shall bear interest at the rate of 6.00% per annum.

(b) The South Phase CID Note shall be payable solely from revenue from District Sales Tax generated within the South Parcel which revenue is not pledged by the District, pursuant to Sections 8(a) and (b) of the ARDPA (as it exists on the date of this Agreement), for application to the payment of either the TIF Notes or TIF Bonds (as defined in the ARDPA), less the allocable share (based upon the acreage of the South Parcel as a percentage of the total acreage within the District) of expenses of the District (such revenues less allocable expenses being the "South Phase Revenues"). Notwithstanding any provision of this Agreement to the contrary, so long as the South Phase CID Note is outstanding, the District shall, subject to annual appropriation, transfer all South Phase Revenues to the trustee for the South Phase CID Note on the 15th day of each month (or if the 15th is not a Business Day (as defined in the indenture authorizing the South Phase CID Note), the next Business Day), for application to the payment of the South Phase CID Note. In the event that, prior to the maturity or earlier termination of the South Phase CID Note, the District fails to appropriate South Phase Revenues to the payment of the South Phase CID Note as contemplated by this Agreement, then the District and the IDA shall each cause to be filed with the Municipal Securities Rulemaking Board at www.emma.msrb.org (or any successor repository) a notice of non-appropriation describing such failure to appropriate in accordance with this Agreement.

(c) The District Sales Tax shall not be reduced or terminated so long as any South Phase CID Note remains outstanding.

(d) None of the District, the IDA, or the City shall cause to be issued any notes secured by South Phase Revenues until such time as the South Phase CID Note has matured or terminated earlier pursuant to this Agreement.

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

(f) To the extent requested by DUCLLC in its sole discretion, the District shall enter into any easements or other documentation necessary to accept ownership of public improvements comprising a portion of the South Parcel Project.

(g) The parties consent to DUCLLC, in its sole discretion, recording a memorandum of this Agreement in the land records of St. Louis County with the St. Louis County Recorder of Deeds.

(h) The District agrees not to make any pledge of South Phase Revenues until such time as the South Phase CID Note has been issued and repaid in full. The District agrees to send a copy of any District meeting agenda to DUCLLC at least twenty-four (24) hours prior to any District meeting, and to provide copies of any resolutions or other District documents to DUCLLC promptly upon request.

Section 8. South Parcel Project – City Financing. The City agrees to assist in the funding of the South Parcel Project by providing for an exemption from sales tax on construction materials as follows (subject to the subsequent approval by the City Council of the City of necessary bond documents with respect to the same):

(a) The City will acquire a ground lease interest in the South Parcel from DUCLLC (or its designee) in exchange for the City's agreement to issue revenue bonds under Chapter 100 of the Revised Statutes of Missouri (the "Chapter 100 RE Bonds"), to be purchased by DUCLLC or its designee.

(b) The City will sublease the South Parcel back to DUCLLC or its designee in exchange for periodic rent payments equal to the interest payments on the Chapter 100 RE Bonds.

(c) The City's leasehold interest in the South Parcel will allow for DUCLLC and its contractors and assignees to utilize the City's sales tax exemption certificate for purchases of materials used in the construction of the South Parcel Project.

(d) Upon completion of the South Parcel Project, the City's interest in the South Parcel will terminate, provided that DUCLLC shall have the option at any time prior to such expiration to cause the City to reconvey such ground lease interest for a price equal to (a) \$100, plus (b) surrender of any Chapter 100 RE Bonds.

Section 9. Federal Work Authorization Program. Simultaneously with the execution of this Agreement, DUCLLC 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.

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.

Section 11. Successors and Assigns. This Agreement, and any and all rights or obligations hereunder (or any portion thereof), may be assigned by DUCLLC upon at least five (5) days' advance written notice to the other parties to this Agreement. Any assignment to an unrelated party may not occur without the prior written consent of the City.

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 DUCLLC 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. Anti-Israel Discrimination. Pursuant to Section 34.600 of the Revised Statutes of Missouri, DUCLLC certifies it is not currently engaged in and shall not, for the duration of this Agreement, engage in a boycott of goods or services from the State of Israel; companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel.

[Remainder of page intentionally left blank. Signature page to follow.]

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)

Attest:

By: _____
City Manager

City Clerk

**THE MARKETS AT OLIVE
COMMUNITY IMPROVEMENT
DISTRICT**

(SEAL)

Attest:

By: _____
Name: Lawrence R. Chapman, Jr.
Title: Chairman

By: _____
Name: Caroline P. Saunders
Title: Secretary

**THE INDUSTRIAL DEVELOPMENT
AUTHORITY OF THE CITY OF
UNIVERSITY CITY, MISSOURI**

By: _____
Name: _____
Its: _____

U. CITY, L.L.C.

**By: CRG Services Management, LLC,
its Manager (“CRG”)**

By: _____

Name: Lawrence R. Chapman, Jr.

Title: Vice President of CRG

U. CITY TIF CORPORATION

By: _____

Name: Lawrence R. Chapman, Jr.

Title: President

DIERBERGS UNIVERSITY CITY, LLC

By: _____

Name: _____

Title: _____

EXHIBIT A

LEGAL DESCRIPTION

The South Parcel includes all or a portion of the below properties.

8660	Olive Blvd.	Lot 1 of Beyers Subdivision according to the plat thereof record in Plat Book 272 page 30 of the St. Louis County Records.
8680	Olive Blvd.	A Tract of land being part of Lot 6 of Beyers Subdivision, a Subdivision in the County of St. Louis, State of Missouri, according to the plat thereof recorded in Plat Book 272 page 30 of the St. Louis County Records, being more particularly described as follows: Beginning at the Northeast corner of said Lot 6; thence along the East line of Lot 6 South 0 degrees 22 minutes East 240.23 feet to the point of curvature of a curve having a radius of 2,285 feet and a chord bearing, South 0 degrees 23 minutes 31 seconds West 60.52 feet, thence along said curve a distance of 60.52 feet to the Northeast corner of Lot 5; thence North 87 degrees 52 minutes West 85.18 feet to the Northwest corner of Lot 5: thence along the Western line of Lot 5, the following courses and distances South 2 degrees 08 minutes West 72.75 feet; South 87 degrees 52 minutes East 2.65 feet, South 2 degrees 08 minutes West 69.21 feet, South 87 degrees 52 minutes East 5.00 feet; South 2 degrees 08 minutes West 54.91 feet to the Southwest corner of Lot 5; thence along the Northwest line of Lot 4 South 59 degrees 52 minutes West 3.60 feet; thence South 49 degrees 51 minutes West 50.00 feet; thence South 39 degrees 43 minutes West 3.75 feet; to the Northwest corner of Lot 4: thence North 1 degree 48 minutes 34 seconds East 235.41 feet to a point North 87 degrees 52 minutes West 36.00 feet from the Northwest corner of Lot 5: thence North 24 degrees 46 minutes 27 seconds East 51.51 feet to a point; thence North 0 degrees 22 minutes West 250.80 feet to the North lien of Lot 6, being also the South line of Olive Street Road; thence South 89 degrees 14 minutes East 100.00 feet to the point of beginning, EXCEPTING THEREFROM that part conveyed to the State of Missouri, by instrument recorded in Book 17357 Page 2828.
8664	Olive Blvd.	Lot 2 of Beyers Subdivision according to the plat thereof record in Plat Book 272 page 30 of the St. Louis County Records.
8666	Olive Blvd.	Lot 7 of Beyers Subdivision according to the plat thereof record in Plat Book 272 page 30 of the St. Louis County Records.
8676	Olive Blvd.	Lot 4A of the Resubdivision of Beyers Subdivision according to the Resubdivision Plat recorded in Book 297 Page 24 of the Recorder of Deeds for St. Louis County, Missouri
8668	Olive Blvd.	Lot 7 of Beyers Subdivision according to the plat thereof record in Plat Book 272 page 30 of the St. Louis County Records.
8674	Olive Blvd.	Lot 3A of the Resubdivision of Beyers Subdivision according to the Resubdivision Plat recorded in Book 297 Page 24 of the Recorder of Deeds for St. Louis County, Missouri

8678	Olive Blvd.	Lot 5 of Beyers Subdivision according to the plat thereof record in Plat Book 272 page 30 of the St. Louis County Records.
8684	Olive Blvd.	Lot 6 of Beyers Subdivision, according to the plat thereof recorded in Plat Book 272 Page 30 of the St. Louis County Records, EXCEPT THEREFROM that part conveyed to Edward O. Beyers, III, by instrument recorded in Book 17110 page 4959 of the St. Louis County Records, FURTHER EXCEPTING THEREFROM that part conveyed to the State of Missouri by instrument recorded in Book 17357 page 2828 of the St. Louis County Records.

Gilmore & Bell, P.C.
Draft – May 12, 2023

**THE INDUSTRIAL DEVELOPMENT AUTHORITY
OF UNIVERSITY CITY, MISSOURI**

and

**UMB BANK, N.A.,
as Trustee**

TRUST INDENTURE

Dated as of May 1, 2023

Relating to

**Not to Exceed \$[2,600,000 plus Issuance Costs*]
Taxable Special District Revenue Notes
(The Markets at Olive Community Improvement District – South Parcel Project)
Series 2023**

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TRUST INDENTURE

THIS TRUST INDENTURE (the “Indenture”), made and entered into as of May 1, 202_, by and between **THE INDUSTRIAL DEVELOPMENT AUTHORITY OF UNIVERSITY CITY, MISSOURI**, a public corporation duly organized under Chapter 349 of the Revised Statutes of Missouri (the “Authority”), and **UMB BANK, 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. The Authority is authorized and empowered under Chapter 349 of the Revised Statutes of Missouri (the “Act”) to issue bonds and notes for the purpose of paying all or part of the cost of a “project,” as defined in the Act.

2. Pursuant to the Community Improvement District Act, Sections 67.1401 to 67.1571 of the Revised Statutes of Missouri (the “CID Act”), and Ordinance No. 7131 adopted on July 13, 2020, by the City Council of University City, Missouri (the “City”), the City approved the formation of The Markets at Olive Community Improvement District (the “District”).

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

4. Pursuant to Resolution No. 2020-4 adopted by the District’s Board of Directors on August 21, 2020, the District imposes a 1.00% community improvement district sales and use tax within its boundaries (the “District Sales Tax”).

5. Pursuant to Ordinance No. 7224 adopted by the City Council on March 13, 2023 and Resolution No. 23-003 adopted by the District’s Board of Directors on March 15, 2023, the City and the District, respectively, approved an Amended and Restated District Project Agreement dated as of March 15, 2023 (the “District Project Agreement”) among the City, the District, U. City, L.L.C. and the U. City TIF Corporation (U. City, L.L.C. and U. City TIF Corporation are collectively referred to herein as the “Developer”) relating to the construction and financing of certain public improvements and redevelopment activities within the District.

6. The District Project Agreement contemplates that the City, the District, the Developer and a sub-developer may, from time to time, enter into parcel development agreements relating to the completion and financing of a portion of the “District Project” described in the District Project Agreement.

7. Pursuant to Resolution No. 23-004 adopted by the Board of Directors of the District on March 15, 2023 and Ordinance No. 7226 adopted by the City Council on May 8, 2023, the District and the City, respectively, approved a Parcel Development Agreement among the City, the District, the Authority, the Developer and Dierbergs University City, LLC (the “South Parcel Project Sub-Developer”) concerning the completion and financing of the portion of the District Project described therein as the “South Parcel Project” (the “Parcel Development Agreement”).

8. On May __, 2023, the District’s Board of Directors adopted Resolution No. 23-____ approving a Financing Agreement between the Authority and the District (the “Financing Agreement”), pursuant to which the Authority agreed to issue the herein-defined Notes to finance the South Parcel Project,

as contemplated by the Parcel Development Agreement, and the District agreed to transfer certain District Sales Tax revenues to the Trustee to pay such obligations.

9. On May 16, 2023, the Board of Directors of the Authority adopted Resolution No. 2023-7 approving the Parcel Development Agreement, the Financing Agreement and this Indenture and authorizing the issuance of the Authority's \$[*2,600,000 plus Issuance Costs*] Taxable Special District Revenue Notes (The Markets at Olive Community Improvement District – South Parcel Project), Series 2023 (the “Notes”) for the purpose of financing the South Parcel Project and the costs of issuing the Notes.

10. All things necessary to make the Notes, when authenticated by the Trustee and issued as in this Indenture provided, the valid, legal and binding obligations of the Authority, and to constitute this Indenture a valid, legal and binding pledge and assignment of the property, rights, interests and revenues herein made for the security of the payment of the principal of and interest on the Notes issued hereunder, have been done and performed, and the execution and delivery of this Indenture and the execution and issuance of the Notes, subject to the terms hereof, have in all respects been duly authorized.

NOW THEREFORE, THIS INDENTURE WITNESSETH:

GRANTING CLAUSES

That the Authority, in consideration of the premises, the acceptance by the Trustee of the trusts hereby created, the purchase and acceptance of the Notes by the Owners thereof, and of other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, and in order to secure the payment of the principal of and interest on the Notes according to their tenor and effect and to secure the performance and observance by the Authority of all the covenants, agreements and conditions herein and in the Notes contained, does hereby transfer, pledge and assign, without recourse, to the Trustee and its successors and assigns in trust forever, and does hereby grant a security interest unto the Trustee and its successors in trust and its assigns, in and to all and singular the property described in paragraphs (a) and (b) below (said property being herein referred to as the “Trust Estate”), to-wit:

(a) All right, title and interest of the Authority in the Financing Agreement (including, but not limited to, the right to enforce any of the terms thereof) and in the Net Revenues (as defined herein) pledged to the Authority therein (excluding the Unassigned Authority's Rights); and

(b) All moneys and securities from time to time held by the Trustee under the terms of this Indenture and any and all other property (real, personal or mixed) of every kind and nature from time to time hereafter, by delivery or by writing of any kind, pledged, assigned or transferred as and for additional security hereunder by the Authority or by anyone in its behalf or with its written consent, to the Trustee, which is hereby authorized to receive any and all such property at any and all times and to hold and apply the same subject to the terms hereof.

TO HAVE AND TO HOLD, all and singular, the Trust Estate with all rights and privileges hereby transferred, pledged, assigned and/or granted or agreed or intended so to be, to the Trustee and its successors and assigns in trust forever;

IN TRUST NEVERTHELESS, upon the terms and conditions herein set forth for the equal and proportionate benefit, security and protection of all present and future Owners of the Notes Outstanding, without preference, priority or distinction as to participation in the lien, benefit and protection hereof of one Note over or from the others, except as herein otherwise expressly provided;

PROVIDED, NEVERTHELESS, and these presents are upon the express condition, that if the Authority or its successors or assigns pays or causes to be paid the principal of such Notes with interest, according to the provisions set forth in the Notes, or provides for the payment or redemption of such Notes by depositing or causing to be deposited with the Trustee the entire amount of funds or securities required for payment or redemption thereof when and as authorized by the provisions of **Article IX**, and also pays or causes to be paid all other sums payable hereunder by the Authority, then these presents and the estate and rights hereby granted shall cease, terminate and become void; otherwise this Indenture shall be and remain in full force;

THIS INDENTURE FURTHER WITNESSETH, and it is hereby expressly declared, covenanted and agreed by and between the parties hereto, that all Notes issued and secured hereunder are to be issued, authenticated and delivered and that all the Trust Estate is to be held and applied under, upon and subject to the terms, conditions, stipulations, covenants, agreements, trusts, uses and purposes as hereinafter expressed, and the Authority does hereby agree and covenant with the Trustee and with the respective Owners from time to time of the Notes, as follows:

ARTICLE I

DEFINITIONS; RULES OF CONSTRUCTION

Section 101. Definitions of Words and Terms. In addition to words and terms elsewhere defined herein, the following words and terms as used in this Indenture shall have the following meanings, unless some other meaning is plainly intended:

“Act” means the Industrial Development Corporations Act, Chapter 349 of the Revised Statutes of Missouri, as amended.

“Allocable District Expenses” means the costs of operating the District allocated to the South Parcel based on the acreage of the South Parcel relative to the entire District, as further described in **Section 7(b)** of the Parcel Development Agreement.

“Approved Investors” means (a) the South Parcel Project Sub-Developer or a Related Party, (b) the Developer or a Related Party, (c) an “accredited investor” under Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, (d) a “qualified institutional buyer” under Rule 144A promulgated under the Securities Act of 1933, (e) any general business corporation or enterprise with total assets in excess of \$50,000,000, or (f) the Lender.

“Authorized Authority Representative” means the President of the Authority or any person from time to time designated to act on behalf of the Authority as evidenced by written certificate furnished to the Trustee containing the specimen signature of such person and signed on behalf of the Authority by its President or any Vice President. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized Authority Representative.

“Authorized Denominations” means one cent (\$0.01) or any integral multiple thereof.

“Authorized District Representative” means the District’s Chair or Secretary or any person from time to time designated to act on behalf of the District as evidenced by written certificate furnished to the Trustee containing the specimen signature of such person and signed on behalf of the District by its Chair. Such certificate may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized District Representative.

“Authorized South Parcel Project Sub-Developer Representative” means Brent Beumer or such person at the time designated to act on behalf of the South Parcel Project Sub-Developer as evidenced by written certificate furnished to the Authority and the Trustee containing the specimen signature of such person and signed on behalf of the South Parcel Project Sub-Developer by its manager. Such certificates may designate an alternate or alternates, each of whom shall be entitled to perform all duties of the Authorized South Parcel Project Sub-Developer Representative.

“Bond Counsel” means Gilmore & Bell, P.C. or any other attorney or firm of attorneys with a 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.

“Business Day” means any day other than a Saturday, Sunday or any other day on which banking institutions in the city in which the principal corporate trust office of the Trustee is located are required or authorized by law to close.

“Certificate of Eligible South Parcel Project Costs” means the document substantially in the form of **Exhibit C** hereto, provided by the South Parcel Project Sub-Developer to the District evidencing costs incurred in completing the South Parcel Project, which costs are eligible under the CID Act to be reimbursed by the District.

