

Bill No. 13799

Ordinance No. 24-036

Sponsor: Vince Ratchford

AN ORDINANCE AUTHORIZING A FIRST AMENDMENT TO COST REIMBURSEMENT AGREEMENT BY AND BETWEEN THE CITY OF ST. CHARLES, MISSOURI, AS OWNER, AND RIVERPOINTE MASTER DEVELOPER, LLC, AS DEVELOPER, WITH RESPECT TO THE PRE-DEVELOPMENT BUDGET AND THE CITY'S REIMBURSEMENT OBLIGATIONS, AND TO UPDATE CERTAIN PROVISIONS OF THE AGREEMENT.

Whereas, the City of St. Charles, Missouri (the "City") and Riverpointe Master Developer, LLC ("RMD") (as successor in interest to CRG Acquisition, LLC) are parties to certain Purchase Agreements with respect to the real properties within the City limits that are collectively referred to as Riverpointe; and

Whereas, in connection with the Purchase Agreements, the City and CRG Services, LLC ("CRG") entered into that certain Cost Reimbursement Agreement (the "Agreement") which was authorized by the City Council on November 16, 2021, upon the enactment of Ordinance Number 21-196; and

Whereas, the Agreement was assigned by CRG to RMD by that certain Assignment and Assumption of Cost Reimbursement Agreement dated October 31, 2023; and

Whereas, the City and RMD desire to amend the Agreement to adjust the pre-development budget and modify the City's reimbursement obligations, and to further amend the Agreement as otherwise provided in the First Amendment.

Be It Ordained by the Council of the City of St. Charles, Missouri, as Follows:

SECTION 1. The First Amendment to Cost Reimbursement Agreement between the City of St. Charles, Missouri and Riverpointe Master Developer, LLC, in substantially the same in form and content as attached hereto and identified as Exhibit 1, is approved. The Mayor and City Clerk are authorized to execute the First Amendment and perform all acts necessary to carry out the intent of this ordinance.

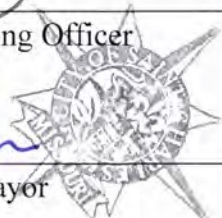
SECTION 2. This Ordinance shall be in full force and effect from and after the date of its passage and approval.

March 19, 2024
Date Passed

3-20-24
Date Approved by Mayor

Vince Ratchford
Vince Ratchford, Presiding Officer

Daniel J. Borgmeyer
Daniel J. Borgmeyer, Mayor



Bill No. 13799

Approved as to Form:

Attest:

Holly Magdyan
Assistant City Attorney
for Michael P. Cullen, City Attorney

2/23/2024
Date

Kimberly Sherson
City Clerk



CERTIFICATE OF DIRECTOR OF FINANCE

I certify that the expenditure contemplated by this document is within the purpose of the appropriation and the work program contemplated thereby, and that there is a sufficient unencumbered balance in the appropriation account and in the proper fund to pay the obligation.

Jeff O'Connell 2-26-24
Director of Finance Date

FIRST AMENDMENT TO COST REIMBURSEMENT AGREEMENT

This FIRST AMENDMENT TO COST REIMBURSEMENT AGREEMENT (this "Amendment"), dated as of March 20, 2024, is made and entered into by and between RIVERPOINTE MASTER DEVELOPER, LLC, a Missouri limited liability company ("Developer"), and CITY OF ST. CHARLES, MISSOURI, a constitutional charter city and political subdivision of the State of Missouri ("Owner").

