

BILL NO. _____

ORDINANCE NO. _____

AN ORDINANCE APPROVING AN AMENDED AND RESTATED DEVELOPMENT AGREEMENT BETWEEN THE CITY AND NORTHPOINT DEVELOPMENT, LLC AND AUTHORIZING AND APPROVING CERTAIN ACTIONS IN CONNECTION THEREWITH.

WHEREAS, the City of Independence, Missouri (the “City”) is a constitutional charter city and political subdivision of the State of Missouri, duly created, organized and existing under and by virtue of the Constitution and laws of the State of Missouri; and

WHEREAS, the City is authorized under the provisions of Article VI, Section 27(b) of the Missouri Constitution, as amended, and Sections 100.010 to 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the “Act”), to purchase, construct, extend and improve certain projects (as defined in the Act) for the purposes set forth in the Act and to issue industrial development revenue bonds for the purpose of providing tax abatement for such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable; and

WHEREAS, Northpoint Development, LLC, a Missouri limited liability company (the Company”) submitted an application for incentives to the City dated January 27, 2022 for the EastGate Commerce Center project (the “Project”), which (1) is generally situated along Little Blue Parkway beginning about 3/4 miles north of ERD Mize Road to Truman Road where it follows Route 78 to North Twyman Road, (2) is situated on approximately 1,262 acres of real property, and (3) involves the development of a “class A” light industrial and distribution center with approximately 21 buildings totaling roughly 10,800,000 square feet to be constructed over approximately 15 years; and

WHEREAS, the Company’s application was considered by the Independence Economic Development and Incentives Commission (the “EDIC”) at a meeting of the EDIC held on March 23, 2022; and

WHEREAS, the EDIC, by unanimous vote, recommended approval of the application to City Council; and

WHEREAS, after approval by City Council on May 2, 2022 pursuant to Ordinance No. 19329, the Company and the City entered into a Development Agreement with an effective date of May 25, 2022 (the “Original Development Agreement”) in order to set out the general terms and conditions under which the Company will undertake (and the City will provide tax abatement for) the Project proposed in the application, and to set out the terms under which the City would consider establishment of a community improvement district for the reimbursement of certain public infrastructure costs to be incurred by the City and the Company in connection with the Project; and

WHEREAS, as described in the Original Development Agreement, the issuance of bonds under the Act to provide property tax abatement and exemption from sales tax for purchases of construction materials is subject to compliance with the Act, including notice to taxing jurisdictions with an opportunity to comment and subsequent legislative approvals by the City Council, which may be undertaken over time as components of the Project approach commencement of construction; and

WHEREAS, the City and the Developer now find that it is necessary to amend and restate the Original Development Agreement by entering into an Amended and Restated Development Agreement (the “Amended Agreement”); and

WHEREAS, the City has and does hereby find and determine that it is desirable for the economic development of the City and within the public purposes of the Act that the City proceed with the approval of the Amended Agreement and take other actions as herein provided;

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

Section 1. Promotion of Economic Development. The Council hereby finds and determines that the Project will promote the economic welfare and the development of the City, and the Project will be in furtherance of the public purposes set forth in the Act.

Section 2. Approval and Authorization of the Amended Agreement. The Amended Agreement is hereby approved in substantially the form presented to the Council at this meeting (copies of which shall be filed in the records of the City), and the City is hereby authorized to execute and deliver the Amended Agreement with such changes therein as shall be approved by the officials of the City executing the Amended Agreement, such officials’ signatures thereon being conclusive evidence of their approval thereof. The City Manager or Deputy City Manager of the City is hereby authorized and directed to execute the Amended Agreement and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance, for and on behalf of and as the act and deed of the City. The City Clerk of the City is hereby authorized and directed to attest to and affix the seal of the City to the Amended Agreement and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance.

Section 3. Further Authority. The City Manager, Deputy City Manager, City Clerk and other officials, agents and employees of the City as required are hereby authorized and directed to take such further action and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Ordinance and to carry out, comply with and perform the duties of the City with respect to the Amended Agreement. The Community Development Director is authorized to execute an agreement with the Developer setting forth administrative adjustments applicable to the entirety of the Project pursuant to the powers granted in in Chapter 14 of the City Code.

Section 4. Effective Date. This Ordinance shall take effect and be in full force as set forth in the City Charter.

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PASSED ON THIS _____ DAY OF _____, 2023, BY THE CITY COUNCIL OF THE CITY OF INDEPENDENCE, MISSOURI.

Presiding Officer of the City Council of the
City of Independence, Missouri

ATTEST:

City Clerk

APPROVED AS TO FORM AND LEGALITY:

City Counselor

REVIEWED BY:

City Manager

EXHIBIT A

AMENDED AND RESTATED DEVELOPMENT AGREEMENT