“CID Act” means the Community Improvement District Act, Sections 67.1401 to 67.1571 of the Revised Statutes of Missouri.

“City” means University City, Missouri.

“Debt Service Fund” means the fund by that name created in **Section 401**.

“District” means The Markets at Olive Community Improvement District.

“District Project Agreement” means the Amended and Restated District Project Agreement dated as of March 15, 2023, by and among the District, the City, U. City, L.L.C. and U. City TIF Corporation, as may be amended from time to time.

“District Sales Tax” means the 1.00% community improvement district sales and use tax imposed by the District.

“Event of Default” means any event or occurrence as defined in **Section 701**.

“Government Securities” means direct obligations of, or obligations the payment of the principal of and interest on which are unconditionally guaranteed by, the United States of America and backed by the full faith and credit thereof.

“Interest Payment Date” means each May 1 and November 1 and the Maturity Date, beginning on the first Interest Payment Date following the initial transfer of moneys to the Revenue Fund pursuant to **Section 402(a)**.

“Investment Securities” means any of the following securities purchased in accordance with **Section 502**, if and to the extent the same are at the time legal for investment of the funds being invested:

- (a) Government Securities;
- (b) bonds, notes or other obligations of the State or any political subdivision of the State that at the time of their purchase are rated in either of the two highest rating categories by a nationally recognized rating service;
- (c) repurchase agreements with any bank, bank holding company, savings and loan association, trust company, or other financial institution organized under the laws of the United States or any state, including the Trustee or any of its affiliates, that are continuously and fully secured by any one or more of the securities described in clause (a) or (b) above and have a market value, exclusive of accrued interest, at all times at least equal to the principal amount of such repurchase agreement and are held in a custodial or trust account for the benefit of the Authority;
- (d) obligations of the Government National Mortgage Association, the Federal Financing Bank, the Federal Intermediate Credit Corporation, Federal Banks for Cooperatives, Federal Land Banks, Federal Home Loan Banks, Farmers Home Administration and Federal Home Loan Mortgage Corporation;
- (e) certificates of deposit or time deposits, whether negotiable or nonnegotiable, issued by any bank or trust company organized under the laws of the United States or any state, including the Trustee or any of its affiliates, provided that such certificates of deposit or time deposits shall be either (1) continuously and fully insured by the Federal Deposit Insurance Corporation, or (2) continuously and fully secured by such securities as are described above in clauses (a) and (b) above, which shall have a market value, exclusive of accrued interest, at all times at least equal to the principal amount of such certificates of deposit or time deposits;
- (f) money market mutual funds that are invested in Government Securities or agreements to repurchase such Government Securities; and
- (g) any other securities or investments that are lawful for the investment of moneys held in such funds or accounts under the laws of the State.

“Issuance Costs” means all costs reasonably incurred by the Authority, the District and the South Parcel Project Sub-Developer in connection with the issuance of the Notes, including, but not limited to, the fees and expenses of financial advisors and consultants, the Authority’s attorneys (including issuer’s counsel and Bond Counsel), the District’s attorneys, the South Parcel Project Sub-Developer’s attorneys, the Authority’s and the District’s administrative fees and expenses (including issuance fees), and the initial fees and charges of the Trustee.

“Lender” means any banking institution designated by the South Parcel Project Sub-Developer. Once designated by the South Parcel Project Sub-Developer, a Lender shall have the rights prescribed hereunder until the Lender notifies the Authority and the Trustee that it is no longer a Lender to the South Parcel Project Sub-Developer.

“Maturity Date” means (a) June 15, 2042 or (b) upon written notice from the South Parcel Project Sub-Developer to the Trustee and the District that the Developer has opened at least 75,000 square feet of gross leasable commercial space (in addition to the Costco Wholesale Club) within Redevelopment Project Area 1 as described in the Olive Boulevard Commercial Corridor and Residential Conservation Redevelopment Plan, June 15, 2052.

“Net Revenues” means, subject to annual appropriation by the District, all South Parcel District Sales Tax Revenues (including investment earnings thereon), excluding (a) any amount paid under protest until the protest is withdrawn or resolved against the taxpayer, or (b) any sum received by the District that is the subject of a suit or other claim communicated to the District which suit or claim challenges the collection of such sum. For purposes of clarification, the District expects that 50% of the revenues from the District Sales Tax, including those revenues generated from the South Parcel, will be subject to tax increment financing until June 9, 2042 (unless tax increment financing in the District is terminated by the City sooner). Net Revenues and the South Parcel District Sales Tax Revenues will not include any revenues from the District Sales Tax required to be transferred to the City pursuant to Section 99.845.3, RSMo. while tax increment financing remains in effect in the District.

“Notes” means the Authority’s Taxable Special District Revenue Notes (The Markets at Olive Community Improvement District – South Parcel Project), Series 2023, authenticated and delivered under and pursuant to this Indenture.

“Note Resolution” means Resolution No. 2023-7 of the Authority adopted on May 16, 2023, authorizing the execution and delivery of the Financing Agreement and this Indenture and the issuance of the Notes.

“Opinion of Counsel” means a written opinion of an attorney or firm of attorneys addressed to the Trustee, who may be (except as otherwise expressly provided in this Indenture) counsel to the Authority, the District, the Owners of the Notes, the Lender or the Trustee, and who is acceptable to the Trustee.

“Outstanding” means when used with reference to Notes, as of a particular date, all Notes theretofore authenticated and delivered under this Indenture except:

- (a) Notes theretofore cancelled by the Trustee or delivered to the Trustee for cancellation;
- (b) Notes that are deemed to have been paid in accordance with **Section 902**;
- (c) Notes alleged to have been mutilated, destroyed, lost or stolen which have been paid as provided in **Section 206**; and
- (d) Notes in exchange for or in lieu of which other Notes have been authenticated and delivered pursuant to this Indenture.

“Owner” means the Person in whose name any Note is registered on the Register.

“Parcel Development Agreement” means the Parcel Development Agreement dated as of _____, 2023, by and among the City, the District, the Authority, U. City, L.L.C., U. City TIF Corporation and the South Parcel Project Sub-Developer, as may be amended from time to time.

“Paying Agent” means the Trustee or any other bank or trust institution organized under the laws of any state of the United States of America or any national banking association designated by this Indenture as paying agent for the Notes at which the principal of and interest on such Notes shall be payable.

“Person” means any natural person, firm, partnership, association, corporation, limited liability company or public body.

“Pledged Revenues” means all Net Revenues and all moneys held in the Revenue Fund and the Debt Service Fund under this Indenture, together with investment earnings thereon.

“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 fund by that name created in **Section 401**.

“Record Date” for the interest payable on any Interest Payment Date means the 15th calendar day, whether or not a Business Day, of the month immediately preceding such Interest Payment Date.

“Register” means the registration books of the Authority kept by the Trustee to evidence the registration, transfer and exchange of Notes.

“Registrar” means the Trustee when acting as such under this Indenture.

“Related Party” means any party related to the South Parcel Project Sub-Developer or the Developer, as applicable, 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 South Parcel Project Sub-Developer or the Developer, as applicable.

“Revenue Fund” means the fund by that name created in **Section 401**.

“South Parcel” means the real property legally described in **Exhibit A** to the Parcel Development Agreement.

“South Parcel Project” shall have the meaning set forth in the Parcel Development Agreement.

“South Parcel District Sales Tax Revenues” means the District Sales Tax revenues generated from the grocery store located within the South Parcel, but not including any portion thereof required to be transferred to the City because of tax increment financing applicable to the South Parcel, and less any Allocable District Expenses appropriated by the District. For purposes of clarification, the District expects that the 50% of the revenues from the District Sales Tax, including those revenues generated from the South Parcel, will be subject to tax increment financing until June 9, 2042 (unless tax increment financing in the District is terminated by the City sooner). South Parcel District Sales Tax Revenues will not include any revenues from the District Sales Tax required to be transferred to the City pursuant to Section 99.845.3, RSMo. while tax increment financing remains in effect in the District.

“South Parcel Project Sub-Developer” means Dierbergs University City, LLC, or its respective permitted successors or assigns in interest under the Parcel Development Agreement.

“State” means the State of Missouri.

“Supplemental Financing Agreement” means any agreement supplemental or amendatory to the Financing Agreement entered into by the Authority and the District pursuant to **Article X**.

“Supplemental Indenture” means any indenture supplemental or amendatory to this Indenture entered into by the Authority and the Trustee pursuant to **Article X**.

“**Trust Estate**” means the Trust Estate described in the granting clauses of this Indenture.

“**Trustee**” means UMB Bank, N.A., St. Louis, Missouri, and its successor or successors and any other association or corporation which at any time may be substituted in its place pursuant to and at the time serving as trustee under this Indenture.

“**Unassigned Authority’s Rights**” means the Authority’s rights to payment of its fees and expenses, to be indemnified in certain events (including legal fees incurred in the defense of any litigation involving the Notes, fines and penalties owed), to receive notices, reports and other statements, and to consent to certain matters, including, but not limited to, any Supplemental Financing Agreements or Supplemental Indentures.

Section 102. Rules of Construction.

For all purposes of this Indenture, except as otherwise expressly provided or unless the context otherwise requires:

- (a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.
- (b) Words importing the singular number shall include the plural and vice versa and words importing person shall include firms, associations and corporations, including public bodies, as well as natural persons.
- (c) The table of contents hereto and the headings and captions herein are not a part of this document.
- (d) Terms used in an accounting context and not otherwise defined shall have the meaning ascribed to them by generally accepted principles of accounting.
- (e) Whenever an item or items are listed after the word “including,” such listing is not intended to be a listing that excludes items not listed.

Section 103. Incorporation of Exhibits by Reference. All exhibits to this Indenture are hereby incorporated herein by reference.

ARTICLE II

THE NOTES

Section 201. Terms of the Notes.

(a) *Authorized Amount of Notes.* No Notes may be issued under the provisions of this Indenture except in accordance with this Article. The total aggregate principal amount of the Notes that may be issued hereunder is expressly limited to \$[*2,600,000 plus Issuance Costs*] (equal to \$2,600,000.00 plus Issuance Costs). The Notes shall be issued in one series.

(b) *Title of Notes.* The Notes shall be designated “Taxable Special District Revenue Notes (The Markets at Olive Community Improvement District – South Parcel Project), Series 2023.”

(c) *Form of Notes.* The Notes shall be substantially in the form set forth in **Exhibit A** attached hereto, with such appropriate variations, omissions and insertions as are permitted or required by this Indenture, and may have endorsed thereon such legends or text as may be necessary or appropriate to conform to any applicable rules and regulations of any governmental authority or any usage or requirement of law with respect thereto.

(d) *Denominations.* The Notes shall be issuable as fully-registered Notes in Authorized Denominations.

(e) *Numbering.* Unless the Authority directs otherwise, each series of Notes shall be numbered from R-1 upward.

(f) *Dating.* The Notes shall be dated as provided in **Section 203(d)**, as evidenced by the Trustee's signature on **Schedule A** to each Note.

(g) *Method and Place of Payment.* The principal of and interest on the Notes shall be payable in any coin or currency of the United States of America which, at the respective dates of payment thereof, is legal tender for the payment of debts due the United States of America. The principal shall be payable at the principal corporate trust office of the Trustee or such other office as the Trustee may designate. Payment of interest on any Note shall be made (1) by check or draft of the Trustee mailed to the Person in whose name such Note is registered on the Note Register as of the close of business of the Trustee on the Record Date for such Payment Date, or (2) by electronic transfer to such Owner (or to the Lender) upon written notice delivered to the Trustee at least 5 days prior to any Record Date and signed by such Owner (or Lender) 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 Owner (or Lender) wishes to have such transfer directed and an acknowledgement that an electronic transfer fee may be applicable. If the Owner has given written instructions to make payments to the Lender, the Trustee shall continue making such payments to the Lender until the Lender notifies the Trustee in writing to discontinue such payments. Except as otherwise provided in subsection (h) with respect to Notes held by the Trustee, no principal on the Notes is payable unless the Owner thereof has surrendered such Notes at the principal corporate trust office of the Trustee or such other office as the Trustee may designate.

(h) *Evidence of Principal Payments.* The payment of principal of the Notes on each Interest Payment Date shall be noted on the Notes on **Schedule A** thereto. The Notes and the original **Schedule A** thereto shall be held by the Trustee in trust, unless otherwise directed in writing by the Owner with the Lender's (if any) written consent. If the Notes are held by the Trustee, the Trustee shall, on each Interest Payment Date, send a revised copy of **Schedule A** via facsimile or electronic delivery to the Owner, the Authority, the District, the South Parcel Project Sub-Developer and the Lender, if any. Absent manifest error, the amounts shown on **Schedule A** held by the Trustee shall be conclusive evidence of the principal amount paid on the Notes.

Section 202. Nature of Obligations.

(a) The Notes and the interest thereon shall be special, limited obligations of the Authority payable solely from the Pledged Revenues and other moneys pledged thereto and held by the Trustee as provided herein, and are secured by a transfer, pledge and assignment of and a grant of a security interest in the Trust Estate to the Trustee and in favor of the Owners of the Notes, as provided in this Indenture.

(b) The Notes and the interest thereon do not constitute a debt or liability of the Authority (except as provided in (a) above), the District, the State or any political subdivision thereof, and do not

constitute an indebtedness within the meaning of any constitutional, statutory or charter debt limitation or restriction.

(c) No recourse shall be had for the payment of the principal of or interest on any of the Notes or for any claim based thereon or upon any obligation, covenant or agreement in this Indenture contained, against any past, present or future member of the Authority's Board of Directors, the District's Board of Directors, or any trustee, officer, official, employee or agent of the Authority, the District or the State, as such, either directly or through the Authority, the District or the State or any successor to any such entity, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such member, trustee, officer, official, employee or agent as such is hereby expressly waived and released as a condition of and in consideration for the execution of this Indenture and the issuance of any of the Notes.

(d) NOTWITHSTANDING ANY PROVISION HEREIN OR IN THE NOTES TO THE CONTRARY AND EXCEPT AS NECESSARY TO CORRECT ADMINISTRATIVE ERROR, THE OBLIGATION OF THE DISTRICT TO TRANSFER NET REVENUES CONSISTING OF SOUTH PARCEL DISTRICT SALES TAX REVENUES TO THE TRUSTEE TERMINATES ON (1) JUNE 9, 2042 OR (2) UPON WRITTEN NOTICE FROM THE SOUTH PARCEL PROJECT SUB-DEVELOPER TO THE TRUSTEE AND THE DISTRICT THAT THE DEVELOPER HAS OPENED AT LEAST 75,000 SQUARE FEET OF GROSS LEASABLE COMMERCIAL SPACE (IN ADDITION TO THE COSTCO WHOLESALE CLUB) WITHIN REDEVELOPMENT PROJECT AREA 1 AS DESCRIBED IN THE OLIVE BOULEVARD COMMERCIAL CORRIDOR AND RESIDENTIAL CONSERVATION REDEVELOPMENT PLAN, JUNE 9, 2052, WHETHER OR NOT THE PRINCIPAL OF OR INTEREST ON THE NOTES HAS BEEN PAID IN FULL.

Section 203. Execution, Authentication and Delivery of Notes.

(a) The Notes shall be executed on behalf of the Authority by the manual or facsimile signature of the President and attested by the manual or facsimile signature of the Secretary, and shall have the corporate seal of the Authority affixed thereto or imprinted thereon. If any officer whose signature appears on any Notes ceases to be such officer before the delivery of such Notes, such signature shall nevertheless be valid and sufficient for all purposes, the same as if such person had remained in office until delivery. Any Note may be signed by such persons as at the actual time of the execution of such Note are the proper officers to sign such Note although at the date of such Note such persons may not have been such officers.

(b) The Notes shall have endorsed thereon a Certificate of Authentication substantially in the form set forth in **Exhibit A** hereto, which shall be manually executed by the Trustee. No Note shall be entitled to any security or benefit under this Indenture or shall be valid or obligatory for any purpose unless and until such Certificate of Authentication has been duly executed by the Trustee. Such executed Certificate of Authentication upon any Note shall be conclusive evidence that such Note has been duly authenticated and delivered under this Indenture. The Certificate of Authentication on any Note shall be deemed to have been duly executed if signed by any authorized signatory of the Trustee, but it shall not be necessary that the same authorized signatory sign the Certificate of Authentication on all of the Notes that may be issued hereunder at any one time.

(c) The District shall forward each Certificate of Eligible South Parcel Project Costs that meets its approval to the Trustee (which approval shall not occur until at least 15 days after a copy of the Certificate has been provided to the City and U. City, L.L.C.). The Trustee may rely upon each Certificate of Eligible South Project Costs received from the District.

(d) Upon the submission to the Trustee by the District of each approved Certificate of Eligible South Parcel Project Costs, the Trustee shall (1) endorse an Outstanding Note on **Schedule A** thereto to evidence an increase in the aggregate principal amount equal to amount of eligible South Parcel Project costs approved by the applicable certificate and (2) send a revised copy of **Schedule A** via facsimile or electronic delivery to the Owner, the Authority, the District, the South Parcel Project Sub-Developer and the Lender, if any. The date of registration or endorsement of each such Note shall be the date of approval by the District of each Certificate of Eligible South Parcel Project Costs.

Section 204. Registration, Transfer and Exchange of Notes.

(a) The Trustee is hereby appointed Registrar and as such shall keep a Register for the registration and for the transfer of Notes as provided in this Indenture. Each Note when issued shall be registered in the name of the Owner thereof on the Register.

(b) **The Notes and beneficial interests therein may only be purchased by or transferred to Approved Investors and only upon the execution by the proposed purchaser or transferee of a letter in substantially the form attached as Exhibit B hereto.** Subject to the limitations of the preceding sentence, any Note may be transferred only upon the Register upon surrender thereof to the Trustee duly endorsed for transfer or accompanied by an assignment duly executed by the Owner or his attorney or legal representative in such form as shall be satisfactory to the Trustee. Upon any such transfer, the Authority shall execute and the Trustee shall authenticate and deliver in exchange for such Note a new fully-registered Note or Notes, registered in the name of the transferee, of any denomination or denominations authorized by this Indenture.

