

RESOLUTION NO. 2019-13

A RESOLUTION OF THE CITY OF EDWARDSVILLE, KANSAS, APPROVING THE EXECUTION AND DELIVERY OF A FIRST AMENDMENT TO AMENDED AND RESTATED DEVELOPMENT AGREEMENT FOR AN ECONOMIC DEVELOPMENT PROJECT AT THE SOUTHEAST CORNER OF 110TH STREET AND INTERSTATE 70 IN THE CITY OF EDWARDSVILLE, KANSAS (VILLAGE SOUTH AT EDWARDSVILLE REDEVELOPMENT DISTRICT, PROJECT AREAS 1, 2, AND 3).

WHEREAS, pursuant to K.S.A. 12-1770 *et seq.*, as amended (the “TIF Act”), and proceedings of the City of Edwardsville, Kansas (the “City”), the City has established a redevelopment district known as the Village South at Edwardsville Redevelopment District (the “TIF District”), and approved redevelopment project plans for three redevelopment project areas within the TIF District (together, the “Project Plans”);

WHEREAS, pursuant to K.S.A. 12-6a26 *et seq.*, as amended (the “CID Act”), and proceedings of the City, the City has created three community improvement districts known as the Village South at Edwardsville Community Improvement District I, Village South at Edwardsville Community Improvement District II, and Village South at Edwardsville Community Improvement District III within the City (together, the “CIDs”);

WHEREAS, pursuant to Article 12, Section 5 of the Constitution of the State of Kansas, Charter Ordinance No. 2018-1 of the City, and Ordinance No. 1007 of the City, the City has levied a transient guest tax in the amount of eight percent (8%) within the City (the “TGT”);

WHEREAS, the City entered into that certain Amended and Restated Development Agreement for Project Areas One, Two, and Three – Village South at Edwardsville TIF District and CID, effective as of November 1, 2018 (the “Agreement”), with Compass Commodity Group III, LLC (the “Developer”), describing certain incentives being provided by the City pursuant to the TIF Act and the CID Act in connection with development of the Village South at Edwardsville project (the “Project”);

WHEREAS, the Developer has requested, and the City has agreed, to amend the Agreement to reflect the current schedule for constructing and financing the Project;

WHEREAS, Section 1002 of the Agreement provides that it may be amended by the mutual consent of the parties, upon official action of the Governing Body of the City approving said amendment and by the execution of said amendment by the parties or their successors in interest; and

WHEREAS, the Governing Body of the City finds it is necessary and desirable that the City enter into a First Amendment to Amended and Restated Development Agreement with the Developer (the “First Amendment”) for the purpose of setting forth the parties’ current understandings related to the constructing and financing of the Project;

NOW, THEREFORE, BE IT RESOLVED BY THE GOVERNING BODY OF THE CITY OF EDWARDSVILLE, KANSAS, AS FOLLOWS:

Section 1. Authorization of the First Amendment. Subject to the conditions set forth in Section 2 hereof, the City is hereby authorized to enter into the First Amendment by and between the Developer and the City in substantially the form presented to and reviewed by the Governing Body at this meeting (copies of this document shall be on file in the records of the City), with such changes therein as shall be approved by Special Counsel, the City Attorney, the City Manager and the officials of the City executing such documents, such officials' signatures thereon being conclusive evidence of their approval thereof and the same are hereby approved in all respects.

Section 2. Execution of the First Amendment. Upon confirmation that items (a) and (b) below have been completed, the Mayor, City Manager and Assistant City Manager/City Clerk are hereby authorized and directed to execute, seal, attest and deliver the First Amendment, together with such other documents, certificates and instruments as may be necessary and desirable to carry out and comply with the intent of this Resolution, for and on behalf of and as the act and deed of the City:

- (a) the Developer making such payments to the City, into escrow, or both, as provided in the First Amendment; and
- (b) the Developer providing written evidence in forms reasonably acceptable to Special Counsel and Baker Tilly Municipal Advisors, LLC, of commitments by lenders or partners to fund the private loan financing and mezzanine financing for the Project

Section 3. Effective Date. This Resolution shall be in full force and effect from and after its adoption.

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PASSED AND APPROVED by the Governing Body of the City of Edwardsville, Kansas
this 5th day of August, 2019.

John McTaggart
Mayor

(SEAL)

ATTEST:

Zachary Daniel
Assistant City Manager/City Clerk