BACKGROUND

WHEREAS, Developer (as successor in interest to CRG Acquisition, LLC), and Owner are parties to (i) that certain Purchase Agreement (Phase 1) dated as of July 27, 2021, as amended by that certain First Amendment to Purchase Agreement (Phase 1) dated December 14, 2021, that certain Second Amendment to Purchase Agreement (Phase 1) dated March 8, 2022, and that certain Third Amendment to Purchase Agreement (Phase 1) dated as of the date hereof (collectively, the "Phase 1 PSA"), with respect to certain real property consisting of approximately 18.427 acres located in St. Charles, Missouri as further described in the Phase 1 PSA (the "Phase 1 Property"); and (ii) that certain Purchase Agreement (Phase 3) dated as of July 27, 2021, as amended by that First Amendment to Purchase Agreement (Phase 3) dated December 14, 2021, and that certain Second Amendment to Purchase Agreement (Phase 3) dated as of the date hereof (collectively, the "Phase 3 PSA" and together with the Phase 1 PSA, the "Purchase Agreements"), with respect to certain real property consisting of approximately 14.62 acres located in St. Charles, Missouri as further described in the Phase 3 PSA (the "Phase 3 Property", and together with the Phase 1 Property, the "Property").

WHEREAS, in connection with the Purchase Agreements, CRG Services, LLC, a Missouri limited liability company ("CRG") and Owner entered into that certain Cost Reimbursement Agreement dated on or around November 16, 2021, as assigned by CRG to Developer by that certain Assignment and Assumption of Cost Reimbursement Agreement dated October 31, 2023 (as assigned, the "Cost Reimbursement Agreement"), whereby Developer agreed to complete certain development activities (the "Wetlands Work"), with respect to the Property on behalf of the Owner provided that Owner agree to reimburse Developer in the event of a termination of the Purchase Agreements by Developer in accordance with the terms thereof, as further described in the Cost Reimbursement Agreement.

WHEREAS, Developer entered into that certain AIA Document A141-2014 Standard Form of Agreement Between Owner and Design-Builder dated as of December 14, 2021 (as amended and/or modified by change order or other written agreement, collectively, the "Construction Contract") with Clayco, Inc. ("Clayco") in connection with its completion of the Wetlands Work, as well as certain other work being completed by Developer on behalf of Owner pursuant to that certain Cost Reimbursement Agreement Pertaining to Lot A of Riverpointe Block 100 Plat Two (as amended by that certain First Amendment dated on or about the date hereof, collectively, the "Phase 1 CRA").

WHEREAS, Developer and Owner desire to amend the Cost Reimbursement Agreement as set forth below.

WHEREAS, all capitalized terms not otherwise defined herein, shall have the same meaning as set forth in the Cost Reimbursement Agreement.

TERMS AND CONDITIONS

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto hereby agree as follows:

1. Pre-Development Budget. Exhibit A to the Cost Reimbursement Agreement is hereby deleted in its entirety and replaced with Exhibit A to this Amendment. The parties hereby acknowledge that the amount that may be reimbursed by Owner under the Cost Reimbursement Agreement has been reduced to accommodate Section 7 of that certain First Amendment to Purchase Agreement (Phase 1), between the parties hereto, dated December 14, 2021, which was deleted pursuant to that certain Third Amendment to Purchase Agreement, between the parties hereto, dated on or about the date hereof (the "Phase 1 Third Amendment").

2. The parties hereby acknowledge and agree that, as of the Effective Date (i) Developer has caused Clayco to complete scope of work related to the Wetland Works set forth in the Construction Contract; (ii) Exhibit A attached hereto sets forth all of the costs incurred by Developer in connection with the Wetlands Work as of the Effective Date, in the aggregate amount of **Two Million Five Hundred Thirty Six Thousand Seven Hundred Eleven and 46/100 Dollars (\$2,536,711.46)**; and (iii) in the event that Developer shall incur any additional costs not listed on Exhibit A but related to the Wetlands Work or any additional wetlands work approved by the Owner, then such costs shall be eligible for reimbursement as "Costs" under Section 1 of the Cost Reimbursement Agreement.