(c) Any Note, upon surrender thereof at the payment office of the Trustee, together with an assignment duly executed by the Owner or his attorney or legal representative in such form as shall be satisfactory to the Trustee, may, at the option of the Owner thereof, be exchanged for Notes of the same series and maturity, of any denomination or denominations authorized by this Indenture, bearing interest at the same rate, and registered in the name of the Owner.

(d) In all cases in which Notes are exchanged or transferred hereunder, the Authority shall execute and the Trustee shall authenticate and deliver at the earliest practicable time Notes in accordance with the provisions of this Indenture. All Notes surrendered in any such exchange or transfer shall forthwith be cancelled by the Trustee.

(e) The Authority or the Trustee may make a charge against each Owner requesting a transfer or exchange of Notes for every such transfer or exchange of Notes sufficient to reimburse it for any tax or other governmental charge required to be paid with respect to such transfer or exchange, the cost of printing, if any, each new Note issued upon any transfer or exchange and the reasonable expenses of the Authority and the Trustee in connection therewith, and such charge shall be paid before any such new Note shall be delivered. The Authority or the Trustee may levy a charge against an Owner sufficient to reimburse it for any governmental charge required to be paid in the event the Owner fails to provide a correct taxpayer identification number to the Trustee. Such charge may be deducted from amounts otherwise due to such Owner hereunder or under the Notes.

(f) At reasonable times and under reasonable regulations established by the Trustee, the Register may be inspected and copied by the South Parcel Project Sub-Developer, the Authority, the District, the Lender (if any) or the Owners (or a designated representative thereof) of 10% or more in principal amount of Notes then Outstanding, such ownership and the authority of any such designated representative to be evidenced to the satisfaction of the Trustee.

(g) The Person in whose name any Note is registered on the Register shall be deemed and regarded as the absolute Owner of such Note for all purposes, and payment of or on account of the principal of and interest on any such Note shall be made only to or upon the order of the registered Owner thereof or his legal representative. All such payments shall be valid and effectual to satisfy and discharge the liability upon such Note, including the interest thereon, to the extent of the sum or sums so paid.

Section 205. Authorization of Notes.

(a) There shall be issued and secured by this Indenture one series of Notes in a maximum principal amount of \$[*2,600,000 plus Issuance Costs*], as described in **Section 201(a)**. The Notes, as originally issued or issued upon transfer, exchange or substitution, shall be substantially in the form set forth in **Exhibit A** attached hereto. The Notes shall mature (subject to redemption and payment prior to maturity as provided in **Article III**) on the Maturity Date.

(b) The Notes shall bear interest (computed on the basis of a 360-day year of twelve 30-day months) from the date of their respective issuance at a fixed rate of 6.00% per annum. Unpaid interest on the Notes shall be compounded semi-annually on each Interest Payment Date.

(c) The Trustee is hereby designated as the Paying Agent for the payment of the principal of and interest on the Notes.

(d) The Notes shall be executed substantially in the form and manner set forth in **Exhibit A** hereto and delivered to the Trustee for authentication.

(e) Prior to or simultaneously with the authentication and delivery of the Notes by the Trustee, there shall be filed with the Trustee the following:

(1) A copy of the Note Resolution, certified by the Authority's Secretary, approving the issuance of the Notes and authorizing the execution of the Financing Agreement and this Indenture.

(2) Executed copies of this Indenture, the Financing Agreement, the District Project Agreement and the Parcel Development Agreement, certified by the District's Secretary.

(3) A Certificate of Eligible South Parcel Project Costs approved by the District and representing at least \$500,000 in eligible costs related to the South Parcel Project.

(4) An Opinion of Bond Counsel to the effect that the Notes constitute valid and legally binding obligations of the Authority.

(5) An Opinion of Bond Counsel to the effect that the Notes are exempt from registration under the Securities Act of 1933, as amended, and the Indenture is exempt from qualification under the Trust Indenture Act of 1939, as amended.

(6) Such other certificates, statements, receipts, opinions and documents required by any of the foregoing documents or as the Trustee may reasonably require for the delivery of the Notes.

(f) When the documents mentioned in subsection (e) have been filed with the Trustee, and when the Notes have been executed and authenticated as required by this Indenture, the Trustee shall hold the Notes in trust or deliver the Notes to or upon the order of the purchasers thereof pursuant to **Section**

201(h), but only upon payment of a purchase price equal to 100% of the face amount of the Notes, which payment shall be deemed to have occurred under the circumstances described in **Section 404**.

Section 206. Mutilated, Lost, Stolen or Destroyed Notes. If any Note becomes mutilated or is lost, stolen or destroyed, the Authority shall execute and the Trustee shall authenticate and deliver a new Note of like date and tenor as the Note mutilated, lost, stolen or destroyed; provided that, in the case of any mutilated Note, such mutilated Note shall first be surrendered to the Trustee. In the case of any lost, stolen or destroyed Note, there shall be first furnished to the Trustee evidence of such loss, theft or destruction satisfactory to the Trustee, together with indemnity to the Authority and the Trustee satisfactory to the Trustee. If any such Note has matured, is about to mature or has been called for redemption, instead of issuing a substitute Note the Trustee may pay the same without surrender thereof. Upon the issuance of any substitute Note, the Authority and the Trustee may require the payment of an amount by the Owner sufficient to reimburse the Authority and the Trustee for any tax or other governmental charge that may be imposed in relation thereto and any other reasonable fees and expenses incurred in connection therewith.

Section 207. Cancellation and Destruction of Notes Upon Payment. All Notes which have been paid or redeemed or which the Trustee has purchased or which have otherwise been surrendered to the Trustee under this Indenture, either at or before maturity, shall be immediately cancelled upon the payment, redemption or purchase of such Notes and the surrender thereof to the Trustee and periodically destroyed by the Trustee in accordance with applicable record retention requirements. The Trustee shall execute a certificate in duplicate describing the Notes so cancelled, and shall file executed counterparts of such certificate with the Authority.

ARTICLE III

REDEMPTION OF NOTES

Section 301. Redemption of Notes Generally. The Notes shall be subject to redemption prior to maturity in accordance with the terms and provisions set forth in this Article.

Section 302. Redemption of Notes.

(a) *Optional Redemption.* The Notes are subject to optional redemption by the Authority, in whole at any time or in part at any time, 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.

(b) *Special Mandatory Redemption.* The Notes are subject to special mandatory redemption by the Authority 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 **Section 303**) equal to the amount which, 40 days (10 days if all of the Notes are held by a single entity) 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.

Section 303. Selection of Notes to be Redeemed.

(a) 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 Authority, and, within any maturity, the Trustee shall select the Notes to be redeemed in Authorized Denominations in such equitable manner as it may determine.

(b) In the case of a partial redemption of the Notes, when Notes of denominations greater than the minimum Authorized Denomination are then Outstanding, then for all purposes in connection with such redemption each Authorized Denomination unit of face value shall be treated as though it was a separate Note of the denomination of the minimum Authorized Denomination.

Section 304. Notice of Redemption of Notes.

(a) In the case of Notes called for redemption under **Section 302(a)**, the Trustee shall call Notes for redemption and payment as herein provided and shall give notice of redemption as provided below upon receipt by the Trustee at least 45 days (15 days if all of the Notes are owned by a single entity) prior to the redemption date of a written request of the Authority. Unless waived by any Owner of Notes to be redeemed, official notice of any redemption of any Note shall be given by the Trustee on behalf of the Authority by mailing a copy of an official redemption notice by first class mail, postage prepaid, at least 30 days (5 days if all of the Notes are owned by a single entity) and not more than 60 days prior to the date fixed for redemption to the Owner of the Note or Notes to be redeemed at the address shown on the Register; provided, however, that failure of any Owner to receive notice given as provided in this Section or any defect therein as to any particular Note shall not affect the validity of any proceedings for the redemption of any Notes. The requirements of this Section do not apply to Notes called for redemption under **Section 302(b)**.

(b) All official notices of redemption shall be dated and shall state:

(1) the redemption date,

(2) the redemption price,

(3) if less than all Outstanding Notes are to be redeemed, the identification number and maturity date(s) (and, in the case of partial redemption, the respective principal amounts) of the Notes to be redeemed,

(4) that on the redemption date the redemption price will become due and payable upon each such Note or portion thereof called for redemption, and that interest thereon shall cease to accrue from and after said date, and

(5) the place where such Notes are to be surrendered for payment of the redemption price, which place of payment shall be the principal corporate trust office of the Trustee or such other office as the Trustee may designate.

(c) The Trustee shall provide a copy of each redemption notice by first-class mail or electronic mail to the Authority, the District, the South Parcel Project Sub-Developer and the Lender, if any.

Section 305. Effect of Call for Redemption. On or prior to the date fixed for redemption, the Authority shall deposit moneys or Government Securities with the Trustee as provided in **Sections 402** and

902 to pay the Notes called for redemption, including accrued interest thereon to the redemption date. Upon the happening of the above conditions, and notice having been given as provided in **Section 304**, the Notes or the portions of the principal amount of Notes thus called for redemption shall cease to bear interest on the specified redemption date, provided moneys sufficient for the payment of the redemption price are on deposit at the place of payment at the time, and shall no longer be entitled to the protection, benefit or security of this Indenture and shall not be deemed to be Outstanding under the provisions of this Indenture.

ARTICLE IV

FUNDS AND REVENUES

Section 401. Creation of Funds. The following funds of the Authority are hereby created and established with the Trustee:

- (a) Revenue Fund.
- (b) Debt Service Fund.
- (c) Project Fund.

Each fund shall be maintained by the Trustee as a separate and distinct trust fund and the moneys therein shall be held, managed, invested, disbursed and administered as provided in this Indenture. All moneys deposited in the funds shall be used solely for the purposes set forth in this Indenture. The Trustee shall keep and maintain adequate records pertaining to each fund and all disbursements therefrom.

Section 402. Revenue Fund.

(a) On or before the 15th calendar day of each month (or the next Business Day thereafter if the 15th is not a Business Day) while the Notes remain Outstanding, the District shall transfer pursuant to the Financing Agreement all Net Revenues to the Trustee for deposit into the Revenue Fund.

(b) On each Interest Payment Date, moneys which, according to the Trustee's records, were on deposit in the Revenue Fund on the 40th day (10th day if all of the Notes are owned by a single entity) prior to each Interest Payment Date, shall be applied, paid, transferred or deposited by the Trustee for the purposes and in the amounts as follows:

(1) Pay any extraordinary expenses incurred by the Authority or the District, as submitted in writing to the Trustee (upon which the Trustee may conclusively rely without investigation), associated with the Notes and the South Parcel Project;

(2) Pay the reasonable fees and expenses owing to the Trustee on or prior to such Interest Payment Date, upon delivery to the Authority of an invoice for such amount;

(3) Transfer to the Debt Service Fund for payment of any unpaid interest due on the Notes on a prior Interest Payment Date;

(4) Transfer to the Debt Service Fund for payment of interest becoming due on the Notes on the next Interest Payment Date;

(5) Transfer to the Debt Service Fund for payment of scheduled principal of (by reason of maturity or mandatory sinking fund redemption), and premium, if any, on the Notes; and

(6) Transfer to the Debt Service Fund, all remaining moneys to the extent possible to pay the principal of and accrued interest on the Notes that are subject to redemption on the next Interest Payment Date pursuant to **Section 302(b)**.

(c) If the moneys available in the Revenue Fund are insufficient to pay extraordinary expenses as provided in paragraph (b)(1) 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) Upon the payment in full of the principal of and interest on the Notes (or provision has been made for the payment thereof as specified in this Indenture) and the fees, charges and expenses of the Trustee and any Paying Agents (including, without limitation, any attorneys' fees or expenses), and any other amounts required to be paid under this Indenture, all amounts remaining on deposit in the Revenue Fund shall be paid to the District.

Section 403. Debt Service Fund.

(a) Except as otherwise provided herein, all amounts paid and credited to the Debt Service Fund shall be expended solely for the payment of the principal of, redemption premium, if any, and interest on the Notes as the same mature and become due or upon the redemption thereof.

(b) The Authority hereby authorizes and directs the Trustee to withdraw sufficient moneys from the Debt Service Fund to first pay all accrued and unpaid interest on the Notes, and second to pay the principal of the Notes until paid in full, each as the same become due and payable. The Authority hereby authorizes and directs the Trustee to make said moneys so withdrawn available to the Paying Agent for the purpose of paying said principal of and interest on the Notes in the order and with the priority so described.

(c) The Trustee shall use any moneys remaining in the Debt Service Fund to redeem all or part of the Notes Outstanding and interest to accrue thereon prior to such redemption, in accordance with and to the extent permitted by **Article III**, so long as said moneys are in excess of the amount required for payment of the Notes theretofore matured or called for redemption.

(d) After payment in full of the principal of and interest on the Notes (or provision has been made for the payment thereof as specified in this Indenture), and the fees, charges and expenses of the Trustee and any Paying Agents (including, without limitation, any attorneys' fees or expenses) and any other amounts required to be paid under this Indenture, all amounts remaining in the Debt Service Fund shall be paid to the District.

Section 404. Project Fund. Upon (a) the District's approval of a Certificate of Eligible South Parcel Project Costs and (b) the endorsement of the Notes pursuant to **Section 203(d)**, the South Parcel Project Sub-Developer shall be deemed to have advanced funds necessary to purchase the Note, and the Authority shall be deemed to have deposited such funds in the Project Fund and shall be deemed to have reimbursed the South Parcel Project Sub-Developer, on behalf of the District, in full for such costs from the amounts deemed to be on deposit in the Project Fund. Upon the Trustee's receipt of such approved Certificate of Eligible South Parcel Project Costs, the Trustee shall endorse the Notes pursuant to **Section 203(d)**.

Section 405. Non-Presentation of Notes.

(a) If any Note (other than Notes held by the Trustee pursuant to **Section 201(h)**) is not presented for payment when the principal thereof becomes due, either at maturity or at the date fixed for redemption thereof, and provided the Trustee is holding sufficient funds for the payment thereof, all liability of the Authority to the Owner thereof for the payment of such Note shall forthwith cease, terminate and be completely discharged, and thereupon it shall be the duty of the Trustee to hold such moneys, without liability for interest thereon, for the benefit of the Owner of such Note who shall thereafter be restricted exclusively to such moneys, for any claim of whatever nature on such Owner's part under this Indenture or on, or with respect to, said Note. The Trustee shall give notice to the Owners of the Notes that it is holding for their benefit sufficient funds for the payment thereof.

(b) Any moneys so deposited with and held by the Trustee not so applied to the payment of Notes within one year after the date on which the same have become due shall be paid by the Trustee to the Authority without liability for interest thereon, free from the trusts created by this Indenture. Thereafter, Owners shall look only to the Authority for payment, and then only to the extent of the amount so repaid by the Trustee. The Authority shall not be liable for any interest on the sums paid to it pursuant to this Section and shall not be regarded as a trustee of such money.

ARTICLE V

SECURITY FOR DEPOSITS AND INVESTMENT OF MONEYS

Section 501. Moneys to be Held in Trust. All moneys deposited with or paid to the Trustee for the account of any fund under any provision of this Indenture, and all moneys deposited with or paid to any Paying Agent under any provision of this Indenture, shall be held by the Trustee or Paying Agent in trust and shall be applied only in accordance with the provisions of this Indenture and, until used or applied as herein provided, shall constitute part of the Trust Estate and be subject to the lien hereof. Neither the Trustee nor any Paying Agent shall be under any liability for interest on any moneys received hereunder except as otherwise expressly provided herein.

Section 502. Investment of Moneys.

(a) Moneys in all funds and accounts under any provision of this Indenture shall be continuously invested and reinvested by the Trustee in Investment Securities at the written direction of the Authority given by the Authorized Authority Representative or, if such written directions are not received, then the Trustee shall invest such moneys in Investment Securities described in subparagraph (f) of the definition thereof. The Trustee is specifically authorized to implement its automated cash investment system to assure that cash on hand is invested and to charge its normal cash management fees and cash sweep account fees, which may be deducted from income earned on investments. Moneys on deposit in all funds and accounts may be invested only in Investment Securities which mature or are subject to redemption at the option of the owner thereof prior to the date such funds are expected to be needed. The Trustee may make investments through its investment division or short-term investment department or that of its affiliates or subsidiaries. The Trustee shall not be liable for any loss resulting from any investments made in accordance herewith except if the loss was caused by the Trustee's negligence or willful misconduct.

(b) All investments shall constitute a part of the fund or account from which the moneys used to acquire such investments have come. The Trustee shall sell and reduce to cash a sufficient amount of investments in a fund whenever the cash balance therein is insufficient to pay the amounts required to be paid therefrom. The Trustee may transfer investments from any fund or account to any other fund in lieu of cash when required or permitted by the provisions of this Indenture. In determining the balance in any

fund or account, investments shall be valued at the lower of their original cost or their fair market value on the date of such valuation.

ARTICLE VI

PARTICULAR COVENANTS AND PROVISIONS

Section 601. Authority to Issue Notes and Execute Indenture. The Authority covenants that it is duly authorized under the laws of the State to execute and deliver this Indenture, to issue the Notes and to pledge and assign the Trust Estate in the manner and to the extent herein set forth; that all action on its part for the execution and delivery of this Indenture and the issuance of the Notes has been duly and effectively taken; and that the Notes in the hands of the Owners thereof (or held by the Trustee as provided herein) are and will be valid and enforceable limited obligations of the Authority according to the import thereof.

Section 602. Performance of Covenants. The Authority covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Indenture, in the Notes and in all proceedings pertaining thereto.

Section 603. Instruments of Further Assurance. The Authority covenants that it will do, execute, acknowledge and deliver, or cause to be done, executed, acknowledged and delivered, such further acts, instruments, financing statements and other documents as the Trustee may reasonably require for the better assuring, transferring, pledging and assigning to the Trustee, and granting a security interest unto the Trustee in and to the Trust Estate and the other property and revenues herein described. The Parcel Development Agreement and all other documents or instruments required by the Trustee shall be delivered to and held by the Trustee.

