



Legislation Text

File #: 230450, **Version:** 2

[COMMITTEE SUBSTITUTE FOR] ORDINANCE NO. 230450

Sponsor(s): Councilmembers Kathryn Shields and Kevin O'Neill

Extending the time to complete the Union Hill "353" Redevelopment Project located south of Union Cemetery, and north of E. 31st Street, between Main Street on the west and Gillham Road on the east, by approving the extension of the Project's schedule.

WHEREAS, the City Council passed Ordinance No. 52129 on November 20, 1980, which approved the development plan (the "Plan") submitted by Union Hill Redevelopment Corporation ("UHRC") for the redevelopment of that area generally located south of Union Cemetery, and north of E. 31st Street, between Main Street on the west and Gillham Road on the east; and

WHEREAS, on December 16, 1980, the UHRC was designated as the Developer of the Plan; and

WHEREAS, on December 16, 1980, UHRC entered into a contract with the City pursuant to Ordinance No. 52129 (the "Contract") for implementation of the Plan; and

WHEREAS, UHRC amended the Plan three times, (i) October 20, 1983, by Ordinance No. 55680, (ii) November 21, 1985, by Ordinance No. 58712, and (iii) May 1, 1987, by Ordinance No. 60879 (collectively the "UHRC Plan Amendments"); and

WHEREAS, the Contract was amended three times, pursuant to (i) Ordinance No. 55680, passed October 20, 1983, (ii) Ordinance No. 58712, passed November 21, 1985, and (iii) Ordinance No. 60879, passed May 1, 1987 (collectively the "UHRC Contract Amendments"); and

WHEREAS, UHRC assigned that portion of the amended Plan known as "The Residence Inn Tract" to Union Hill Associates, which assignment was approved by Ordinance No. 61307, passed August 6, 1987; and

WHEREAS, as a result of UHRC's financial difficulties, including foreclosure of assets, UHRC was unable to continue with the redevelopment, UHRC assigned its remaining interest and rights under the amended Plan to the Phoenix Redevelopment Corporation ("Phoenix"), which assignment was approved by Committee Substitute for Ordinance No. 61877, passed December 17, 1987; and

WHEREAS, Phoenix filed application for a fourth amendment to the Plan ("Amended and Restated Plan"), which Amended and Restated Plan was approved by Ordinance No. 63243, passed November 3, 1988; and

WHEREAS, on January 6, 1989, Phoenix and the City entered into the so named Fourth Supplemental Contract (the Contract, as amended by the UHRC Contract Amendments and the Fourth Supplemental Contract, is collectively referred to hereinafter as the "Amended and Restated Contract") designating Phoenix

as the successor developer of the amended Plan; and

WHEREAS, Phoenix submitted its so named First Amendment to the Amended and Restated Plan September 27, 1999, which was approved March 27, 2003, by Ordinance No. 030254; and

WHEREAS, on April 24, 2013, the City Planning and Development Department administratively approved an amendment to the URD Plan, and the Amended and Restated Plan, extending the time to complete “The Founders Phase II” including the following properties: 2980 Gillham (McGee Bldg.), 3000 Gillham (Campbell Bldg.), 3020 Gillham (McCoy Bldg.), 230 E. 30th Street (Taylor Bldg.), 300 E. 30th Street (Ragan Bldg.), 109 E. 30th Street, 111 E. 30th Street, 114 E. 30th Street, 3010 McGee Street, 3012 McGee Street, 3014 McGee Street, 3005 McGee Street, 3015 McGee Street, 3017 McGee Street, 3019 McGee Street, 3021 McGee Street, 3008 DeGroff Way, 3012 DeGroff Way, Kansas City, Missouri 64108; and

WHEREAS, pursuant to the rights under the Amended and Restated Contract, an extension to the time to issue a Certificate of Full Compliance was administratively approved by the Department of City Development pursuant to the letter dated April 24, 2013, and accompanying plans, stamped approved January 2, 2015, and as a result of such administrative approval, and the provisions of Chapter 36, the City Council is authorized to act on this request without additional action; and

WHEREAS, the Amended and Restated Contract had a completion schedule as follows: Phase I: 09/1999, Phase II: 09/01/2008, Phase III: 09/01/2012; and

WHEREAS, these dates may be extended for the reasons and in the manner provided in Section 20 of the Amended and Restated Contract, which section authorizes an extension of such dates for delays and defaults due to war, insurrection, strikes, casualties, acts of God, labor disputes, governmental restrictions or priorities, embargoes, litigation, tornadoes, unusually severe weather, inability to obtain or secure necessary labor, materials, or tools, delays of any contractor, subcontractor, or supplier, acts or failure to act of the City or any other governmental agency or entity, or any other causes beyond any other causes beyond the control or without fault of Phoenix; and

WHEREAS, this same Section 20 of the Amended and Restated Contract provides that: With the approval of the City, the time of performance hereunder shall be extended for the period of any delay or delays caused or resulting from any of the foregoing causes. All extensions hereunder shall be effective only if approved by the City Council by ordinance, which approval shall not be arbitrarily or unnecessarily withheld. Phoenix shall not excessively delay filing an application for extension of time, but Phoenix shall not be prejudiced by failing inadvertently to make timely application therefor; and

WHEREAS, factors impacting the redevelopment schedule included: (i) the enormity of the Redevelopment Project, including the development and construction of eighteen buildings on separate sites, thirteen detached single family homes, 188 apartments, 13,000 square feet of commercial space, and 300 structured parking spaces; and (ii) the failure of Jackson County to collect tax increment financing revenue from 2004 to 2011, delaying the clearance of Redevelopment Project sites; and

WHEREAS, additional negative timing factors, resulting from the nationwide Great Recession, dramatically impacted the ability to finance and develop the Redevelopment Project, including:

- (i) from 2008 to mid-2010: lending delays caused by increased lending, appraisal and reporting requirements impacted the time schedule. No construction lending was available due to the size

and complexity of the FP2 project. Lenders were requiring increased appraisal and reporting requirements for existing loans; and

- (ii) from mid-2010 to 2012: (a) while the rental market had begun to rebound, lenders were still unwilling to loan on large real estate projects; and (b) as an example of such stringent lending environment, the developers of the FP2 project met with seven different lenders to overcome these new sector-wide requirements and secure funding; and

WHEREAS, the City Council desires to extend the time of performance of the Plan as stated above; and

WHEREAS, at the time Council approved the Contract, it was governed by Code Chapter 36, which has since been repealed; and

WHEREAS, § 36.11(c), as it existed at that time, stated that “The City Council may, upon the recommendation of the city plan commission and for good cause shown, grant the corporation operating under an approved development plan an extension of time in which to complete the redevelopment project, or any step or portion thereof;” and

WHEREAS, due to the age of the Contract, subsequent Code amendments, and particular circumstances of this extension, Council wishes to waive any requirement that the City Plan Commission first consider the extension of time for the Contract; NOW, THEREFORE,

BE IT ORDAINED BY THE COUNCIL OF KANSAS CITY:

Section 1. The Amended and Restated Plan and Contract completion schedule is hereby extended as follows: Phase I: 12/2020, Phase II: 12/2020, Phase III: 12/2020.

Section 2. To the extent that Code § 36-11(c), as previously existed in 1980, required review and recommendation by the City Plan Commission before Council considered an extension of time in which to complete a redevelopment project, such requirement is hereby waived for the extension of time provided in this ordinance.

Approved as to form:

Emalea Black
Associate City Attorney