3. Owner's Reimbursement Obligations. Section 2 of the Cost Reimbursement Agreement is hereby amended to add the following subsection 2 (c) and 2(d), with all remaining provisions remaining:

(c) The parties hereby agree that, following the date hereof, in the event that Developer shall purchase certain portions of the Property pursuant to its rights under the Purchase Agreements and later terminate the Purchase Agreements with respect to the remainder of the Property, Owner's obligations to reimburse Developer under the Cost Reimbursement Agreement shall be reduced pro rata in proportion to the square footage of any lots purchased by Developer following the date hereof. As an illustration only, for example, if the total costs to be reimbursed under the Cost Reimbursement Agreement, as amended by this Amendment, equals \$1,000,000 and Developer acquires a parcel from Owner that has a square footage equal to 20% of the total square footage of the Property, Owner's total reimbursement obligation would be reduced to \$800,000. The parties hereby acknowledge that the current estimates of the pro rata amounts attributable to the respective lots comprising the Property are as shown on Exhibit B attached hereto and incorporated herein. The parties further acknowledge and agree that, in the event Developer were to terminate the Purchase Agreements as of the date hereof, the total amount of the Costs set forth on Exhibit A would be subject to reimbursement by Owner pursuant to the reimbursement provisions set forth in Section 2(b) of the Cost Reimbursement Agreement, subject to increase for any Costs incurred by Developer pursuant to the terms of the Cost Reimbursement Agreement.

(d) The parties hereby agree that Owner's obligations to reimburse Developer under the Cost Reimbursement Agreement shall terminate once Developer has acquired from Owner lots that have an aggregate acreage that is equal to eighty percent (80%) of the total acreage of the Phase 1 Property. The respective acreages of the lots comprising the Phase 1 Property are set forth on Exhibit C Attached hereto and incorporated herein.

3. Cooperation; Further Assurances. Owner hereby agrees to perform, execute, acknowledge and deliver or cause to be performed, executed, acknowledged and delivered all such further and other acts, instruments,

and assurances as may reasonably be required to effectuate the purposes and to carry out the terms of this Amendment.

4. Additional Provisions. Except for the amendments contained herein, all of the provisions of the Cost Reimbursement Agreement shall remain unmodified and in full force and effect, and the same are hereby ratified and affirmed in all respects. Owner and Developer each hereby acknowledge that this Amendment may be executed in counterparts or by electronic signatures, exchanged by facsimile transmission or email and that copies of each party's respective signature(s) shall be binding as if the same were an original signature. This Amendment shall be binding upon and inure to the benefit of the respective successors and permitted assigns and, as applicable, the heirs and legal representatives of the parties hereto. The Cost Reimbursement Agreement, as hereby amended, constitutes the entire understanding and agreement between the parties and may not be amended, supplemented, or modified except by a writing executed by both of the parties.

5. Counterparts. This Amendment may be executed in multiple counterparts, each of which shall be deemed an original, and all of which together shall constitute one and the same instrument. Delivery of an executed copy of this Amendment as an email attachment shall have the same binding effect as delivery of an executed original.

(Signature Page Follows)

IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first above written.

BUYER:

RIVERPOINTE MASTER DEVELOPER, LLC,
a Missouri Limited Liability Company

By: CRG – Riverpointe, LLC, its Manager

By: CRG Services Management, LLC, its
Manager

By: _____

Name: _____

Title: _____

Date of Execution: _____

OWNER:

CITY OF ST. CHARLES, MISSOURI, a constitutional charter
city and political subdivision of the State of Missouri

By: *Daniel J. Borgmeyer*

Name: **Daniel J. Borgmeyer**

Title: **Mayor**

Date of Execution: 3-20-26, 2024

Attest:

Kimberly Hecson
City Clerk



IN WITNESS WHEREOF, the parties have executed this Amendment as of the date first above written.