Section 604. General Limitation on Authority Obligations. ANY OTHER TERM OR PROVISION OF THIS INDENTURE OR ANY OTHER DOCUMENT EXECUTED IN CONNECTION WITH THE TRANSACTION WHICH IS THE SUBJECT HEREOF TO THE CONTRARY NOTWITHSTANDING, THE AUTHORITY SHALL NOT BE REQUIRED TO TAKE OR OMIT TO TAKE, OR REQUIRE ANY OTHER PERSON OR ENTITY TO TAKE OR OMIT TO TAKE, ANY ACTION WHICH WOULD CAUSE IT OR ANY PERSON OR ENTITY TO BE, OR RESULT IN IT OR ANY PERSON OR ENTITY BEING, IN VIOLATION OF ANY LAW OF THE STATE.

Section 605. Recording and Filing. The Authority shall file or cause to be kept and filed all financing statements and such other documents as may be necessary to be kept and filed in such manner and in such places as may be required by law in order to preserve and protect fully the security of the owners of the Notes and the rights of the Trustee hereunder. The Trustee shall file or cause to be kept and filed continuation statements with respect to such originally filed financing statements related to this Indenture and all supplements hereto. The Authority hereby authorizes the filing of financing statements under the Uniform Commercial Code in connection with any security interest granted hereunder. In carrying out its duties under this Section, the Trustee may rely on an Opinion of Counsel specifying what actions are required to comply with this Section, and unless otherwise notified in writing by the Authority, shall be protected in (a) relying on such initial filing and descriptions in filing any continuation statements or modifications thereto pursuant to this section and (b) filing any continuation statements in the same filing offices as the initial filings were made.

Section 606. Possession and Inspection of Books and Documents. The Authority and the Trustee covenant and agree that all books and documents in their possession relating to the Notes, the South

Parcel District Sale Tax Revenues and to the distribution of proceeds thereof shall at all reasonable times be open to inspection by such accountants or other agencies or persons as the other party, any Owner, the District, the Lender or the South Parcel Project Sub-Developer may from time to time designate.

Section 607. Enforcement of Rights. The Authority agrees that the Trustee, as assignee, transferee, pledgee, and owner of a security interest under this Indenture, in its name or in the name of the Authority may enforce all rights of the Authority and the Trustee and all obligations of the District under and pursuant to the Financing Agreement and the Parcel Development Agreement for and on behalf of the Owners, whether or not the Authority is in default hereunder.

ARTICLE VII

DEFAULT AND REMEDIES

Section 701. Events of Default. If any one or more of the following events occurs, it is hereby defined as and declared to be and to constitute an “Event of Default:”

(a) Default in the performance or observance of any of the covenants, agreements or conditions on the part of the Authority in this Indenture or in the Notes contained, and the continuance thereof for a period of 30 days after written notice thereof has been given (1) to the Authority, the District, the South Parcel Project Sub-Developer and the Lender, if any, by the Trustee, or (2) to the Trustee (which notice of default the Trustee shall be required to accept) and the Authority by the Lender, if any, or by the Owners of not less than 25% in aggregate principal amount of the Notes then Outstanding; provided, however, if any default is such that it cannot be corrected within such 30-day period, it shall not constitute an Event of Default if corrective action is instituted by the Authority within such period and diligently pursued until the default is corrected; or

(b) The filing by the Authority of a voluntary petition in bankruptcy, or failure by the Authority to promptly lift any execution, garnishment or attachment of such consequence as would impair the ability of the Authority to carry on its operation, or adjudication of the Authority as a bankrupt, or assignment by the Authority for the benefit of creditors, or the entry by the Authority into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Authority in any proceedings instituted under the provisions of federal bankruptcy law, or under any similar acts which may hereafter be enacted.

The Trustee shall give written notice of any Event of Default to the Authority, the District, the South Parcel Project Sub-Developer and the Lender, if any, as promptly as practicable after the occurrence of an Event of Default of which the Trustee has received notice as provided in **Section 801(h)**.

Section 702. Acceleration.

(a) If an Event of Default has occurred and is continuing, the Trustee may, and shall upon the written request of the Lender or the Owners of a majority in aggregate principal amount of Notes then Outstanding by notice in writing delivered to the Authority, the District and the South Parcel Project Sub-Developer, declare the principal of all Notes then Outstanding and the interest accrued thereon immediately due and payable.

(b) In case of any rescission pursuant to **Section 712**, the Trustee, the Authority, District, the South Parcel Project Sub-Developer, and the Owners shall be restored to their former positions and rights

hereunder respectively, but no such rescission shall extend to any subsequent or other default or Event of Default or impair any right consequent thereon.

Section 703. Surrender of Possession of Trust Estate; Rights and Duties of Trustee in Possession.

(a) If an Event of Default has occurred and is continuing, the Authority, upon demand of the Trustee, shall forthwith surrender the possession of, and it shall be lawful for the Trustee, by such officer or agent as it may appoint, to take possession of all or any part of the Trust Estate, together with the books, papers and accounts of the Authority pertaining thereto, and out of the same and any moneys received from any receiver of any part thereof pay and set up proper reserves for the payment of all proper costs and expenses of so taking, holding and managing the same, including, but not limited to, (1) reasonable compensation to the Trustee, its agents and counsel, and (2) any reasonable charges and expenses of the Trustee and its counsel hereunder, and the Trustee shall apply the remainder of the moneys so received in accordance with **Section 708**. Whenever all that is due upon the Notes has been paid and all defaults made good, the Trustee shall surrender possession of the Trust Estate to the Authority, its successors or assigns, the same right of entry, however, to exist upon any subsequent Event of Default.

(b) While in possession of the Trust Estate, the Trustee shall render a summarized statement of receipts and expenditures related to the Trust Estate annually to the Authority, the District, the South Parcel Project Sub-Developer and the Lender, if any.

Section 704. Appointment of Receivers in Event of Default. If an Event of Default has occurred and is continuing, and upon the filing of a suit or other commencement of judicial proceedings to enforce the rights of the Trustee and of the Owners under this Indenture, the Trustee shall be entitled, as a matter of right, to the appointment of a receiver or receivers of the Trust Estate and of the earnings, income, products and profits thereof, pending such proceedings, with such powers as the court making such appointment shall confer.

Section 705. Exercise of Remedies by the Trustee.

(a) If an Event of Default has occurred and is continuing, the Trustee may pursue any available remedy at law or equity by suit, action, mandamus or other proceeding to enforce the payment of the principal of and interest on the Notes then Outstanding, and to enforce and compel the performance of the duties and obligations of the Authority as herein set forth.

(b) If an Event of Default has occurred and is continuing, and if requested so to do by any Lender or the Owners of not less than 25% in aggregate principal amount of the Notes then Outstanding with the consent of the Lender (if any) and indemnified as provided in **Section 801(I)**, the Trustee shall be obligated to exercise such one or more of the rights and powers conferred by this Article as the Trustee, being advised by counsel, deems most expedient in the interests of the Owners; provided, however, that the Trustee shall not be required to take any action which in its good faith conclusion could result in personal liability to it for which it has not been indemnified as provided in **Section 801**.

(c) All rights of action under this Indenture or under any of the Notes may be enforced by the Trustee without the possession of any of the Notes or the production thereof in any trial or other proceedings relating thereto, and any such suit or proceeding instituted by the Trustee shall be brought in its name as Trustee without the necessity of joining as plaintiffs or defendants any Owner, and any recovery or judgment shall, subject to **Section 708**, be for the equal benefit of all the Owners of the Outstanding Notes.

Section 706. Limitation on Exercise of Remedies by Owners. No Owner shall have any right to institute any suit, action or proceeding in equity or at law for the enforcement of this Indenture or for the execution of any trust hereunder or for the appointment of a receiver or any other remedy hereunder, unless:

- (a) a default has occurred of which the Trustee has notice as provided in **Section 801(h)**, and
- (b) such default has become an Event of Default, and
- (c) the Owners of not less than 25% in aggregate principal amount of the Notes then Outstanding shall have made written request to the Trustee, shall have offered it reasonable opportunity either to proceed to exercise the powers hereinbefore granted or to institute such action, suit or proceeding in its own name, and shall have provided to the Trustee indemnity as provided in **Section 801(I)**, and
- (d) the Trustee shall thereafter fail or refuse to exercise the powers herein granted or to institute such action, suit or proceeding in its own name;

and such notification, request and indemnity are hereby declared in every case, at the option of the Trustee, to be conditions precedent to the execution of the powers and trusts of this Indenture, and to any action or cause of action for the enforcement of this Indenture, or for the appointment of a receiver or for any other remedy hereunder, it being understood and intended that no one or more Owners shall have any right in any manner whatsoever to affect, disturb or prejudice this Indenture by its, his or their action or to enforce any right hereunder except in the manner herein provided, and that all proceedings at law or in equity shall be instituted, had and maintained in the manner herein provided and for the equal benefit of the Owners of all Notes then Outstanding. Nothing in this Indenture, however, shall affect or impair the right of any Owner to payment of the principal of and interest on any Note at and after its maturity or the obligation of the Authority to pay the principal of and interest on each of the Notes to the respective Owners thereof at the time, place, from the source and in the manner herein and in such Note expressed.

Section 707. Right of Owners to Direct Proceedings. Any other provision herein to the contrary notwithstanding, the Owners of a majority in aggregate principal amount of the Notes then Outstanding or the Lender shall have the right, at any time, by an instrument or instruments in writing executed and delivered to the Trustee, to direct the time, method and place of conducting all proceedings to be taken in connection with the enforcement of this Indenture, or for the appointment of a receiver or any other proceedings hereunder; provided that such direction shall not be otherwise than in accordance with the provisions of law and of this Indenture, and provided, further, that the Trustee shall have the right to decline to follow any such direction if the Trustee in good faith determines that the proceeding so directed would involve it in personal liability or the Trustee has not been indemnified as provided in **Section 801**.

Section 708. Application of Moneys in Event of Default. Upon an Event of Default, all moneys held or received by the Trustee pursuant to this Indenture or the Financing Agreement or pursuant to any right given or action taken under this Article shall, after payment of the reasonable fees, costs, advances and expenses of the Trustee and the proceedings resulting in the collection of such moneys (including, without limitation, attorneys' fees and expenses), and subject to the provisions of **Section 703**, be deposited in the Debt Service Fund. All moneys in the Debt Service Fund and the Revenue Fund shall be applied as follows:

- (a) If the principal of all the Notes has not become or has not been declared due and payable, all such moneys shall be applied:

(1) *First* -- To the payment to the Persons entitled thereto of all installments of interest then due and payable on the Notes, in the order in which such installments of interest became due and payable, with interest thereon at the rate or rates specified in the respective Notes to the extent permitted by law, and, if the amount available is not sufficient to pay in full any particular installment, then to the payment ratably, according to the amounts due on such installment, to the persons entitled thereto, without any discrimination or privilege.

(2) *Second* -- To the payment to the Persons entitled thereto of the unpaid principal of any of the Notes that have become due and payable (other than Notes called for redemption for the payment of which moneys or securities are held pursuant to this Indenture), in the order of their due dates, and, if the amount available is not sufficient to pay in full such principal due on any particular date, together with such interest, then to the payment ratably, according to the amounts of principal due on such date, to the persons entitled thereto without any discrimination or privilege.

(b) If the principal of all the Notes has become due or has been declared due and payable, all such moneys shall be applied to the payment of the principal and interest then due and unpaid on all of the Notes, without preference or priority of principal over interest or of interest over principal or of any installment of interest over any other installment of interest or of any Note over any other Note, ratably, according to the amounts due respectively for principal and interest, to the persons entitled thereto, without any discrimination or privilege.

(c) If the principal of all the Notes has been declared due and payable, and if such declaration thereafter is rescinded and annulled under the provisions of **Section 712**, then, subject to the provisions of subsection (b) above of this Section in the event that the principal of all the Notes shall later become due or be declared due and payable, the moneys shall be applied in accordance with the provisions of subsection (a) of this Section.

Whenever moneys are to be applied pursuant to this Section, such moneys shall be applied at such times and from time to time as the Trustee shall determine, having due regard to the amount of such moneys available and which may become available for such application in the future.

Whenever all of the Notes and interest thereon have been paid under this Section, and all fees, expenses and charges of the Trustee have been paid (including without limitation those of its agents or counsel), and any other amounts required to be paid under this Indenture, any balance remaining in the Revenue Fund shall be paid to the District.

Section 709. Remedies Cumulative. No remedy conferred by this Indenture upon or reserved to the Trustee, to the Owners or the Lender is intended to be exclusive of any other remedy, but each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Trustee or to the Owners hereunder or now or hereafter existing at law or in equity or by statute.

Section 710. Delay or Omission Not Waiver. No delay or omission to exercise any right, power or remedy accruing upon any Event of Default shall impair any such right, power or remedy or shall be construed to be a waiver of any such Event of Default or acquiescence therein, and every such right, power or remedy may be exercised from time to time and as often as may be deemed expedient.

Section 711. Effect of Discontinuance of Proceedings. If the Trustee has proceeded to enforce any right under this Indenture by the appointment of a receiver, by entry, or otherwise, and such proceedings have been discontinued or abandoned for any reason, or have been determined adversely, then the

Authority, the District, the South Parcel Project Sub-Developer, the Trustee, the Lender and the Owners shall be restored to their former positions and rights hereunder, and all rights, remedies and powers of the Trustee shall continue as if no such proceedings had been taken.

Section 712. Waivers of Events of Default. The Trustee shall waive any Event of Default and its consequences and rescind any acceleration of maturity of principal upon the written request of the Lender or, if there is no Lender, the Owners of a majority in aggregate principal amount of the Notes then Outstanding. In case of any such waiver or rescission, or if any proceeding taken by the Trustee on account of any such Event of Default has been discontinued or abandoned or determined adversely, then and in every such case the Authority, the District, the South Parcel Project Sub-Developer, the Trustee, the Lender and the Owners shall be restored to their former positions, rights and obligations hereunder, respectively, but no such waiver or rescission shall extend to any subsequent or other default, or impair any right consequent thereon.

ARTICLE VIII

THE TRUSTEE

Section 801. Acceptance of Trusts. The Trustee hereby accepts the trusts imposed upon it by this Indenture, and agrees to perform said trusts as a corporate trustee ordinarily would perform said trusts under a corporate indenture, but only upon and subject to the following express terms and conditions, and no implied covenants or obligations shall be read into this Indenture against the Trustee:

(a) The Trustee, prior to the occurrence of an Event of Default and after the curing of all Events of Default which may have occurred, undertakes to perform such duties and only such duties as are specifically set forth in this Indenture. If any Event of Default has occurred and is continuing, subject to subsection (l) below, the Trustee shall exercise such of the rights and powers vested in it by this Indenture, and shall use the same degree of care and skill in their exercise, as a prudent person under reasonably similar circumstances would exercise or use under the circumstances in the conduct of such person's own affairs.

(b) The Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or through agents, attorneys, receivers, employees or such other professionals but shall not be answerable for the conduct of the same in accordance with the standard specified above, provided the Trustee has exercised reasonable care in making such selection. The Trustee may act or refrain from acting and conclusively rely upon the opinion or advice of counsel, who may, without limitation, be counsel to the Authority, the District, the South Parcel Project Sub-Developer, the Lender, if any, or an employee of the Trustee, concerning all matters of trust hereof and the duties hereunder, and, subject to the restrictions of **Section 802**, may in all cases pay such reasonable compensation to all such agents, attorneys, receivers, employees and other such professionals as may reasonably be employed in connection with the trusts hereof. The Trustee shall not be responsible for any loss or damage resulting from any action or nonaction by it taken or omitted to be taken in good faith and shall be fully protected in reliance upon such opinion or advice of counsel.

(c) The Trustee shall not be responsible for any recital herein or in the Notes (except with respect to the Certificate of Authentication of the Trustee endorsed on the Notes), or for the recording or rerecording, filing or refiling of this Indenture or any security agreements in connection therewith, or for insuring any of the improvements constructed as part of the South Parcel Project or collecting any insurance moneys, or for the validity of the execution by the

Authority of this Indenture or of any or instruments of further assurance, or for the sufficiency of the security for the Notes. The Trustee shall not be responsible or liable for any loss suffered in connection with any investment of funds made by it in accordance with **Article V** except if such loss is caused by the Trustee's negligence or willful misconduct.

(d) The Trustee shall not be accountable for the use of any Notes authenticated and delivered hereunder. The Trustee, in its individual or any other capacity, may become the owner or pledgee of Notes with the same rights which it would have if it were not Trustee.

(e) The Trustee may rely and shall be protected in acting or refraining from acting upon any resolution, certificate, statement, instrument, opinion, report, notice, request, direction, consent, order, affidavit, letter, telegram or other paper or document provided for under this Indenture reasonably believed by it to be genuine and correct and to have been signed, presented or sent by the proper person or persons. Any action taken by the Trustee pursuant to and in accordance with this Indenture upon the request or authority or consent of any person who, at the time of making such request or giving such authority or consent is the Owner of any Note, shall be conclusive and binding upon all future Owners of the same Note and upon Notes issued in exchange therefor or upon transfer or in place thereof.

(f) As to the existence or nonexistence of any fact or as to the sufficiency or validity of any instrument, paper or proceeding, or whenever in the administration of this Indenture the Trustee deems it desirable that a matter be proven or established prior to taking, suffering or omitting any action hereunder, the Trustee may rely upon a certificate signed by an Authorized Authority Representative or Authorized South Parcel Project Sub-Developer Representative as sufficient evidence of the facts therein contained. Prior to the occurrence of an Event of Default of which the Trustee has been notified as provided in subsection (h) of this Section or of which by said subsection it is deemed to have notice, the Trustee shall also be at liberty to accept a similar certificate to the effect that any particular dealing, transaction or action is necessary or expedient, but may at its discretion secure such further evidence deemed necessary or advisable, but shall in no case be bound to secure the same.

