

Legislation Text

File #: BILL NO. 24-079, **Version:** 1

An Ordinance approving the Fifth Amendment to the Amended and Restated Summit Fair Tax Increment Financing Contract between the City of Lee's Summit, Missouri and RED Lee's Summit East, LLC.

(Note: First read on April 23, 2024. Passed by unanimous vote.)

Issue/Request:

Approval of the Amended and Restated Summit Fair Tax Increment Financing Contract, to allow an increase from five percent (5%) to up to fifteen percent (15%) of the square footage, but not to exceed 76,000 square feet of space within the Redevelopment Project Area 1 to be used by a user whose primary business operation does not result in taxable retail sales.

Key Issues:

Approval of the Amended and Restated Summit Fair Tax Increment Financing Contract to allow an increase from five percent (5%) to up to fifteen percent (15%) of the square footage, but not to exceed 76,000 square feet of space within the Redevelopment Project Area 1 to be used by a user whose primary business operation does not result in taxable retail sales to allow for an increase in traffic at the Shopping Center and reduce the risk of declining occupancy related to co-tenancy requirements.

Proposed City Council Motion:

I move for adoption of An Ordinance approving the Fifth Amendment to the Amended and Restated Summit Fair Tax Increment Financing Contract between the City of Lee's Summit, Missouri and RED Lee's Summit East, LLC.

Background:

RED Lee's Summit East, LLC (the "Developer") is a Missouri limited liability company that engaged in the business of land development that has developed the Summit Fair Shopping Center in Lee's Summit (the "Project"). The City approved the Lee's Summit East Amended and Restated Tax Increment Financing Plan through the adoption of Ordinance No. 6620 on April 17, 2008 (the "Redevelopment Plan") and subsequently entered into the Amended and Restated Tax Increment Financing Contract dated May 27, 2008 (as amended, the "Redevelopment Contract")

City and Developer entered into the Amended and Restated Tax Increment Financing Contract dated as of October 20, 2008 (the "First Amendment"), the Second Amendment to Amended and Restated Tax Increment Financing Contract dated as of July 23, 2009 (the "Second Amendment"), the Third Amendment to Amended and Restated Tax Increment Financing Contract dated as of March 17, 2011 (the "Third Amendment") and the Fourth Amendment to Amended and Restated Tax Increment Financing Contract dated as of February 28, 2012 (the "Fourth Amendment," together with the Contract, First Amendment, Second Amendment and Third Amendment, the "Existing Contract"); and

To provide financing in support of the Redevelopment Plan, the City issued its Special Obligation Tax Increment and Special District Refunding and Improvement Bonds (Summit Fair Project), Series 2017 (the "Bonds").

Developer requested that the City advance a Request to Consent to the Amendment of Financing Documents dated November 3, 2023 (as it may be amended or supplemented, including the cover page hereto, this **“Request”**), which described an invitation by the City of Lee’s Summit, Missouri (the **“City”**), to the beneficial owners (the **“Holders”** or **“Bondholders”**) of the above-referenced Bonds to amend Exhibit I of the Amended and Restated Tax Increment Financing Contract between the City and Developer, as previously amended (the **“Redevelopment Agreement”**), to increase from five percent (5%) up to fifteen percent (15%) of the square footage, but not to exceed 76,000 square feet of space, constructed within the Redevelopment Project Area 1 that may be used by a user whose primary business operation does not result in taxable retail sales for which (i) the retail sales tax is paid at the time such sale is consummated, and (ii) the retail sales tax is paid at the business operation within the Redevelopment Areas.

Currently the Shopping Center consists of approximately 509,490 square feet of buildings, with approximately 88% occupied (approximately 450,687 square feet). Current tenants include department stores, apparel retailers, home furnishing retailers, restaurants, and other specialty boutiques.

As a result of the changing retail environment over the years, tenants have vacated the Shopping Center leading to a decrease in collected Pledged Revenues. As ecommerce has evolved and continued to gain market share, clothing and apparel stores have significantly reduced their brick-and-mortar store counts. As a result, successful shopping centers have transitioned to include more fitness, health, and beauty services to backfill vacant shop spaces and draw consumers to the centers. The Developer has requested to amend the Redevelopment Agreement to allow for more service tenants, which is projected to allow for an increase in traffic at the Shopping Center and reduce the risk of declining occupancy related to co-tenancy requirements.

Impact/Analysis:

This proposed Amendment to the Amended and Restated Summit Fair Tax Increment Financing Contract is for the purpose of RED Lee’s Summit East, LLC being allowed to have up to fifteen percent (15%) of the square footage of space, but not to exceed 76,000 square feet of space, whose primary business operation does not result in taxable retail sales within the constructed Redevelopment Project Area 1 for leasing purposes to non-retail businesses. The requested amendments will be to ease the non-retail restrictions under the TIF Contract to allow more non-retail, thereby filling in vacant tenant spaces and increase shopper traffic which would enhance sales in the shopping center.

Timeline:

Developer seeks to take the requested actions this year to fill the vacant tenant spaces with more non-retail users.

David Bushek, Chief Counsel of Economic Development & Planning

Staff recommends approval of the ordinance.