BUYER:

RIVERPOINTE MASTER DEVELOPER, LLC,
a Missouri Limited Liability Company

By: CRG – Riverpointe, LLC, its Manager

By: CRG Services Management, LLC, its
Manager

By:  _____

Name: Christopher P. McKee

Title: President

Date of Execution: March 4, 2024

OWNER:

CITY OF ST. CHARLES, MISSOURI, a constitutional charter
city and political subdivision of the State of Missouri

By: _____

Name: _____

Title: _____

Date of Execution: _____, 2024

Attest:

City Clerk

EXHIBIT A

REVISED PRE-DEVELOPMENT BUDGET

Initial Army Corp Fill Work						
DESCRIPTION	QTY	UNIT	Labor	Material	Sub Contract	Total
Kolb's Contract Amount						-
Stripping trees	9.78	Acres			3,500.00	34,230
Clearing and grubbing	14.68	Acres			12,000	175,920
Import and place material	125,500	CY			10.43	1,308,965
Access road crossings	1	LS			125,500.00	125,500
Surface rock and access points	1	LS			100,000.00	100,000
Light stone revetment with fabric - in place	2,250	TN			16.93	38,099
Mobilization and GC's	1	LS			105,000.00	105,000
Test Pits	1	LS			3,250	3,250
Machine time to date tending import material	1	LS			6,295	6,295
						-
Overbuild by 1' to for settlement	-	CY			10.43	-
Split Savings for overbuild	1	LS			25,240.50	25,241
Soil stabilization (wetlands) - 158K CY Total	36,212	CY			10.43	377,693
Edge of slough clean-up - Long Reach Excavator						-
Remove edge of slough material - D6						-
						-
Erosion Control Maintenance						-
E&S Maintenance while onsite	2	MO			2,500	5,000
						-
Geotechnical						-
Geotech Investigation / Slope Stability/Test Pit Evaluation	1	LS			23,000	23,000
Soil Testing Fill Placement	1	LS			30,400.00	30,400
						-
Stock						-
Design Fee for preparing outfill plans						-
Site Layout	1	LS			20,000.00	20,000
						-
General Conditions						-
Costs incurred to date						-
Management Time	1	LS			3,105.00	3,105
Laborer - site management	1	LS			28,534.00	28,534
Mission Control						-
Safety Engineer Visits	40	HR	49.75			1,990
Street sweeping						-
Signage and Branding	1	LS			2,071.00	2,071
Ground Breaking						-
Drinking Water						-
Temporary Toilets						-
						-
SUBTOTAL						2,414,293
Contingency						0.00%
Permits						0.00%
Builder's Risk Insurance						0.04%
Insurance						1.10%
Overhead and Profit						3.50%
TOTAL						\$ 2,536,711.46