(g) The permissive right of the Trustee to do things enumerated in this Indenture shall not be construed as a duty, and the Trustee shall not be answerable for other than its negligence or willful misconduct.

(h) The Trustee shall not be required to take notice of any Event of Default unless the Trustee is specifically notified in writing of such Event of Default by the Authority, the District, the South Parcel Project Sub-Developer, the Lender or by the Owners of at least 25% in aggregate principal amount of all Notes then Outstanding.

(i) At any and all reasonable times the Trustee and its duly authorized agents, attorneys, experts, engineers, accountants and representatives shall have the right, but shall not be required, to inspect the South Parcel Project, including all books, papers and records of the Authority pertaining to the District, the South Parcel Project Sub-Developer, and the Notes, and to take such memoranda from and in regard thereto as may be desired.

(j) The Trustee shall not be required to give any bond or surety in respect of the execution of its trusts and powers hereunder.

(k) The Trustee shall have the right, but shall not be required, to demand, in respect of the authentication of any Notes, the withdrawal of any funds, or any action whatsoever within the

purview of this Indenture, appraisals or other information, or corporate action or evidence thereof, in addition to that by the terms hereof required, as a condition of such action by the Trustee as are deemed desirable for the purpose of establishing the right of the Authority to the authentication of any Notes, the withdrawal of any funds or the taking of any other action by the Trustee.

(l) Anything herein to the contrary notwithstanding, before taking any action under this Indenture, other than any action concerning the payment of principal and interest on the Notes under **Article II**, declaring an Event of Default or accelerating the maturity of the Notes, the Trustee may, in its discretion, require that a reasonably satisfactory indemnity be furnished to it by the Owners or other parties for the reimbursement of all reasonable fees, costs liabilities, losses, claims and expenses to which it or its agents or counsel may be put and to protect it against all liability including environmental, except liability which is adjudicated to have resulted from its negligence or willful misconduct by reason of any action so taken.

(m) All moneys received by the Trustee or any Paying Agent shall, until used or applied or invested as herein provided, be held in trust in the manner and for the purposes for which they were received but need not be segregated from other funds except to the extent required by this Indenture or by law. Neither the Trustee nor any Paying Agent shall be under any liability for interest on any moneys received hereunder except as provided herein.

(n) No provision of this Indenture shall be construed to relieve the Trustee from liability for its own negligent action, its own negligent failure to act, or its own willful misconduct, except that:

(1) this subsection shall not be construed to affect the limitation of the Trustee's duties and obligations provided in this Section or the Trustee's right to rely on the truth of statements and the correctness of opinions as provided in this Section;

(2) the Trustee shall not be liable for any error of judgment made in good faith by any one of its directors, officers, agents, attorneys or employees unless it is established that the Trustee was negligent in ascertaining the pertinent facts;

(3) the Trustee shall not be liable with respect to any action taken or omitted to be taken by it in good faith in accordance with the direction of any Lender or a majority of the Owners by principal amount of the Notes then Outstanding relating to the time, method and place of conducting any proceeding for any remedy available to the Trustee, or exercising any trust or power conferred upon the Trustee, under this Indenture;

(4) subject to subsection (l) above, no provision of this Indenture shall require the Trustee to expend or risk its own funds or otherwise incur any financial or environmental liability in the performance of any of its duties hereunder, or in the exercise of any of its rights or powers if it has reasonable grounds for believing that repayment of such funds or adequate indemnity against such risk or liability is not reasonably assured to it; and

(5) the Trustee may execute any of the trusts or powers hereunder or perform any duties hereunder either directly or by or through agents or attorneys and the Trustee shall not be responsible for any misconduct or negligence on the part of any agent or attorney appointed with due care by it hereunder.

(o) Notwithstanding any other provision of this Indenture to the contrary, any provision intended to provide authority to act, right to payment of fees and expenses, protection, immunity and indemnification to the Trustee shall be interpreted to include any action of the Trustee whether it is deemed to be in its capacity as Trustee or Paying Agent.

(p) The Trustee agrees to accept and act on instructions or directions pursuant to this Indenture sent by the District or the Authority, as the case may be, by unsecured e-mail, facsimile transmission or other similar unsecured electronic methods, provided, however, that the District or the Authority, respectively, shall provide to the Trustee an incumbency certificate listing designated Persons with the authority to provide such instructions, which incumbency certificate shall be amended whenever a Person is to be added or deleted from the listing. If the District or the Authority, as applicable, elects to give the Trustee e-mail or facsimile instructions (or instructions by a similar electronic method) and the Trustee acts upon such instructions, the Trustee's understanding of such instructions shall be deemed controlling. The Trustee shall not be liable for any losses, costs or expenses arising directly or indirectly from the Trustee's reliance upon and compliance with such instructions notwithstanding such instructions conflict or are inconsistent with a subsequent written instruction. The District or the Authority, as applicable, agrees to assume all risks arising out of the use of such electronic methods to submit instructions and directions to the Trustee, including without limitation the risk of the Trustee acting on unauthorized instructions, and the risk of interception and misuse by third parties.

(q) The Trustee shall have no responsibility with respect to any information, statement or recital in any official statement, offering memorandum or any other disclosure material prepared or distributed with respect to the Notes and shall have no responsibility for compliance with any state or federal securities laws in connection with the Notes.

Section 802. Fees, Charges and Expenses of the Trustee. The Trustee shall be entitled to payment of and/or reimbursement for reasonable fees and expenses for its ordinary services rendered hereunder and all agent and counsel fees and other ordinary costs and expenses reasonably made or incurred by the Trustee in connection with such ordinary services and, if it becomes necessary that the Trustee perform extraordinary services, it shall be entitled to reasonable extra compensation therefor and to reimbursement for reasonable extraordinary costs and expenses in connection therewith; provided that if such extraordinary services or extraordinary expenses are occasioned by the neglect or willful misconduct of the Trustee it shall not be entitled to compensation or reimbursement therefor. The Trustee shall be entitled to payment and reimbursement for the reasonable fees, expenses and charges of the Trustee as Paying Agent and as Registrar for the Notes. Upon the occurrence of an Event of Default and during its continuance, the Trustee shall have a lien with right of payment prior to payment on account of principal of or interest on any Note, upon all moneys in its possession under any provisions hereof for the foregoing advances, fees, expenses and charges incurred. Notwithstanding the foregoing, if moneys in the Revenue Fund are insufficient to make payment to the Trustee for its fees and expenses, as provided in subparagraph (2) of **Section 402(b)** on any Interest Payment Date, the unpaid portion shall be carried forward to the next Interest Payment Date, together with interest thereon at the Trustee's base lending rate plus 2%. The Trustee's right to compensation and indemnification shall survive the satisfaction and discharge of this Indenture or its resignation or removal hereunder and payment in full of the Notes.

Section 803. Notice of Default. If a default occurs of which notice is given to the Trustee as provided in **Section 801(h)**, then the Trustee shall within five (5) days give written notice thereof to the Authority, the District, the South Parcel Project Sub-Developer and the Lender, if any, and within thirty (30) days (five (5) Business Days if the maturity of the Notes has been accelerated pursuant to **Section 702**) by first class mail to the Owners of all Notes then Outstanding as shown by the Register.

Section 804. Intervention by the Trustee. In any judicial proceeding to which the Authority is a party and which, in the opinion of the Trustee and its counsel, has a substantial bearing on the interests of Owners of the Notes, the Trustee may intervene on behalf of Owners and shall do so if requested in writing by any Lender or the Owners of at least 25% in the aggregate principal amount of Notes then Outstanding with the consent of the Lender (if any), provided that the Trustee shall first have been provided indemnity provided under **Section 801(I)** as it may require against the reasonable costs, expenses and liabilities which it may incur in or by reason of such proceeding, including without limitation attorneys' fees and expenses. The rights and obligations of the Trustee under this Section are subject to the approval of a court of competent jurisdiction.

Section 805. Successor Trustee Upon Merger, Consolidation or Sale. Any corporation or association with or into which the Trustee may be merged or converted or with or into which it may be consolidated, or to which the Trustee may sell or transfer its corporate trust business and assets as a whole or substantially as a whole, or any corporation or association resulting from any merger, conversion, sale, consolidation or transfer to which it is a party, provided such corporation or association is otherwise eligible under **Section 808**, shall be and become successor Trustee hereunder and shall be vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereunder as was its predecessor, without the execution or filing of any instrument or any further act on the part of any of the parties hereto.

Section 806. Resignation or Removal of Trustee. The Trustee and any successor Trustee may at any time resign as Trustee and Paying Agent from the trusts hereby created by giving at least 60 days' written notice to the Authority, the District, the South Parcel Project Sub-Developer, the Lender, the Lender and the Owners. If at any time the Trustee ceases to be eligible in accordance with the provisions of this Indenture, it shall resign immediately in the manner provided in this Section. The Trustee may be removed as Trustee and Paying Agent for cause or without cause at any time by an instrument or concurrent instruments in writing delivered to the Trustee, the Lender (if any), the South Parcel Project Sub-Developer and signed by the Owners of a majority in aggregate principal amount of Notes then Outstanding. If no Event of Default has occurred and is continuing, or no event exists that constitutes or with the giving of notice or passage of time would constitute a default or Event of Default, the Trustee may be removed as Trustee and Paying Agent for cause (including the failure of the Authority and the Trustee to agree on the reasonableness of the fees and expenses of the Trustee under this Indenture) at any time by an instrument or concurrent instruments in writing delivered to the Lender (if any), the South Parcel Project Sub-Developer and the Trustee, and signed by the Authority. The Authority, the District, the South Parcel Project Sub-Developer, the Lender (if any) or the Owners of a majority in aggregate principal amount of the Notes then Outstanding may at any time petition any court of competent jurisdiction for the removal for cause of the Trustee as Trustee and Paying Agent. No resignation or removal of the Trustee shall become effective until a successor Trustee has been appointed pursuant to **Section 807** and has accepted its appointment under **Section 809**.

Section 807. Appointment of Successor Trustee. If the Trustee hereunder resigns or is removed, or otherwise becomes incapable of acting hereunder, or if it is taken under the control of any public officer or officers or of a receiver appointed by a court, a successor Trustee may be appointed by any Developer (provided no Event of Default has occurred and is continuing) or any Lender or the Owners of a majority in aggregate principal amount of Notes then Outstanding with the consent of the Lender (if any), by an instrument or concurrent instruments in writing; provided, nevertheless, that in case of such vacancy the Authority, by an instrument executed and signed by the Authorized Authority Representative, may appoint a temporary Trustee to fill such vacancy until a successor Trustee is appointed by the South Parcel Project Sub-Developer, the Lender or the Owners in the manner above provided; and any such temporary Trustee so appointed by the Authority shall immediately and without further acts be superseded by the successor Trustee so appointed by the South Parcel Project Sub-Developer, the Lender or such Owners. If a successor Trustee or a temporary Trustee has not been so appointed and accepted such appointment within 30 days

of a notice of resignation or removal of the current Trustee, the Trustee may petition a court of competent jurisdiction for the appointment of a successor Trustee to act until such time, if any, as a successor has so accepted its appointment. No resignation or removal of the Trustee and no appointment of a successor Trustee shall become effective until the successor Trustee has accepted its appointment under **Section 809**.

Section 808. Qualifications of Successor Trustees. Any trustee appointed in succession to the Trustee hereunder shall be a trust institution or commercial bank with a corporate trust office located in the State, shall be in good standing and qualified to accept such trusts, shall be subject to examination by a federal or state bank regulatory authority, and shall have a reported capital and surplus of not less than \$100,000,000. If such institution publishes reports of conditions at least annually pursuant to law or regulation, then for the purposes of this Section the capital and surplus of such institution shall be deemed to be its capital and surplus as set forth in its most recent report of condition so published.

Section 809. Vesting of Trusts in Successor Trustee. Every successor Trustee appointed hereunder shall execute, acknowledge and deliver to its predecessor and also to the Authority, the District, the South Parcel Project Sub-Developer, the Lender and the Owners an instrument in writing accepting such appointment hereunder, and thereupon such successor shall become fully vested with all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of its predecessor; and the obligations and duties of the predecessor Trustee hereunder shall cease and terminate; but such predecessor shall, nevertheless, on the written request of the Authority and upon payment of all of its outstanding fees and expenses, execute and deliver an instrument transferring to such successor Trustee all the trusts, powers, rights, obligations, duties, remedies, immunities and privileges of such predecessor hereunder; and every predecessor Trustee shall deliver all securities and moneys held by it as Trustee hereunder to its successor. Should any instrument in writing from the Authority be reasonably required by any successor Trustee for more fully and certainly vesting in such successor the trusts, powers, rights, obligations, duties, remedies, immunities and privileges hereby vested in the predecessor, any and all such instruments in writing shall, on request, be executed, acknowledged and delivered by the Authority.

Section 810. Trust Estate May be Vested in Co-Trustee.

(a) It is the purpose of this Indenture that there shall be no violation of any law of any jurisdiction (including particularly the State) denying or restricting the right of banking corporations or associations to transact business as trustee in such jurisdiction. It is recognized that in case of litigation under this Indenture, the Financing Agreement or the Parcel Development Agreement, and in particular in case of the enforcement of any of those upon an Event of Default, or if the Trustee deems that by reason of any present or future law of any jurisdiction it may not exercise any of the powers, rights or remedies herein granted to the Trustee, or take any other action which may be desirable or necessary in connection therewith, it may be necessary or desirable that the Trustee appoint an individual or institution as a co-trustee or separate trustee, and the Trustee is hereby authorized to appoint such co-trustee or separate trustee for any purpose or for specific purposes.

(b) If the Trustee appoints an additional individual or institution as co-trustee or separate trustee, each and every remedy, power, right, claim, demand, cause of action, immunity, title, interest and lien expressed or intended by this Indenture to be exercised by the Trustee with respect thereto shall be exercisable by such co-trustee or separate trustee but only to the extent necessary to enable such co-trustee or separate trustee to exercise such powers, rights and remedies delegated by the Trustee, and every covenant and obligation necessary to the exercise thereof by such co-trustee or separate trustee shall run to and be enforceable by either of them.

(c) Should any deed, conveyance or instrument in writing from the Authority be reasonably required by the co-trustee or separate trustee so appointed by the Trustee for more fully and certainly vesting

in and confirming to him or it such properties, rights, powers, trusts, duties and obligations, any and all such deeds, conveyances and instruments in writing shall, on request, be executed, acknowledged and delivered by the Authority.

(d) If any co-trustee or separate trustee dies, becomes incapable of acting, resigns or is removed, all the properties, rights, powers, trusts, duties and obligations of such co-trustee or separate trustee, so far as permitted by law, shall vest in and be exercised by the Trustee until the appointment of a successor to such co-trustee or separate trustee.

Section 811. Annual Statement. The Trustee shall render an annual statement for each calendar year ending December 31 to the Authority, the District, the South Parcel Project Sub-Developer, the Lender, if any, and, if so requested and the expense thereof is paid, to any Owner requesting the same, showing in reasonable detail all financial transactions relating to the Trust Estate during the accounting period and the balance in any funds created by this Indenture as of the beginning and close of such accounting period.

Section 812. Paying Agents; Registrar; Appointment and Acceptance of Duties; Removal.

(a) The Trustee is hereby designated and agrees to act as Paying Agent and as Registrar for and in respect of the Notes.

(b) The Authority may appoint one or more additional Paying Agents for the Notes. Each Paying Agent other than the Trustee shall signify its acceptance of the duties and obligations imposed upon it by the Indenture by executing and delivering to the Authority, the District, the South Parcel Project Sub-Developer, the Lender, the Owners and the Trustee a written acceptance thereof. The Authority may remove any Paying Agent other than the Trustee and any successors thereto, and appoint a successor or successors thereto; provided that any such Paying Agent designated by the Authority shall continue to be a Paying Agent of the Authority for the purpose of paying the principal of and interest on the Notes until the designation of a successor as such Paying Agent and acceptance by such successor of the appointment. Each Paying Agent is hereby authorized to pay or redeem Notes when such Notes are duly presented to it for payment or redemption, which Notes shall thereafter be delivered to the Trustee for cancellation.

(c) The Paying Agent (if other than the Trustee) may at any time resign and be discharged of the duties and obligations created by this Indenture by giving at least 60 days' notice to the Authority, the District, the South Parcel Project Sub-Developer, the Lender, the Owners and the Trustee. The Paying Agent (if other than the Trustee) may be removed by the Authority at any time by an instrument signed by the Authority and filed with the Paying Agent and the Trustee, with a copy to the District, the South Parcel Project Sub-Developer, the Lender and the Owners. In the event of the resignation or removal of the Paying Agent, the Paying Agent shall pay over, assign and deliver any moneys held by it in such capacity to its successor or, if there be no successor, to the Trustee. Any successor Trustee shall automatically become a successor Paying Agent.

(d) If the Authority fails to appoint a Paying Agent hereunder, or the Paying Agent resigns or is removed, or is dissolved, or if the property or affairs of the Paying Agent are taken under the control of any state or federal court or administrative body because of bankruptcy or insolvency, or for any other reason, and the Authority has not appointed its successor as Paying Agent, the Trustee shall ipso facto be deemed to be the Paying Agent for all purposes of this Indenture until the appointment by the Authority of the Paying Agent or successor Paying Agent, as the case may be. The Trustee shall give each Owner notice by first-class mail of the appointment of a Paying Agent or successor Paying Agent.

ARTICLE IX

SATISFACTION AND DISCHARGE OF THE INDENTURE

Section 901. Satisfaction and Discharge of the Indenture.

