


## COUNCIL COMMUNICATION

	Number:	<b>22-216</b>	Meeting:	<b>May 9, 2022</b>
	Agenda Item:	<b>41</b>	Roll Call:	<b>22-0704</b>
	Submitted by:	<b>Erin Olson-Douglas, Development Services Department Director</b>		

### AGENDA HEADING:

Resolution approving Third Amendment to Urban Renewal Development Agreement with Merle Hay Investors, LLC for rehabilitation of existing Merle Hay Mall property and repurposing the Sears site.

### SYNOPSIS:

The existing Merle Hay Mall Phase 3 development agreement between the City and Merle Hay Investors, LLC (Elizabeth Holland, CEO/General Counsel, Abbell Credit Corporation, LLC, 30 North LaSalle Street, Suite 2120, Chicago, IL, 60602-2509), was approved in March 2019, and allows for tax increment finance (TIF) dollars to be used for redevelopment of the existing mall and the former Sears site. This third amendment to the development agreement amends language regarding timing for the Minimum Assessment Agreement (MAA) for the Phase B improvements (Parcel 10, the Sears parcel), and the required amount of new square footage to be built after the demolition of the Sears building.

### FISCAL IMPACT: NONE

### ADDITIONAL INFORMATION:

- Changes are made throughout the development agreement regarding the required due date for the MAA for Parcel 10 (former Sears site). The MAA was an attachment to the original development agreement that was approved in March 2019, but was not executed at that time as mall ownership did not own Parcel 10 at the time. This amendment extends the date when the MAA is required to May 20, 2022.
- As part of redevelopment efforts, the Sears parcel has been replatted into three (3) separate lots. Lot 2 has been sold to Mississippi Valley Credit Union for future construction of a credit union. Staff is proposing to change the MAA to reflect that Lots 1 and 3 remain as part of the MAA with the value of Lot 2 (the credit union) subtracted from the value.
- There is a slight discrepancy in the existing development agreement regarding the due date for redevelopment of the Sears site. In one (1) section of the development agreement, there are two (2) dates provided:
  - 1) Cause at least 75,000 square feet of the ground floor of the existing building on Parcel 10 to be occupied by one (1) or more tenant(s) on market-rate terms by April 1, 2022; or

- 2) Cause the existing building to be demolished and removed by April 1, 2022, and replaced with a new building on Parcel 10 containing at least 75,000 square feet of ground floor space occupied by one (1) or more a tenant(s) on commercially reasonable terms by September 15, 2023.

In the section that lists the conditions precedent for TIF payments, only the April 1, 2022, date is listed. Since the Developer has opted to demolish and remove the Sears building and intends to construct a new building on the site, the September 15, 2023 date is applicable. This amendment replaces the April 1, 2022, date with the September 15, 2023, date as part of the conditions precedent.

- This amendment also provides a remedy in the event that the required 75,000 square feet of additional development is not provided on the former Sears site. The proposed new Kohl's store, which will be built on a portion of the Sears site is proposed to be about 50,000 square feet. Merle Hay Mall ownership is aware that there needs to be an additional 25,000 square feet built by September 15, 2023. The remedy prorates the amount of TIF to be paid to reflect the percentage amount of new square footage that is actually built.



**PREVIOUS COUNCIL ACTION(S):**

Date: October 19, 2020

Roll Call Number: [20-1662](#)

Action: [Second](#) Amendment to Urban Renewal Development Agreement with Merle Hay Investors, LLC for rehabilitation of existing Merle Hay Mall property and repurposing the Sears site. ([Council Communication No. 20-447](#)) Moved by Boesen to approve. Motion Carried 7-0.

**BOARD/COMMISSION ACTION(S): NONE**

**ANTICIPATED ACTIONS AND FUTURE COMMITMENTS: NONE**

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