EXHIBIT B

ESTIMATED PRO RATA REIMBURSEMENT REDUCTION AMOUNT BY PROPERTY LOT

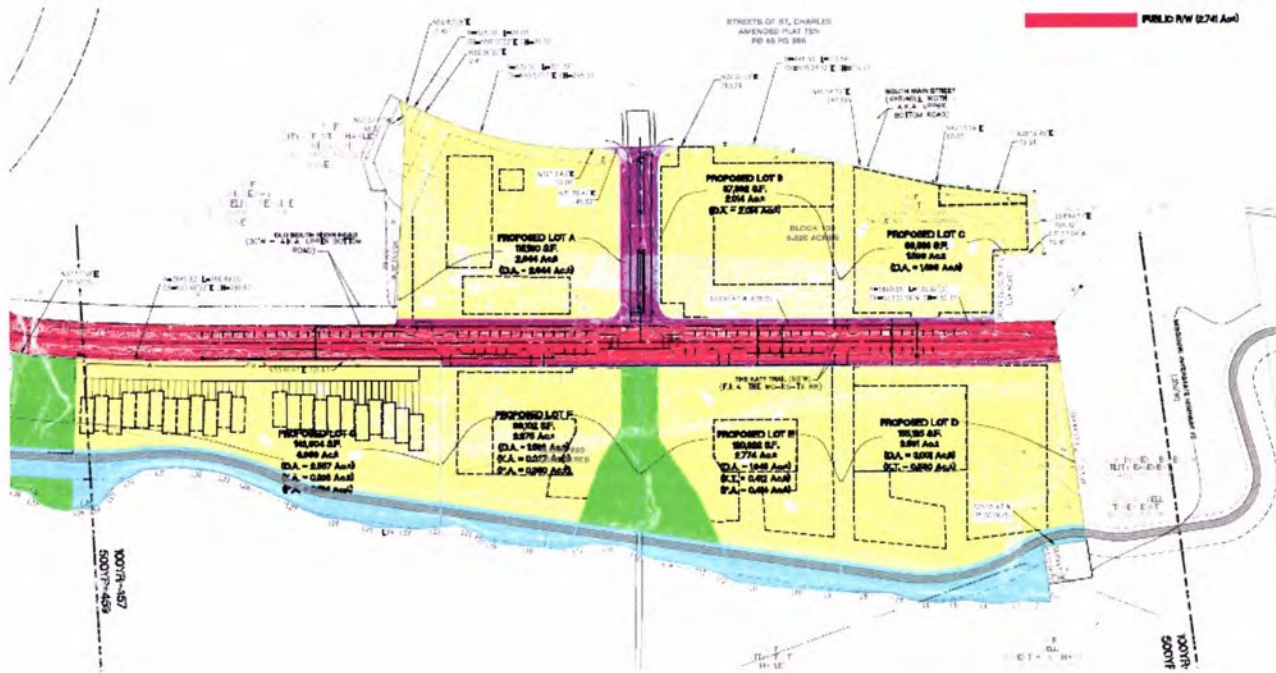
Lots	Acreage	% of total Acreage	Wetlands CRA Amount
A	2.644	7%	\$ 160,924.85
B	2.014	5%	\$ 137,814.92
C	1.596	4%	\$ 109,211.82
D	3.561	10%	\$ 243,673.75
E	2.774	7%	\$ 189,820.55
F	2.275	6%	\$ 155,674.75
G	3.969	11%	\$ 271,592.56
H	11.656	31%	\$ 797,602.14
I	4.767	13%	\$ 326,198.47
Haselhorst	1.815	5%	\$ 124,197.66
	<hr/>	<hr/>	<hr/>
	37.071	100%	\$ 2,536,711.46

EXHIBIT C

SQUARE FOOTAGES OF LOTS COMPRISING PHASE 1 PROPERTY

As labeled on the below depiction:

Lots Comprising Phase 1	Total Acreage of Lot	% of Total Phase 1 Acreage
A	2.644	14%
B	2.014	11%
C	1.596	8%
D	3.561	19%
E	2.774	15%
F	2.275	12%
G	3.969	21%
TOTAL	18.833	100%



RCA FORM (OFFICE USE ONLY)

Bill # 13799

MEETING/DATE: 3/5/2024

Regular Special Work Session

ATTACHMENT: YES NO

Report Resolution Ordinance

Request for Council Action

Ward(s): 3

Sponsor(s): Ratchford

Description:

A First Amendment to the Cost Reimbursement Agreement with Riverpointe Master Developer.

Contract Extension/Renewal: Yes No

Information Paper Attached: Yes No

Staff Recommendation: Approve Disapprove

Board/Committee/Commission Recommendation: Approve Disapprove

Summary:

Staff has negotiated a First Amendment to the Cost Reimbursement Agreement (Ord 21-196). This amendment reduces the liability for repayment by the City of the costs expended by the Developer on site infrastructure prior to the Developer purchasing the benefited lots. The reduction of repayment is based on the percentage of lot area acquired by the Developer to the overall lot area benefited. The repayment by the City dissolves once the Developer has acquired 80 percent of the total lot area. Also the agreement updates provisions of the contract.

Budget Impact: (revenue generated, estimated cost, CIP item, etc.)

Fiscal Impact: N/A

Account #: _____

Project #: _____

RCA prepared by: BWT Dept. Dir. BWT Finance Dir. Qaw Dir. of Admin. J