(a) When the principal of and interest on all the Notes have been paid in accordance with their terms or provision has been made for such payment, as provided in **Section 902**, and provision also is made for paying all other sums payable hereunder, including the fees, charges and expenses of the Trustee and the Paying Agents to the date of payment of the Notes, then the right, title and interest of the Trustee under this Indenture shall thereupon cease, determine and be void, and thereupon the Trustee shall cancel, discharge and release this Indenture and shall execute, acknowledge and deliver to the Authority such instruments of satisfaction and discharge or release as shall be required to evidence such release and the satisfaction and discharge of this Indenture, and shall assign and deliver to the Authority any property at the time subject to this Indenture which may then be in the Trustee's possession, except amounts in the Debt Service Fund required to be paid to the Owners under **Section 403**, except amounts set aside for payment of arbitrage rebate, if any, and except funds or securities in which such moneys are invested and held by the Trustee for the payment of the principal of and interest on the Notes.

(b) The Authority is hereby authorized to accept a certificate of the Trustee stating that the whole amount of the principal and interest so due and payable upon all of the Notes then Outstanding has been paid or provision for such payment has been made in accordance with **Section 902** as evidence of satisfaction of this Indenture, and upon receipt thereof the Authority shall cancel and erase the inscription of this Indenture from its records.

Section 902. Notes Deemed to Be Paid.

(a) Notes shall be deemed to be paid within the meaning of this Article when payment of the principal on such Notes, plus interest thereon to the due date thereof (whether such due date is by reason of maturity or upon redemption as provided in this Indenture, or otherwise), either (1) has been made or caused to be made in accordance with the terms hereof, or (2) provision therefor has been made by depositing with the Trustee, in trust and irrevocably setting aside exclusively for such payment, (i) moneys sufficient to make such payment or (ii) non-callable Government Securities maturing as to principal and interest in such amount and at such times as will ensure the availability of sufficient moneys to make such payment. At such time as a Note is deemed to be paid hereunder as aforesaid, such Note shall no longer be secured by or be entitled to the benefits of this Indenture, except for the purposes of any such payment from such moneys or Government Securities.

(b) Notwithstanding the foregoing, in the case of Notes which by their terms may be redeemed prior to the stated maturities thereof, no deposit under clause (2) of subsection (a) above shall be deemed a payment of such Notes as aforesaid until, as to all such Notes which are to be redeemed prior to their respective stated maturities, proper notice of such redemption has been given in accordance with **Article III** or irrevocable instructions have been given to the Trustee to give such notice.

(c) Notwithstanding any provision of any other Section of this Indenture which may be contrary to the provisions of this Section, all moneys or Government Securities set aside and held in trust pursuant to the provisions of this Section for the payment of Notes and interest thereon shall be applied to and be used solely for the payment of the particular Notes and interest thereon with respect to which such moneys and Government Securities have been so set aside in trust.

ARTICLE X

SUPPLEMENTAL INDENTURES AND SUPPLEMENTAL FINANCING AGREEMENTS

Section 1001. Supplemental Indentures and Supplemental Financing Agreements Not Requiring Consent of Owners. The Authority and the Trustee may from time to time, with the consent of each Lender but without the consent of or notice to any of the Owners, enter into such Supplemental Indenture or Supplemental Indentures and the Authority and the District may from time to time, without the consent of or notice to any of the Owners, enter into Supplemental Financing Agreements as are not inconsistent with the terms and provisions hereof, for any one or more of the following purposes:

(a) to cure any ambiguity or formal defect or omission in this Indenture or the Financing Agreement or to release property from the Trust Estate that was included by reason of an error or other mistake;

(b) to grant to or confer upon the Trustee for the benefit of the Owners any additional rights, remedies, powers or authority that may lawfully be granted to or conferred upon the Owners or the Trustee or either of them;

(c) to subject to this Indenture or the Financing Agreement, additional revenues, properties or collateral;

(d) to modify, amend or supplement this Indenture or any indenture supplemental hereto in such manner as to permit the qualification of the Indenture under the Trust Indenture Act of 1939, as then amended, or any similar federal statute hereafter in effect, or to permit the qualification of the Notes for sale under the securities laws of any state of the United States;

(e) to provide for the refunding of any Notes in accordance with the terms hereof;

(f) to evidence the appointment of a separate trustee or the succession of a new trustee hereunder; or

(g) to make any other change which, in the sole judgment of the Trustee, does not materially adversely affect the interests of the Owners or the Lender (if any). In exercising such judgment, the Trustee may rely on an Opinion of Counsel.

Section 1002. Supplemental Indentures and Supplemental Financing Agreements Requiring Consent of Owners. In addition to Supplemental Indentures and Supplemental Financing Agreements permitted by **Section 1001** and subject to the terms and provisions contained in this Section, and not otherwise, with the consent of each Lender (if any) and the Owners of not less than a majority in aggregate principal amount of the Notes then Outstanding and the Lender (if any), the Authority and the Trustee may from time to time enter into such other Supplemental Indenture(s) or Supplemental Financing Agreement(s) as shall be deemed necessary and desirable by the Authority for the purpose of modifying, amending, adding to or rescinding, in any particular, any of the terms or provisions contained in this Indenture or in any Supplemental Indenture or Supplemental Financing Agreement; provided, however, that nothing in this Section contained shall permit or be construed as permitting:

(a) an extension of the maturity of the principal of or the scheduled date of payment of interest on any Note;

- (b) a reduction in the principal amount, redemption premium or any interest payable on any Note;
- (c) a privilege or priority of any Note or Notes over any other Note or Notes;
- (d) a reduction in the aggregate principal amount of Notes the Owners of which are required for consent to any such Supplemental Indenture; or
- (e) the modification of the rights, duties or immunities of the Trustee, without the written consent of the Trustee.

If at any time the Authority requests the Trustee to enter into any such Supplemental Indenture or Supplemental Financing Agreement for any of the purposes of this Section, the Trustee shall cause notice of the proposed execution of such Supplemental Indenture or Supplemental Financing Agreement to be mailed by first-class mail to each Owner and each Lender. Such notice shall briefly set forth the nature of the proposed Supplemental Indenture or Supplemental Financing Agreement and shall state that copies thereof are on file at the principal corporate trust office of the Trustee or such other office as the Trustee may designate for inspection by all Owners. If within 60 days or such longer period as shall be prescribed by the Authority following the mailing of such notice, each Lender and the Owners of not less than a majority in aggregate principal amount of the Notes Outstanding at the time of the execution of any such Supplemental Indenture or Supplemental Financing Agreement have consented to and approved the execution thereof as herein provided, no Owner of any Note shall have any right to object to any of the terms and provisions contained therein, or the operation thereof, or in any manner to question the propriety of the execution thereof, or to enjoin or restrain the Trustee or the Authority from executing the same or from taking any action pursuant to the provisions thereof. Upon the execution of any such Supplemental Indenture or Supplemental Financing Agreement as in this Section permitted and provided, this Indenture shall be and be deemed to be modified and amended in accordance therewith.

Section 1003. Developer and Lender Consent to Supplemental Indentures. Anything herein to the contrary notwithstanding, a Supplemental Indenture under this Article which affects any rights or obligations of South Parcel Project Sub-Developer or the Lender, if any, shall not become effective unless and until the South Parcel Project Sub-Developer and the Lender, if any, have consented in writing to the execution and delivery of such Supplemental Indenture. In this regard, the Trustee shall cause notice of the proposed execution and delivery of any Supplemental Indenture together with a copy of the proposed Supplemental Indenture to be mailed to the South Parcel Project Sub-Developer and the Lender at least 45 days prior to the proposed date of execution and delivery of any such Supplemental Indenture.

Section 1004. Opinion of Bond Counsel. Notwithstanding anything to the contrary in **Sections 1001** or **1002**, before the Authority and the Trustee enter into any Supplemental Indenture pursuant to **Section 1001** or **1002**, there shall have been delivered to the Trustee and each Lender an Opinion of Bond Counsel stating that such Supplemental Indenture is authorized or permitted by this Indenture and the Act, complies with their respective terms, and will, upon the execution and delivery thereof, be valid and binding upon the Authority in accordance with its terms.

ARTICLE XI

MISCELLANEOUS PROVISIONS

Section 1101. Consents and Other Instruments by Owners. Any consent, request, direction, approval, objection or other instrument required by this Indenture to be signed and executed by the Owners may be in any number of concurrent writings of similar tenor and may be signed or executed by such Owners in person or by agent appointed in writing. Proof of the execution of any such instrument or of the writing appointing any such agent and of the ownership of Notes, if made in the following manner, shall be sufficient for any of the purposes of this Indenture, and shall be conclusive in favor of the Trustee with regard to any action taken, suffered or omitted under any such instrument, namely:

(a) The fact and date of the execution by any person of any such instrument (other than the assignment of a Note) may be proved by the certificate of any officer in any jurisdiction who by law has power to take acknowledgments within such jurisdiction that the person signing such instrument acknowledged before him the execution thereof, or by affidavit of any witness to such execution.

(b) The fact of ownership of Notes and the amount or amounts, numbers and other identification of such Notes, and the date of holding the same shall be proved by the Register, absent manifest error.

Section 1102. Notices. Except as otherwise provided herein, it shall be sufficient service of any notice, request, complaint, demand or other paper required by this Indenture to be given to or filed with the Authority, the District, the Trustee, the Lender (if any), the Owners, or the South Parcel Project Sub-Developer if the same is duly mailed by registered or certified mail, postage pre-paid, return receipt requested, or sent by telegram, telecopy or telex or other similar communication, confirmed by telephone, on the same day, addressed as follows, provided that notice to the Trustee shall be effective only upon receipt:

(a) To the Authority at:

The Industrial Development Authority of University City, Missouri
c/o City of University City
6801 Delmar Boulevard
University City, Missouri 63301
Attn: City Manager
grose@ucitymo.org

with copies to:

John F. Mulligan, Jr.
Attorney at Law
6 Carrswold Drive
Clayton, Missouri 63105
jfmulliganjr@aol.com

and

Gilmore & Bell, P.C.
One Metropolitan Square
211 N. Broadway, Suite 2000
St. Louis, Missouri 63102
Attn: Mark D. Grimm, Esq.
mgrimm@gilmorebell.com

(b) To the District at:

Markets at Olive Community Improvement District
c/o Seneca Commercial Real Estate
1401 S. Brentwood Boulevard, Suite 625
St. Louis, Missouri 63144
Attn: Larry Chapman
lchapman@seneca-cre.com

with copies to:

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

and

Cook & Riley, LLC
1034 South Brentwood Boulevard, Suite 1550
St. Louis, Missouri 63117
Attn: Scott Riley
sriley@cookrileylaw.com

and

Development Dynamics
1001 Boardwalk Springs Place, Suite 50
O'Fallon, Missouri 63368
Attn: Laura Lashley
llashley@d2team.org

(c) To the Trustee at:

UMB Bank, N.A.
2 South Broadway, Suite 600
St. Louis, Missouri 63102
Attn: Corporate Trust Department

(d) To the South Parcel Project Sub-Developer at:

Dierbergs University City, LLC
c/o Dierbergs Markets, Inc.
16690 Swingley Ridge Rd., Suite 400
Chesterfield, Missouri 63017
Attn: Brent Beumer
beumerb@dierbergs.com

With a copy to:

Husch Blackwell LLP
8001 Forsyth Boulevard, Suite 1500
St. Louis, Missouri 63105
Attn: Jonathan W. Giokas
jonathan.giokas@huschblackwell.com

(f) To the Owners:

By first class mail addressed to each of the Owners of all Notes at the time Outstanding, as shown by the Register. Any notice so mailed to the Owners of the Notes shall be deemed given at the time of mailing whether or not actually received by the Owners of the Notes.

In the event of any notice to a party other than the Authority, a copy of said notice shall be provided to the Authority. The Lender, if any, shall be provided a copy of any notice to the Authority, the South Parcel Project Sub-Developer or the Owners. The above parties may from time to time designate, by notice given hereunder to the other parties, such other address or addresses to which subsequent notices, certificates or other communications shall be sent.

Section 1103. Limitation of Rights Under the Indenture. With the exception of rights herein expressly conferred and as otherwise provided in this Section, nothing expressed or mentioned in or to be implied by this Indenture or the Notes is intended or shall be construed to give any person other than the parties hereto, the South Parcel Project Sub-Developer, the Lender and the Owners of the Notes, any right, remedy or claim under or in respect to this Indenture. This Indenture and all of the covenants, conditions and provisions hereof are, except as otherwise provided in this Section, intended to be and are for the sole and exclusive benefit of the parties hereto, the South Parcel Project Sub-Developer, the Lender and the Owners of the Notes as herein provided.

Section 1104. Suspension of Mail Service. If, because of the temporary or permanent suspension of mail service or for any other reason, it is impossible or impractical to mail any notice in the manner herein provided, then such delivery of notice in lieu thereof as shall be made with the approval of the Trustee shall constitute a sufficient notice.

Section 1105. Business Days. If any date for the payment of principal of or interest on the Notes or the taking of any other action hereunder is not a Business Day, then such payment shall be due, or such action shall be taken, on the first Business Day thereafter; provided, however, any interest that accrues on any unmatured or unredeemed Notes from the due date shall be payable on the next succeeding Payment Date.

Section 1106. Immunity of Officers, Employees and Members of the Authority. No recourse shall be had for the payment of the principal of or interest on any of the Notes or for any claim based thereon or upon any obligation, covenant or agreement in this Indenture contained against any past, present or future officer, director, member, employee or agent of the Authority, the governing body of the Authority, or of any successor public corporation, as such, either directly or through the Authority or any successor public corporation, under any rule of law or equity, statute or constitution, or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officers, directors, members, employees or agents as such is hereby expressly waived and released as a condition of and consideration for the execution of this Indenture and the issuance of such Notes.

Section 1107. No Sale. The Authority covenants and agrees that, except as provided herein or in the Financing Agreement, it will not sell, convey, assign, pledge, encumber or otherwise dispose of any part of the moneys subject to this Indenture.

Section 1108. Severability. If any provision of this 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 1109. Execution in Counterparts. This 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 1110. Governing Law. This Indenture shall be governed exclusively by and construed in accordance with the applicable laws of the State.

Section 1111. 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.

Section 1112. Action by Authority. When any action or consent of the Authority is required by this Indenture, such action or consent may be undertaken or given by an Authorized Authority Representative.

Section 1113. Anti-Discrimination Against Israel Act. Pursuant to Section 34.600 of the Revised Statutes of Missouri, the Trustee certifies it is not currently engaged in and shall not, for the duration of this Indenture, engage in a boycott of goods or services from (a) the State of Israel, (b) companies doing business in or with the State of Israel or authorized by, licensed by, or organized under the laws of the State of Israel, or (c) persons or entities doing business in the State of Israel.

[Remainder of Page Intentionally Left Blank]

IN WITNESS WHEREOF, The Industrial Development Authority 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, UMB Bank, 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.

**THE INDUSTRIAL DEVELOPMENT
AUTHORITY OF UNIVERSITY CITY,
MISSOURI**

[SEAL]

By: _____
President

ATTEST:

Secretary

[Indenture]

**UMB BANK, N.A.,
as Trustee**

By: _____
Name: _____
Title: _____

[Indenture]

EXHIBIT A

FORM OF 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 \$[2,600,000 plus Issuance Costs*]
(See Schedule A attached)**

**THE INDUSTRIAL DEVELOPMENT AUTHORITY
OF UNIVERSITY CITY, MISSOURI**

**TAXABLE SPECIAL DISTRICT REVENUE NOTE
(THE MARKETS AT OLIVE COMMUNITY IMPROVEMENT DISTRICT
– SOUTH PARCEL PROJECT)
SERIES 2023**

Rate of Interest: 6.00%

Maturity Date: See Below⁽¹⁾

REGISTERED OWNER:

PRINCIPAL AMOUNT: See **SCHEDULE A** attached hereto.

THE INDUSTRIAL DEVELOPMENT AUTHORITY OF UNIVERSITY CITY, MISSOURI, a public corporation duly organized under Chapter 349 of the Revised Statutes of Missouri (the “Authority”), 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 and on the Maturity Date (each, an “Interest Payment Date”), beginning on the first Interest Payment Date following the issuance of this Note. Interest that remains unpaid on any Interest Payment Date shall be compounded semi-annually.

⁽¹⁾ The Maturity Date shall be (a) June 15, 2042 or (b) upon written notice from the South Parcel Project Sub-Developer to the Trustee and the District that the Developer has opened at least 75,000 square feet of gross leasable commercial space (in addition to the Costco Wholesale Club) within Redevelopment Project Area 1 as described in the Olive Boulevard Commercial Corridor and Residential Conservation Redevelopment Plan, June 15, 2052.

Except as otherwise provided herein, the capitalized terms herein shall have the meanings as provided in the hereinafter-defined Indenture, as may be amended or supplemented from time to time.

NOTWITHSTANDING ANY PROVISION HEREIN OR IN THE NOTES TO THE CONTRARY AND EXCEPT AS NECESSARY TO CORRECT ADMINISTRATIVE ERROR, THE OBLIGATION OF THE DISTRICT TO TRANSFER NET REVENUES CONSISTING OF SOUTH PARCEL DISTRICT SALES TAX REVENUES TO THE TRUSTEE TERMINATES ON (1) JUNE 9, 2042 OR (2) UPON WRITTEN NOTICE FROM THE SOUTH PARCEL PROJECT SUB-DEVELOPER TO THE TRUSTEE AND THE DISTRICT THAT THE DEVELOPER HAS OPENED AT LEAST 75,000 SQUARE FEET OF GROSS LEASABLE COMMERCIAL SPACE (IN ADDITION TO THE COSTCO WHOLESALE CLUB) WITHIN REDEVELOPMENT PROJECT AREA 1 AS DESCRIBED IN THE OLIVE BOULEVARD COMMERCIAL CORRIDOR AND RESIDENTIAL CONSERVATION REDEVELOPMENT PLAN, JUNE 9, 2052, WHETHER OR NOT THE PRINCIPAL OF OR INTEREST ON THE NOTES HAS BEEN PAID IN FULL. REFERENCE IS MADE TO THE INDENTURE, THE FINANCING AGREEMENT, THE DISTRICT PROJECT AGREEMENT AND THE PARCEL DEVELOPMENT AGREEMENT FOR A COMPLETE DESCRIPTION OF THE AUTHORITY'S AND THE DISTRICT'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 UMB Bank, 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 Authority designated "The Industrial Development Authority of University City, Missouri, Taxable Special District Revenue Notes (The Markets at Olive Community Improvement District – South Parcel Project), Series 2023" that aggregate a maximum principal amount of \$[*2,600,000 plus Issuance Costs*] (the "Notes"). The Notes are being issued for the purpose of paying certain eligible costs related to the "South Parcel Project" described in the Parcel Development Agreement, under the authority of and in full compliance with the Constitution and laws of the State of Missouri, including particularly the Community Improvement District Act, Sections 67.1401 to 67.1576 of the Revised Statutes of Missouri (the "CID Act"), and pursuant to a Trust Indenture dated as of May 1, 2023, between the Authority 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 Authority payable as to principal, premium, if any, and interest solely from Note proceeds, Net Revenues and investment earnings thereon.

