

FIRST AMENDMENT TO THE 520 W. MAIN STREET PROJECT ECONOMIC DEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT TO THE 520 W. MAIN STREET PROJECT ECONOMIC DEVELOPMENT AGREEMENT (this “Amendment”) is made and entered into as of the 22ND day of October, 2024 by and between the OKLAHOMA CITY ECONOMIC DEVELOPMENT TRUST, a public trust (the “Trust”), the City of Oklahoma City (“City”), and INFINITI LIVING 1, LLC, an Oklahoma limited liability company (“Developer”), collectively the “Parties”.

R E C I T A L S:

WHEREAS, the Parties have heretofore entered into that certain 520 W. Main Street Project Economic Development Agreement approved by the Trust on November 21, 2023 (the “Agreement”) with the City concurring on December 5, 2023; and

WHEREAS, capitalized terms not otherwise expressly defined herein shall have the same meanings given to them in the Agreement; and

WHEREAS, the Parties desire to amend the Agreement in order to change the dates for payment of the Development Incentive to Developer. The Amendment is beneficial to the all Parties as it will: (1) further ensure the financial viability of the Project, which Project would not be possible without the public Development Incentives; (2) redevelop a long vacant structure in the heart of downtown, bringing much-needed lower rent housing to the area; and (3) increase the tax base and encourage further redevelopment in downtown Oklahoma City.

NOW, THEREFORE, in consideration of the premises and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Parties do hereby amend the Agreement as follows. Additions are shown by underlining and deletions are shown by strike-throughs. All other provisions of the November 21, 2023 Agreement shall remain unchanged and in full force and effect.

I. Section 1 of the Agreement is hereby changed by amending Subsection 1.3:

* * * *

1.3. Development Incentive. The assistance in development financing required to bridge a gap in financing needed to make the Project possible, which incentive is provided through an allocation of an amount not to exceed \$1,900,000 from TIF 2, comprised of an amount not to exceed \$1,500,000 paid in installments pursuant to Section 3.1 of this Agreement, and an amount not to exceed \$400,000 provided through ad valorem tax increment generated by the Project and received by the City or Trust. ~~upon completion and issuance of a Certificate of Completion, and an amount not to exceed \$400,000 provided through ad valorem tax increment generated by the project and received by the City or Trust.~~

* * * *

II. Section 2 of the Agreement is hereby changed by amending Subsection 2.3(e):

* * *

(e) The total Development Incentive shall not exceed the amount of \$1,900,000. Of the \$1,900,000 Development Incentive amount, \$1,500,000 shall be paid to Developer in installments pursuant to Section 3.1 of this Agreement. Thereafter, the Developer shall be qualified to received 100% of the ad

valorem tax Increment generated by the Project, paid by the Developer, and received by the City or Trust annually beginning the first year after issuance of a Certificate of Completion and continuing until the expiration of TIF 2, but not to exceed \$400,000. In no event, shall the Development Incentive be paid after the expiration of TIF 2. ~~\$1,500,000 shall be paid to the Developer after issuance of a Certificate of Completion for the Project, the requirements for which are set forth in detail in Section 3.1 herein.~~

III. Section 3 of the Agreement is hereby changed by amending Subsections 3.1 and 3.2:

REQUIREMENTS OF DEVELOPER AND TRUST

3.1 Requirements of Developer Before Entitled to Development Incentive.

(a) The Developer shall use Reasonable Efforts to diligently proceed and maintain timely and progressive work on the Project until completion. The Developer is expected to use Reasonable Efforts to complete the Project by the Project Completion Deadline, subject to extension due to: force majeure events as set forth in Section 10.4 of this Agreement; extensions due to the Trust as set forth in this Section 3.1; and/or any granted requests by the Developer to extend the Project Completion Deadline as set forth in this Section 3.1. Although it is not anticipated, and is discouraged by the Trust, Developer may request an extension of the Project Completion Deadline, on a one-time basis only, from the Project Manager, for a period of time not to exceed six (6) months. The request shall be in writing, shall explain the need for the extension, and shall be submitted to the Project Manager not less than ninety (90) days prior to the Project Completion Deadline.

Any further extensions shall only be allowed as approved in writing by the Trust. This extension will also extend the date by which the Property will go on the ad valorem tax rolls as a completed project by the same amount of time and therefore, could result in a reduction in the amount of the Development Incentive available for the Project. The Trust may grant or withhold its consent to further extensions in its reasonable discretion alone. Nothing herein shall be construed to mean the Developer has failed to perform its duty to use Reasonable Efforts to complete the Project by the Project Completion Deadline solely due to the fact Developer does not complete the Project by the Project Completion Deadline.