The Notes shall not constitute debts or liabilities of the Authority, the District, the State of Missouri or any political subdivision thereof within the meaning of any constitutional or statutory debt limitation or restriction. None of the Authority, the District, the officers and employees of the Authority or the District,

nor any person executing the Notes shall be personally liable for such obligations by reason of the issuance thereof.

The Notes are subject to optional redemption by the Authority in whole or in part at any time 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 Authority 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 entity), 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 entity) 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 Authority 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 Authority, 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.

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 Authority 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 South Parcel Project Sub-Developer or a Related Party, (b) the Developer or a Related Party, (c) an "accredited investor" under Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, (d) a "qualified institutional buyer" under Rule 144A

promulgated under the Securities Act of 1933, (e) any general business corporation or enterprise with total assets in excess of \$50,000,000, or (f) the Lender.

This Note shall not be valid or binding on the Authority 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 INDUSTRIAL DEVELOPMENT AUTHORITY OF UNIVERSITY CITY, MISSOURI has executed this Note by causing it to be signed by the manual signature of its President and attested by the manual signature of its Secretary, 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**.

**THE INDUSTRIAL DEVELOPMENT
AUTHORITY OF UNIVERSITY CITY,
MISSOURI**

By: _____
President

(Seal)

Attest:

Secretary

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</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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⁽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.

EXHIBIT B

PURCHASER'S LETTER OF REPRESENTATIONS

[Date]

The Industrial Development Authority
of the City of St. Louis, Missouri
1520 Market Street, Suite 2000
St. Louis, Missouri 63103

UMB Bank, N.A.
2 S. Broadway, Suite 600
St. Louis, Missouri 63102

Re: \$[*2,600,000 plus Issuance Costs*] Taxable Special District Revenue Notes (The Markets at Olive Community Improvement District – South Parcel Project), Series 2023

Ladies and Gentlemen:

This letter is to provide you with certain representations and agreements with respect to the purchase by the undersigned of the above-referenced notes (the “Notes”), issued by The Industrial Development Authority of University City, Missouri (the “Authority”). The Notes are secured in the manner set forth in Resolution No. 23-7 of the Authority, adopted on May 16, 2023 (the “Resolution”) and in the Trust Indenture dated as of May 1, 2023 (the “Indenture”), between the Authority and UMB Bank, N.A., as Trustee. The undersigned hereby represents to each of you and agrees with each of you, as follows:

1. The undersigned has sufficient knowledge and experience in financial and business matters, including the purchase and ownership of limited revenue obligations and other municipal obligations, to be able to evaluate the risks and merits of the investment represented by the purchase by the undersigned of the Notes. The undersigned is able to bear the economic risk represented by the purchase by the undersigned of the Notes. The undersigned understands that the Notes are repayable solely from Pledged Revenues (as defined in the Indenture) and other moneys pledged thereto and held by the Trustee, subject to annual appropriation by the Board of Directors of The Markets at Olive Community Improvement District (the “District”).

2. The undersigned has made its own inquiry and analysis with respect to or affecting the likelihood of the payment of the Notes. The undersigned acknowledges that the Authority, the District and Dierbergs University City, LLC (the “South Parcel Project Sub-Developer”) have offered to give access, without restriction or limitation, to all information to which a reasonable investor would attach significance in making investment decisions, and the undersigned has had the opportunity to ask questions of and receive answers from knowledgeable individuals concerning the Notes, this financing transaction, the Authority, the District and the South Parcel Project Sub-Developer.

3. The undersigned acknowledges that the Authority has not made any representation or warranty concerning the accuracy or completeness of any information furnished in connection with the purchase by the undersigned of the Notes. Accordingly, the undersigned has not relied upon the Authority as to the accuracy or completeness of such information. As a sophisticated investor, the undersigned has made its own decision to purchase the Notes based solely upon its own inquiry and analysis.

4. The undersigned understands that the Notes do not constitute an indebtedness of the Authority, the District or the State of Missouri or a loan or credit thereof within the meaning of any constitutional, statutory or charter debt limitation or restriction.

5. The undersigned is familiar with and has counsel who are familiar with the federal and state legislation, rules, regulations and case law pertaining to the transfer and distribution of securities, including, but not limited to, disclosure obligations of the seller incident to any such transfer or distribution. The undersigned hereby covenants and agrees that the undersigned will not sell, offer for sale, pledge, transfer, convey, hypothecate, mortgage or dispose of the Notes or any interest therein in violation of applicable federal or state law or in violation of restrictions on sale, assignment, negotiation or transfer of the Notes as set forth in paragraph 7 below.

6. The undersigned is purchasing the Notes for its own account for investment (and not on behalf of another) and has no present intention of reselling the Notes; but the undersigned reserves the right to sell, offer for sale, pledge, transfer, convey, hypothecate, mortgage, participate or dispose of the Notes at some future date determined by it, provided that such disposition is not in violation of restrictions on sale, assignment, negotiation or transfer of the Notes as set forth in paragraph 7 below.

7. The undersigned acknowledges that the right to sell, assign, negotiate or otherwise transfer the Notes shall be limited to the sale, assignment, negotiation or transfer to an Approved Investor (as defined in the Indenture).

8. The undersigned agrees for federal income tax purposes it will treat each Note acquired from the Authority by it or any related party as full payment of all eligible costs relating to the South Parcel Project for which the Note was issued.

9. The undersigned agrees to indemnify and hold you harmless from any and all claims, judgments, reasonable attorneys' fees and expenses of whatsoever nature, whether relating to litigation or otherwise, resulting from any attempted or effected sale, offer for sale, pledge, transfer, conveyance, hypothecation, mortgage or disposition of the Notes in violation of this letter.

10. The undersigned has satisfied itself that the Notes may be legally purchased by the undersigned.

11. The undersigned represents to each of you that the undersigned is an Approved Investor.

Sincerely,

as Purchaser

By: _____
Title: _____

EXHIBIT C

**FORM OF CERTIFICATE OF
ELIGIBLE SOUTH PARCEL PROJECT COSTS**

Certificate of Eligible South Parcel Project Costs

TO: The Markets at Olive Community Improvement District
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 Parcel Development Agreement dated as of _____, 2023 (the “*Parcel Development Agreement*”) among the City of University City, Missouri (the “*City*”), The Markets at Olive Community Improvement District (the “*District*”), The Industrial Development Authority of University City, Missouri, U. City, L.L.C., U. City TIF Corporation and Dierbergs University City, LLC (the “*South Parcel Project Sub-Developer*”). In connection with the Parcel Development Agreement, the undersigned hereby states and certifies that:

1. Each item listed on **Schedule 1**, attached hereto and incorporated herein by reference (collectively, the “*Reimbursable South Parcel Project Costs*”), is a cost of the South Parcel Project and is eligible under the CID Act and the Parcel Development Agreement to be reimbursed to the South Parcel Project Sub-Developer.
2. These Reimbursable South Parcel Project Costs have been paid by the South Parcel Project Sub-Developer.
3. Each item listed on **Schedule 1** has not previously been paid or reimbursed from money derived from the District or any money derived from the Project Fund, and no part thereof has been included in any other certificate previously filed with the District.
4. There has not been filed with or served upon the South Parcel Project Sub-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 South Parcel Project for which this certificate relates have been issued and are in full force and effect, and such portion of the South Parcel Project has or will be completed in accordance with such approvals and permits.
6. If any cost item to be reimbursed under this Certificate is deemed not to be eligible for reimbursement under the CID Act and the Parcel Development Agreement, the South Parcel Project Sub-Developer shall have the right to substitute other eligible costs for payment hereunder.

7. The South Parcel Project Sub-Developer is not in material default or breach of any term or condition of the Parcel Development Agreement.

Dated this ____ day of _____, 20__.

DIERBERGS UNIVERSITY CITY, LLC

By: _____
[Name], [Title]

Approved this ____ day of _____, 20__, which date is not less than 15 days prior to the date upon which a copy of this Certificate was provided to the City and U. City, L.L.C. by mail or electronic delivery:

**THE MARKETS AT OLIVE COMMUNITY
IMPROVEMENT DISTRICT**

By: _____
[Name], [Title]

Gilmore & Bell, P.C.
Draft – May 12, 2023

FINANCING AGREEMENT

Dated as of May 1, 2023

between

**THE INDUSTRIAL DEVELOPMENT AUTHORITY
OF UNIVERSITY CITY, MISSOURI,**

and

THE MARKETS AT OLIVE COMMUNITY IMPROVEMENT DISTRICT

Relating to

**Not to Exceed \$[2,600,000 plus Issuance Costs*]
Taxable Special District Revenue Notes
(The Markets at Olive Community Improvement District – South Parcel Project)
Series 2023**

Certain rights, title and interest of The Industrial Development Authority of University City, Missouri in this Financing Agreement have been pledged and assigned to UMB Bank, N.A., St. Louis, Missouri, as Trustee under a Trust Indenture dated as of May 1, 2023, between the Authority and the Trustee.

FINANCING AGREEMENT

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FINANCING AGREEMENT

THIS FINANCING AGREEMENT, dated as of May 1, 2023 (this “*Financing Agreement*”), between **THE INDUSTRIAL DEVELOPMENT AUTHORITY OF UNIVERSITY CITY, MISSOURI**, a public corporation duly organized and existing under the laws of the State of Missouri (the “*Authority*”), and **THE MARKETS AT OLIVE COMMUNITY IMPROVEMENT DISTRICT**, a community improvement district and political subdivision duly organized and validly existing under the Constitution and laws of the State of Missouri (the “*District*”). (*All capitalized terms used, but not otherwise defined, herein shall have the meanings ascribed in the Trust Indenture dated as of May 1, 2023 between the Authority and UMB Bank, N.A., as trustee (the “Indenture”), as may be amended or supplemented from time to time.*)

WITNESSETH:

1. The Authority is authorized and empowered under Chapter 349 of the Revised Statutes of Missouri (the “*Act*”) to issue bonds and notes for the purpose of paying all or part of the cost of any “project,” as defined in the Act.
2. Pursuant to the Community Improvement District Act, Sections 67.1401 to 67.1571 of the Revised Statutes of Missouri (the “*CID Act*”), and Ordinance No. 7131 adopted on July 13, 2020, by the City Council of University City, Missouri (the “*City*”), the City approved the formation of the District.
3. Pursuant to Ordinance Nos. 7153 and 7208, adopted by the City Council on June 14, 2021 and November 28, 2022, respectively, the City approved expansions to the District’s boundaries.
4. Pursuant to Resolution No. 2020-4 adopted by the District’s Board of Directors on August 21, 2020, the District imposes a 1.00% community improvement district sales and use tax within its boundaries (the “*District Sales Tax*”).
5. Pursuant to Ordinance No. 7224 adopted by the City Council on March 13, 2023 and Resolution No. 23-003 adopted by the District’s Board of Directors on March 15, 2023, the City and the District, respectively, approved an Amended and Restated District Project Agreement dated as of March 15, 2023 (the “*District Project Agreement*”) among the City, the District, U. City, L.L.C. and U. City TIF Corporation (U. City, L.L.C. and U. City TIF Corporation are collectively referred to herein as the “*Developer*”) relating to the construction and financing of certain public improvements and redevelopment activities within the District.
6. The District Project Agreement contemplates that the City, the District, the Developer and a sub-developer may, from time to time, enter into parcel development agreements relating to the completion and financing of a portion of the “*District Project*” described in the District Project Agreement.
7. Pursuant to Resolution No. 23-004 adopted by the District’s Board of Directors on March 15, 2023 and Ordinance No. 7226 adopted by the City Council on May 8, 2023, the District and the City, respectively, approved a Parcel Development Agreement among the City, the District, the Authority, the Developer and Dierbergs University City, LLC (the “*South Parcel Project Sub-Developer*”) concerning the completion and financing of the portion of the District Project described therein as the “*South Parcel Project*” (the “*Parcel Development Agreement*”).
8. On May __, 2023, the District’s Board of Directors adopted Resolution No. 23-005 approving this Financing Agreement, pursuant to which the Authority agrees to issue the herein-defined

Notes to finance the South Parcel Project, as contemplated by the Parcel Development Agreement, and the District agrees to transfer certain District Sales Tax revenues to the Trustee to pay such obligations.

9. On May 16, 2023, the Authority’s Board of Directors adopted Resolution No. 2023-7 authorizing the issuance of the Authority’s \$[*2,600,000 plus Issuance Costs*] Taxable Special District Revenue Notes (The Markets at Olive Community Improvement District – South Parcel Project), Series 2023 (the “Notes”) for the purpose of financing the South Parcel Project and the costs of issuing the Notes and approving the Parcel Development Agreement, this Financing Agreement and a Trust Indenture between the Authority and UMB Bank, N.A., as trustee, relating to the Notes (as may be amended or supplemented from time to time, the “Indenture”).

10. Pursuant to the foregoing, the Authority and the District are authorized to execute and deliver this Financing Agreement for the purpose of securing the Notes.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the Authority and the District do hereby represent, covenant and agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions of Words and Terms. Capitalized terms not defined in this Financing Agreement shall have the meanings set forth in the Indenture.

Section 1.2. Rules of Interpretation. For all purposes of this Financing Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(b) Words importing the singular number shall include the plural and vice versa and words importing person shall include firms, associations and corporations, including public bodies, as well as natural persons.

(c) The table of contents hereto and the headings and captions herein are not a part of this document.

(d) Terms used in an accounting context and not otherwise defined shall have the meaning ascribed to them by generally accepted principles of accounting.

(e) Whenever an item or items are listed after the word “including,” such listing is not intended to be a listing that excludes items not listed.

(f) Wherever in this Financing Agreement it is provided that either party shall or will make any payment or perform or refrain from performing any act or obligation, each such provision shall, even though not so expressed, be construed as an express covenant to make such payment or to perform, or not to perform, as the case may be, such act or obligation.

(g) All references in this Financing Agreement to designated “articles,” “sections” and other subdivisions are, unless otherwise specified, to the designated articles, sections and

subdivisions of this Financing Agreement as originally executed. The words “herein,” “hereof,” “hereunder,” and other words of similar import refer to this Financing Agreement as a whole and not to any particular article, section or subdivision.

ARTICLE II REPRESENTATIONS

Section 2.1. Representations by the Authority. The Authority represents and warrants to the District as follows:

(a) *Organization and Authority.* The Authority (1) is a public corporation duly organized and existing under the laws of the State of Missouri, (2) has lawful power and authority to enter into, execute and deliver this Financing Agreement, the Indenture and any other documents required to be executed and delivered by it in connection with the issuance of the Notes (collectively, the “*Authority Documents*”), and to carry out its obligations hereunder and thereunder, and (3) by all necessary action has been duly authorized to execute and deliver this Financing Agreement and the other Authority Documents acting by and through its duly authorized officers.

(b) *No Defaults or Violations of Law.* The execution and delivery of this Financing Agreement and the other Authority Documents by the Authority will not result in a breach of any of the terms of, or constitute a default under, any indenture, mortgage, deed of trust, lease or other agreement or instrument to which the Authority is a party or by which it or any of its property is bound or its bylaws or any of the constitutional or statutory laws, rules or regulations applicable to the Authority or its property.

(c) *Public Purpose.* The South Parcel Project will further the public purposes of the Act.

(d) *No Litigation.* There is no litigation or proceeding pending or, to the knowledge of the Authority, threatened against the Authority or any other person affecting the right of the Authority to execute or deliver this Financing Agreement or the other Authority Documents or the ability of the Authority to comply with its obligations under this Financing Agreement or the other Authority Documents. Neither the execution and delivery of this Financing Agreement or the other Authority Documents by the Authority nor compliance by the Authority with its obligations under this Financing Agreement or the other Authority Documents requires the approval of any entity whose approval has not been obtained.

(e) *No Conflicts of Interest.* No member of the Board of Directors of the Authority or any other officer of the Authority has any significant or conflicting interest, financial, employment or otherwise, in the District or the South Parcel Project or in the transactions contemplated hereby.

Section 2.2. Representations by the District. The District represents and warrants to the Authority as follows:

(a) *Organization and Authority.* The District (1) is a community improvement district and political subdivision duly organized and validly existing under the Constitution and laws of the State of Missouri, (2) has lawful power and authority to enter into, execute and deliver this Financing Agreement and all other documents required to be executed and delivered by it in connection with the issuance of the Notes (collectively, the “*District Documents*”) and to carry out its obligations hereunder and thereunder, and (3) by all necessary action has been duly authorized

to execute and deliver this Financing Agreement and the other District Documents, acting by and through its duly authorized directors and officers.

(b) *No Defaults or Violations of Law.* The execution and delivery of this Financing Agreement and the other District Documents by the District will not conflict with or result in a breach of any of the terms of, or constitute a default under, any indenture, mortgage, deed of trust, lease or other material agreement or instrument to which the District is a party or by which it or any of its property is bound, or any of the laws, rules or regulations applicable to the District or its property.

(c) *Public Purpose.* The South Parcel Project is permitted by the CID Act and is in furtherance of the District's public purposes.

(d) *No Litigation.* There is no litigation or proceeding pending or, to the knowledge of the District, threatened against the District or any other person affecting the right of the District to execute this Financing Agreement or the other District Documents or the ability of the District to comply with the obligations under this Financing Agreement or the other District Documents. Neither the execution and delivery of this Financing Agreement or the other District Documents by the District, nor compliance by the District with its obligations under this Financing Agreement or the other District Documents require the approval of any regulatory body or any other entity, which approval has not been obtained.

Section 2.3. Survival of Representations. All representations of the Authority and the District contained in this Financing Agreement or in any certificate or other instrument delivered by any such party pursuant to this Financing Agreement or any other Authority Documents or District Documents, or in connection with the transactions contemplated hereby or thereby, shall survive the execution and delivery thereof and the issuance, sale and delivery of the Notes, as representations of facts existing as of the date of execution and delivery of the instruments containing such representations.

ARTICLE III

ISSUANCE OF THE NOTES; TRANSFER OF REVENUES

Section 3.1. Issuance of Notes. To provide funds for the purposes set forth in the Recitals to this Financing Agreement, the Authority agrees that it will issue and deliver the Notes to the South Parcel Project Sub-Developer or another Approved Investor as provided in the Indenture.

Section 3.2. Transfer of Revenues.

(a) On the 15th calendar day of each month (or the next Business Day thereafter if the 15th calendar day is not a Business Day) while the Notes are Outstanding, the District shall, subject to annual appropriation, transfer all Net Revenues to the Trustee for application pursuant to **Section 402(b)** of the Indenture. The District hereby pledges such revenues to the timely payment of all amounts due and owing under the Indenture, subject to annual appropriation. The foregoing provisions shall not be construed to impose any legal obligation on the District to appropriate moneys for the payment of the Notes.

(b) **NOTWITHSTANDING ANY PROVISION HEREIN OR IN THE NOTES TO THE CONTRARY AND EXCEPT AS NECESSARY TO CORRECT ADMINISTRATIVE ERROR, THE OBLIGATION OF THE DISTRICT TO TRANSFER NET REVENUES CONSISTING OF SOUTH PARCEL DISTRICT SALES TAX REVENUES TO THE TRUSTEE TERMINATES ON (1) JUNE 9, 2042 OR (2) UPON WRITTEN NOTICE FROM THE SOUTH PARCEL PROJECT SUB-**

DEVELOPER TO THE TRUSTEE AND THE DISTRICT THAT THE DEVELOPER HAS OPENED AT LEAST 75,000 SQUARE FEET OF GROSS LEASABLE COMMERCIAL SPACE (IN ADDITION TO THE COSTCO WHOLESALE CLUB) WITHIN REDEVELOPMENT PROJECT AREA 1 AS DESCRIBED IN THE OLIVE BOULEVARD COMMERCIAL CORRIDOR AND RESIDENTIAL CONSERVATION REDEVELOPMENT PLAN, JUNE 9, 2052, WHETHER OR NOT THE PRINCIPAL OF OR INTEREST ON THE NOTES HAS BEEN PAID IN FULL.

ARTICLE IV

NET REVENUES

Section 4.1. Use of Net Revenues.

(a) Notwithstanding any provision of the Parcel Development Agreement or the District Project Agreement to the contrary, the District hereby acknowledges and agrees that the terms of the Indenture relating to the transfer and application of Net Revenues shall control.

(b) The Authority and the District each covenant and agree that it will not authorize or issue bonds, notes or other obligations payable from Net Revenues, except for the Notes.

Section 4.2. Collection of District Sales Tax. The District may, in its sole discretion, take such action as the District deems appropriate to (1) cause the Missouri Department of Revenue to collect the District Sales Tax and (2) cause retailers to pay the District Sales Tax. The District hereby agrees that the Trustee may take such lawful action within its control to cause the Missouri Department of Revenue to collect the District Sales Tax and to cause retailers to pay the District Sales Tax.

Section 4.3. Covenant to Request Appropriations.

(a) The District covenants and agrees that the officer of the District at any time charged with the responsibility of formulating budget proposals is hereby directed to include in the budget proposal submitted to the Board of Directors of the District for each fiscal year of the District that the Notes are Outstanding a request for an appropriation of the South Parcel District Sales Tax Revenues in a manner consistent with **Section 402** of the Indenture. Any funds appropriated as the result of such a request shall be transferred by the District to the Trustee at the times and in the manner provided in **Section 3.2** hereof and **Section 402** of the Indenture.

(b) Except as may be necessary to correct administrative error, no South Parcel District Sales Tax Revenues will be paid to the Trustee after (1) June 9, 2042 or (b) upon written notice from the South Parcel Project Sub-Developer to the Trustee and the District that the Developer has opened at least 75,000 square feet of gross leasable commercial space (in addition to the Costco Wholesale Club) within Redevelopment Project Area 1 as described in the Olive Boulevard Commercial Corridor and Residential Conservation Redevelopment Plan, June 9, 2052.

Section 4.4. Enforcement of Agreements.

(a) The District shall enforce the provisions of the District Project Agreement and the Parcel Development Agreement in such manner as the District deems prudent and advisable in its good faith discretion. The District may enforce all appropriate available remedies thereunder, including particularly any actual, agreed or liquidated damages for failure to perform under the District Project Agreement or the Parcel Development Agreement, and shall transfer to the Trustee for deposit to the Revenue Fund all sums received on account of such damages after deduction of the costs of enforcement.

(b) The District shall notify the Trustee in writing of any material failure of performance under the District Project Agreement or the Parcel Development Agreement of which the District has actual knowledge and what action (if any) the District proposes to take to enforce available remedies. If, in the sole judgment of the Trustee, such action is less likely to be effective than some other or additional action, the Trustee may so advise the District promptly in writing. If, within 30 days following advice by the Trustee that some additional or other action would be more effective, the District has not taken such other or additional action, and the Trustee has not, after consultation with the District, withdrawn such advice, upon receipt of indemnification satisfactory to it, the Trustee is hereby authorized to take such action, whether the action was suggested by the Trustee or otherwise, as the Trustee may deem most expedient and in the interest of the Owners of the Notes. In furtherance of the rights granted to the Trustee by this Section, the District hereby assigns to the Trustee all of the rights it may have in the enforcement of the District Project Agreement and the Parcel Development Agreement, further authorizing the Trustee in its own name or in the name of the District to bring such actions, employ such counsel, execute such documents and do such other things as may in the judgment of the Trustee be necessary or appropriate under the circumstance at the expense of the Trust Estate.

(c) The District shall not modify, amend or waive any provision of the District Project Agreement or the Parcel Development Agreement without the prior written consent of the Trustee, whose consent shall not be unreasonably withheld or delayed. The Trustee may withhold its consent to any such proposed modification, amendment or waiver of the District Project Agreement or the Parcel Development Agreement if the proposed modification, amendment or waiver may adversely affect the security for the Notes or the interests of the Owners thereof or as may impose additional duties on the Trustee that were not contemplated upon the original execution of the Indenture. The Trustee shall be entitled to receive and rely upon an Opinion of Counsel (who may not be counsel to the District) as to whether any such proposed modification, amendment or waiver may adversely affect the security for the Notes or as may impose additional duties on the Trustee that were not contemplated upon the original execution of the Indenture.

ARTICLE V

GENERAL COVENANTS AND PROVISIONS

Section 5.1. Obligations Under Indenture. The District hereby agrees to assume the obligations imposed on it under the Indenture.

ARTICLE VI

ASSIGNMENT

Section 6.1. Assignment by the Authority. The Authority, by means of the Indenture and as security for the payment of the principal of, and redemption premium, if any, and interest on the Notes, will assign, pledge and grant a security interest in all of its rights, title and interests in, to and under this Financing Agreement to the Trustee for the benefit of the Owners (reserving its Unassigned Authority's Rights).

Section 6.2. Restriction on Transfer of Authority's Interests. The Authority will not sell, assign, transfer or convey its interests in this Financing Agreement or the Net Revenues except pursuant to the Indenture and this Financing Agreement.

Section 6.3. Restriction on Transfer of District Interests. The District will not sell, assign, transfer or convey its interests in the Net Revenues or this Financing Agreement.

ARTICLE VII

EVENTS OF DEFAULT AND REMEDIES

Section 7.1. Events of Default Defined. The term “Event of Default” shall mean any one or more of the following events:

(a) Failure by the District to timely transfer revenues to the Trustee pursuant to **Section 3.2** for a period of 10 days after written notice of such failure has been given to the District by the Trustee.

(b) Failure by the District to observe and perform any covenant, condition or agreement under this Financing Agreement, other than as referred to in the preceding subparagraph (a) of this Section, for a period of 30 days after written notice of such default has been given to the District by the Trustee or the Authority, during which time such default is neither cured nor waived in writing by the Trustee, provided that, if the failure stated in the notice cannot be corrected within said 30-day period, the District shall be granted additional time to cure the default so long as the District institutes corrective action within the 30-day period and diligently pursues such action to completion.

(c) The filing by the District of a voluntary petition in bankruptcy, or failure by the District to promptly lift any execution, garnishment or attachment of such consequence as would impair the ability of the District to carry on its operation, or adjudication of the District as bankrupt, or assignment by the District for the benefit of creditors, or the entry by the District into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the District in any proceedings instituted under the provisions of federal bankruptcy law, or under any similar acts which may hereafter be enacted.

(d) Any representation or warranty by the District herein or in any certificate or other instrument delivered under or pursuant to this Financing Agreement or the Indenture or in connection with the financing contemplated herein shall prove to have been false, incorrect, misleading or breached in any material respect on the date when made, unless waived in writing by the Trustee or cured by the District within 30 days after notice thereof has been given to the District.

(e) The occurrence of an Event of Default as specified in **Section 701** of the Indenture.

Section 7.2. Remedies on an Event of Default.

(a) Whenever any Event of Default has occurred and is continuing, the Trustee, as the assignee of the Authority, may take any one or more of the remedial steps set forth in the Indenture; provided that if the principal of all Notes then Outstanding and the interest accrued thereon has been declared immediately due and payable pursuant to the provisions of **Section 702** of the Indenture, the Trustee may immediately proceed to take whatever other action at law or in equity is necessary and appropriate to exercise or to cause the exercise of the rights and powers set forth herein or in the Indenture, as may appear necessary or desirable to collect the amounts payable pursuant to this Financing Agreement then due and thereafter to become due or to enforce the performance and observance of any obligation, agreement or covenant of the District under this Financing Agreement or the Indenture.

(b) Any amount collected pursuant to action taken under this Section shall be paid to the Trustee and applied in accordance with **Section 708** of the Indenture.

(c) Notwithstanding the foregoing, the Trustee shall not be obligated to take any step that in its opinion will or might cause it to expend time or money or otherwise incur liability, unless and until indemnity satisfactory to it has been furnished to the Trustee at no cost or expense to the Trustee, except as otherwise provided in **Section 801(I)** of the Indenture.

Section 7.3. No Remedy Exclusive. No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Financing Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon an Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

Section 7.4. Parties to Give Notice of an Event of Default. The Authority and the District shall each promptly give to the Trustee written notice of any Event of Default of which such party, as the case may be, has actual knowledge or written notice, however, no party shall be liable for failing to give such notice.

Section 7.5. Performance of District Obligations. If the District fails to keep or perform any of its obligations as provided in this Financing Agreement, then the Trustee may (but shall not be obligated so to do), upon the continuance of such failure on the District's part for 30 days after notice of such failure is given to the District by the Trustee, and without waiving or releasing the District from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and all sums so paid by the Trustee and all necessary incidental costs and expenses incurred by the Trustee in performing such obligations shall be paid to the Trustee in accordance with **Section 402** and **Section 802** of the Indenture.

Section 7.6. Remedial Rights Assigned to the Trustee. Upon the execution and delivery of the Indenture, the Authority will thereby have assigned to the Trustee all rights and remedies conferred upon or reserved to the Authority by this Financing Agreement other than the Unassigned Authority's Rights. The Trustee shall have the exclusive right to exercise such rights and remedies conferred upon or reserved to the Authority by this Financing Agreement in the same manner and to the same extent, but under the limitations and conditions imposed thereby and hereby. The Trustee shall be deemed a third-party creditor beneficiary of all representations, warranties, covenants and agreements contained herein.

ARTICLE VIII

MISCELLANEOUS

Section 8.1. Authorized Representatives. Whenever under this Financing Agreement the approval of the Authority or the District is required or a party is required or permitted to take some action, such approval shall be given or such action shall be taken by the Authorized Authority Representative or the Authorized District Representative, as applicable, and the Trustee shall be authorized to act on any such approval or action.

Section 8.2. Term of Financing Agreement. This Financing Agreement shall be effective from and after its execution and delivery and shall continue in full force and effect until the Notes are

deemed to be paid within the meaning of **Article IX** of the Indenture and provision has been made for paying all other sums payable under this Financing Agreement and the Indenture.

Section 8.3. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered by hand delivery, electronic delivery or overnight delivery service or on the third day following the day on which the same has been mailed by registered or certified mail, postage prepaid, addressed as specified in **Section 1102** of the Indenture, except that any of the foregoing given to the Trustee shall be effective only upon receipt. A duplicate copy of each notice, certificate or other communication given hereunder to any party mentioned in said **Section 1102** shall be given to all other parties mentioned therein (other than the Owners of the Notes unless a copy is required to be furnished to them by other provisions of this Financing Agreement or the Indenture). The Authority, the District or the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent to it.

Section 8.4. Performance Date Not a Business Day. If any date for the payment of principal of, or redemption premium, if any, or interest on the Notes or the taking of any other action hereunder is not a Business Day, then such payment shall be due, or such action shall be taken, on the first Business Day thereafter with the same force and effect as if made on the date fixed for payment or performance.

Section 8.5. Binding Effect. This Financing Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.

Section 8.6. Amendments, Changes and Modifications. Except as otherwise provided in this Financing Agreement or in the Indenture, subsequent to the issuance of the Notes, and prior to all of the Notes being deemed to be paid in accordance with **Article IX** of the Indenture and provision being made for the payment of all sums payable under the Indenture in accordance with **Article IX** thereof, this Financing Agreement may not be effectively amended, changed, modified, altered or terminated without the prior concurring written consent of the Trustee, given in accordance with the Indenture.

Section 8.7. Execution in Counterparts. This Financing Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 8.8. No Pecuniary Liability. Notwithstanding the language or implication of any provision, representation, covenant or agreement to the contrary, no provision, representation, covenant or agreement contained in this Financing Agreement or in the Indenture, the Notes, or any obligation herein or therein imposed upon the Authority or the District, or the breach thereof, shall constitute or give rise to or impose upon the Authority or the District a pecuniary liability (except to the extent of any Net Revenues actually received by the District and appropriated to the payment of the Notes). No provision hereof shall be construed to impose a charge against the general credit of the Authority or the District or any personal or pecuniary liability upon any director, officer, agent, governing body member or employee of the Authority or the District.

Section 8.9. Extent of Covenants; No Personal or Pecuniary Liability.

(a) All covenants, obligations and agreements of the Authority contained in this Financing Agreement and the Indenture shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future director, officer, agent or employee of the Authority in other than his official capacity, no official executing the Notes shall be liable personally on the Notes and no present or future member, officer, agent or employee of the Authority shall be subject to any personal liability or accountability by reason of the issuance of the Notes or by reason of the covenants, obligations or agreements of the Authority

contained in this Financing Agreement or in the Indenture. No provision, covenant or agreement contained in this Financing Agreement, the Indenture or the Notes, or any obligation herein or therein imposed upon the Authority, or the breach thereof, shall constitute or give rise to or impose upon the Authority a pecuniary liability or a charge.

(b) All covenants, obligations and agreements of the District contained in this Financing Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future governing body member, officer, director, agent or employee of the District in other than his or her official capacity, and no present or future governing body member, officer, director, agent or employee of the District shall be subject to any personal liability or accountability by reason of the issuance of the Notes or by reason of the covenants, obligations or agreements of the District contained in this Financing Agreement. No provision, covenant or agreement contained in this Financing Agreement, or any obligation herein imposed upon the District, or the breach thereof, shall constitute or give rise to or impose upon the District a pecuniary liability or a charge (except to the extent of any Net Revenues actually received by the District and appropriated to the payment of the Notes).

Section 8.10. General Limitation. ANY OTHER TERM OR PROVISION OF THIS FINANCING AGREEMENT OR ANY OTHER DOCUMENT EXECUTED IN CONNECTION WITH THE TRANSACTION WHICH IS THE SUBJECT HEREOF TO THE CONTRARY NOTWITHSTANDING, NEITHER THE DISTRICT NOR THE AUTHORITY SHALL BE REQUIRED TO TAKE OR OMIT TO TAKE, OR REQUIRE ANY OTHER PERSON OR ENTITY TO TAKE OR OMIT TO TAKE ANY ACTION WHICH WOULD CAUSE IT OR ANY PERSON OR ENTITY TO BE, OR RESULT IN IT OR ANY PERSON OR ENTITY BEING, IN VIOLATION OF ANY LAW OF THE STATE.

Section 8.11. Severability. If any provision of this Financing Agreement 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 Financing Agreement contained shall not affect the remaining portions of this Financing Agreement, or any part thereof.

Section 8.12. Governing Law. This Financing Agreement shall be governed by and construed in accordance with the laws of the State.

Section 8.13. Electronic Means. The parties agree that the transaction described herein may be conducted and related documents may be sent, received and stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall 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.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, THE INDUSTRIAL DEVELOPMENT AUTHORITY OF UNIVERSITY CITY, MISSOURI and THE MARKETS AT OLIVE COMMUNITY IMPROVEMENT DISTRICT have caused this instrument to be executed on their behalf all as of the date first above written.

**THE INDUSTRIAL DEVELOPMENT
AUTHORITY OF UNIVERSITY CITY, MISSOURI**

(Seal)

ATTEST:

By: _____
President

By: _____
Secretary

[Financing Agreement]

**THE MARKETS AT OLIVE COMMUNITY
IMPROVEMENT DISTRICT**

(Seal)

ATTEST:

By: _____
Chairman

By: _____
Secretary

[Financing Agreement]