In the event that timely performance by the Trust of any of its obligations set forth in this Agreement, delays performance of construction and development, the time for completion of the Project will be extended for the period of the delay caused by the Trust; provided, that the Developer shall notify the Trust in writing, within ten (10) days after the beginning of any such delay. Said notice shall describe the problem and its causes and claim an extension for the period such delay continues.

Regardless of the reason for any delays as described in this Section 3.1(a), the duration of TIF 2 shall not and cannot legally be extended beyond its current expiration date.

(b) Of the \$1,900,000 Development Incentive amount, the Trust shall pay \$1,500,000 to Developer in installments as follows:

(i) \$500,000 of the Development Incentive shall be payable upon Developer's delivery to the Trust of a report from Developer's general contractor for the Project certifying that not less than 70% of the general contractor's scope of work is complete;

(ii) \$500,000 of the Development Incentive shall be payable upon (A) issuance of a permanent or temporary certificate of occupancy for Floor 1 and Floors 2 through 6 of the Project; and (B) Developer's delivery to the Project Manager of documentation that at least 22 apartment units have been pre-leased on Floors 1 through 6; and

(iii) \$500,000 of the Development Incentive shall be payable upon (A) issuance of a permanent or temporary certificate of occupancy for Floors 7 through 10 of the Project; and (B) Developer's delivery to the Project Manager of documentation that at least twenty (20%) percent of the leasable space is leased and occupied.

In connection with any installment of the Development Incentive, Developer shall submit any forms required by the Trust for payment of the Development Incentive to Developer in a form acceptable to the Project Manager, which acceptance shall not be unreasonably withheld.

~~(c) On or before July 15th of each year that Developer is eligible for a Development Incentive payment, Developer shall submit to the Project Manager an invoice requesting a Development Incentive payment using the formula provided herein. This invoice must include at least: (1) the amount of the Development Incentive payment requested; (2) the amount of the ad valorem tax assessment on the Property paid by Developer for the previous year (excluding personal property taxes paid), and (3) the total aggregate amount of Development Incentive payments made to Developer as of the date of the request. Should the Project Manager, in his/her reasonable discretion, request additional documentation or disapprove all or apportion of any invoice, the Developer agrees to provide additional documentation sufficient to demonstrate the invoice should be paid, in whole or in part. The payment requested on the invoice shall be as set forth in Section 3.2(b). The Project Manager shall use Reasonable Efforts to review and pay an invoice within 30 days of receipts, so long as all required information has been provided by the Developer. In order to be eligible for the remaining \$400,000 in incentive, Developer shall complete the conditions listed below in order to obtain a Certificate of Completion from the Trust. Such certification by the Trust shall be a conclusive determination of satisfaction of the construction and development requirements for the Project.~~

(i) Developer shall have submitted any forms required by the Trust for payment of the Development Incentive to Developer and such forms have been accepted by the Project Manager, which acceptance shall not be unreasonably withheld; and

(ii) The Developer shall have provided reasonably satisfactory documentation in a form reasonably acceptable to the Project Manager evidencing the expenditure of approximately \$20,000,000 in Total Capital Expenditures, subject to the provisions in Section 2.3(b)-(d); and

(iii) The Developer shall have provided reasonably satisfactory documentation in a form reasonably acceptable to the Project Manager evidencing acquisition of the Property by Infiniti Living 1 LLC or an Affiliate; and

(iv) Developer shall have provided a final Financial Structure Verification to the Project Manager as set forth in Section 7 and an audited financial statement from a certified public accountant of Developer's choosing and at Developer's sole cost, which confirms the information provided by the Developer on the Financial Structure Verification; and

(v) Developer shall have provided documentation in a form reasonably satisfactory to the Project Manager that at least twenty (20%) percent of the leasable space is leased and occupied; and

(vi) Developer shall have designed, purchased, and attached a plaque or monument to the 520 West Main Street Project, in a location that is viewable by the general public, that acknowledges the assistance in development financing (economic development incentives) provided by the City and OCEDT.

(d) On or before July 15th of each year that Developer is eligible for a Development Incentive payment, Developer shall submit to the Project Manager an invoice requesting a Development Incentive payment using the formula provided herein. This invoice must include at least: (1) the amount of the Development Incentive payment requested; (2) the amount of the ad valorem tax assessment on the Property paid by Developer for the previous year (excluding personal property taxes paid), and (3) the total aggregate amount of Development Incentive payments made to Developer as of the date of the request. Should the Project Manager, in his/her reasonable discretion, request additional documentation or disapprove all or a portion of any invoice, the Developer agrees to provide additional documentation to demonstrate the invoice should be paid, in whole or in part. The payment requested on the invoice shall be as set forth in Section 3.2(b). The Project Manager shall use Reasonable Efforts to review and pay an invoice within 30 days of receipt, so long as all required information has been provided by the Developer.

3.2 Obligation of the Trust to Provide Assistance in Development Financing Payments Upon Developer Meeting Contractual Obligations.

- (a) Certificate of Completion. Within 30 days after Developer has satisfied each of the conditions set forth in Section 3.1(b), the Project Manager shall furnish to Developer a Certificate of Completion certifying that Developer has met its construction and development requirements for the Project in this Agreement.
- (b) Development Incentive Payments for Completion of the Project. ~~After issuance of the Certificate of Completion, the Trust shall make the payment of \$1,500,000 portion of the Development Incentive.~~ Upon Developer's satisfaction of the conditions set forth in Section 3.1(b), the Trust shall make installment payments to the Development Incentive as set forth in Section 3.1(b). Thereafter, in order to receive the remaining \$400,000 of the Development Incentive the Developer shall submit an invoice to the Project Manager in the form and manner described in Section 3.1(c) above. The annual Development Incentive shall be 100% of the ad valorem tax Increment generated by the Project and received by the City or Trust annually beginning the first year after issuance of a Certificate of Completion and continuing until the expiration of TIF 2 not to exceed \$400,000. In no event shall Development Incentives be paid after the expiration of TIF 2. The total Development Incentive shall not exceed \$1,900,000. **In regard to the \$400,000 ad valorem increment portion of the Incentive, in no event shall the Developer be entitled to receive the TIF 2 Development Incentive payment for an**

amount in excess of that amount of ad valorem tax Increment received by the Trust or City associated with the Property during the life of TIF 2. The City has no duty to pay the \$400,000 portion of the Development Incentive should the Developer not timely remit its ad valorem taxes to the County and/or the County not pay the Trust or City the Increment associated with the Project. In the event that, at any time, the County does not pay the Trust or City all, or any portion of, the Increment associated with the Project and the Developer has timely remitted all ad valorem taxes due and owed to the County pursuant to 68 O.S. Section 2913, the City or Trust and Developer shall work together in good faith, with the Oklahoma County Assessor, to recover such (non)payment. After working together in good faith, if the County does not remit to the City or Trust the Increment that was timely paid by the Developer, the Developer may pursue any legal remedies necessary to obtain recovery at Developer's sole cost.

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DEVELOPER SIGNATURE PAGE FOR
THE 520 W. MAIN STREET PROJECT
ECONOMIC DEVELOPMENT AGREEMENT

"DEVELOPER"
Infiniti Living 1, LLC

By: _____

Manager

ACKNOWLEDGEMENT

STATE OF Georgia)

) ss.

COUNTY OF Gwinnett)

Before me, the undersigned, a Notary Public in and for said County and State, on the 14th day of October, 2024, appeared _____, the Manager of Infiniti Living 1, LLC, to me known to be the identical person who executed the within and foregoing instrument and acknowledged to me that he executed the same as his free and voluntary act and deed, and as the free and voluntary act and deed of said corporation for the uses and purposes therein set forth.

Given under my hand and seal of office the day and year last above written.

[Signature]

NOTARY PUBLIC {SEAL}

My Commission Number: W-0050983

My Commission Expires: 06/15/2026



[Signature Page for the Oklahoma City Economic Development Trust]

APPROVED by the Trustees and **SIGNED** by the Chairman of the Oklahoma City Economic Development Trust this 22ND day of OCTOBER, 2024.

“TRUST”

ATTEST:

**OKLAHOMA CITY ECONOMIC
DEVELOPMENT TRUST**, a public trust


Asst. Secretary

 
VICE Chairman

REVIEWED for form and legality.


Assistant Municipal Counselor

[Signature Page for The City of Oklahoma City]

CONCURRENCE by the Council and **SIGNED** by the Mayor of The City of Oklahoma City this 5TH day of NOVEMBER, 2024.

“CITY”

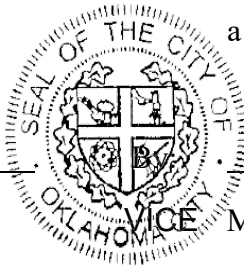
ATTEST:

THE CITY OF OKLAHOMA CITY,

a municipal corporation

Amy K. Simpson

City Clerk



[Signature]

Mayor