



1671203

LACROSSE COUNTY
REGISTER OF DEEDS
CHERYL A. KCBRIDE

RECORDED ON
03/11/2016 02:33PM
REC FEE: 30.00
EXEMPT #:
PAGES: 7

**SIXTH AMENDMENT TO THE RIVERSIDE
CENTER II, LLC - PHASE II DEVELOPMENT
AGREEMENT**

This Sixth Amendment to the Riverside Center II, LLC - Phase II Development ("Sixth Amendment") is made by and among the City of La Crosse, Wisconsin, a Wisconsin municipal corporation with offices located at 400 La Crosse Street, La Crosse, Wisconsin, 54601 (the "City"), the **Redevelopment Authority** of the City of La Crosse, a Wisconsin public body corporate with offices located at 400 La Crosse Street, La Crosse, Wisconsin, 54601 ("Authority"), and **Optum Services, Inc.** a Delaware corporation as the assignee of **Riverside Center II, LLC**, ("Riverside Center").

WITNESSETH:

Whereas, on April 19, 2007, the Developer, City and Authority entered into the Riverside Center II, LLC - Phase II Development Agreement, (as amended by the First Amendment, the Second Amendment and the Third Amendment and the Fifth Amendment (as those terms are defined below), the "**Phase 2 Agreement**"), which was recorded on May 15, 2007 as document no. 1474123;

Whereas, the Phase 2 Agreement was subsequently amended by the parties with the First Amendment to the Riverside Center II, LLC - Phase II Development Agreement on April 10, 2008 (the "**First Amendment**"), which was recorded on May 12, 2008 as document no. 1501807;

Whereas, the parties entered into a Second Amendment to Riverside Center II, LLC - Phase II Development Agreement (the "**Second Amendment**") on April 23, 2009;

Whereas, the parties entered into a Third Amendment to Riverside Center II, LLC - Phase II Development Agreement (the "**Third Amendment**") on May 25, 2010;

Whereas, the parties negotiated a Fourth Amendment to Riverside Center II, LLC - Phase II Development Agreement (the "**Fourth Amendment**") but that Amendment was never executed. The Fourth Amendment's reference in this document is only included for future tracking and reference purposes;

Whereas, the parties entered into a Fifth Amendment to the Riverside Center II, LLC - Phase II Development Agreement (the "**Fifth Amendment**") on September 11, 2014;

#112

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Return to *Dragged by*

City Attorney
400 La Crosse Street
Lacrosse WI 54601

Parcel Identification Number/Tax Key Number
17-20025-61

Whereas, the real estate to which the Phase 2 Agreement, First, Second, Third, Fourth and Fifth Amendments apply is more particularly described in the attached **Exhibit 1** (the "Project");

Whereas, Optum purchased the Project from Riverside Center, as well as the adjacent real estate owned by Riverside Center, LLC and Riverside Center III, LLC, which together are subject to the Development Agreements (as that term is defined below);

Whereas, Riverside Center, LLC, Riverside Center II, LLC and Riverside Center III, LLC, assigned to Optum, and Optum assumed, the Development Agreements on September 15, 2014, with the consent of the City;

Whereas, The Development Agreements require the creation of 2,000 new jobs by January 1, 2016;

Whereas, As of August 17, 2015, Optum has continued to create jobs at the Project but has not met the Jobs Requirement;

Whereas, As of August 17, 2015, the City owes Optum approximately \$239,887.80 for the Monetary Obligation under the Development Agreements;

Whereas, it is necessary to amend the Phase 2 Agreement by adopting this Sixth Amendment in order to extend the timeline for the creation of jobs; and

Whereas, the City, Authority and Optum wish to set forth in this Sixth Amendment their respective commitments, understandings, rights and obligations as more fully described herein.

NOW, THEREFORE, in consideration of the mutual covenants and agreements herein exchanged, and other good and valuable consideration, the receipt and sufficiency of which the parties acknowledge, the parties hereto agree as follows:

1. **Jobs.** Article VII of the Phase 2 Agreement, as amended and superseded, shall be further amended to allow the creation of two thousand (2,000) jobs to occur on or before December 31, 2016, rather than January 1, 2016. All other provisions of Article VII of the Phase 2 Agreement, as amended and superseded, shall remain unchanged.

2. **Job Certification and Guarantee — Exhibit J.** The Phase 2 Agreement's Job Certification and Guarantee, identified as Exhibit J and incorporated through the Fifth Amendment, shall be amended to extend the time allowed to create two thousand (2,000) jobs to occur on or before December 31, 2016, rather than January 1, 2016. All other provisions of the Job Certification and Guarantee shall remain unchanged.

3. **Monetary Obligation.** The due date for the approximately \$239,887.80 payment owed by the City to Optum as of August 17, 2015, for the Monetary Obligation, as defined in the Development Agreements, will be postponed until December 31, 2016.

4. **Parking.** The City will continue to work in good faith with Optum to meet the future parking needs in the City for employees at the Project.

5. **Other Provisions.** Except as described herein, all other terms, conditions, covenants and promises of the Phase 2 Agreement, First Amendment, Second Amendment, Third Amendment, Fifth Amendment and all exhibits thereto shall remain unchanged and in full force and effect.

6. **Execution of Amendment.** Optum shall sign, execute and deliver this Sixth Amendment to the City on or before the close of regular City Hall business hours forty-five (45) days after its final adoption by the City and/or Authority, whichever occurs later. Optum's failure to sign, execute and cause this Sixth Amendment to be received by the City within said time period shall render the Sixth Amendment null and void, unless otherwise authorized by the City and Authority. After Optum has signed, executed and delivered the Sixth Amendment, the City and Authority shall sign and execute the Sixth Amendment. The final signature date of the City and/or Authority shall be the signature date.

7. **Authority to Sign.** The person signing this Sixth Amendment on behalf of Optum certifies and attests that its respective Articles of Organization, Articles of Incorporation, By Laws, Member's Agreement, Charter, Partnership Agreement, Corporate or other Resolutions and/or other related documents give full and complete authority to bind Optum, on whose behalf the person is executing this Sixth Amendment. Optum assumes full responsibility and holds the City and Authority harmless for any and all payments made or any other actions taken by the City and/or Authority in reliance upon the above representation. Further, Optum agrees to indemnify the City and Authority against any and all claims, demands, losses, costs, damages or expenses suffered or incurred by the City and/or Authority resulting from or arising out of any such payment or other action, including reasonable attorney fees and legal expenses.

8. **Jobs Requirement.** The following provisions pertain to the Jobs Requirement under the Development Agreements.

A. The "Development Agreements" are collectively:

1. The Riverside Center Redevelopment Agreement dated July 1, 2004, and amended by the April 14, 2005 Amended Redevelopment Agreement, the May 12, 2005 Second Amendment of the Redevelopment Agreement, the May 28, 2010 Third Amendment of the Redevelopment Agreement, the September 11, 2014 Fifth Amendment of the Redevelopment Agreement, and as amended by a Sixth Amendment to Redevelopment Agreement dated of even date herewith (as so amended, the "Phase 1 Agreement"); and
2. the Phase 2 Agreement, as amended by this Sixth Amendment;
3. the Amended and Restated Riverside Center Phase 3 Development Agreement, by and between the City, the RDA and Riverside Center III, LLC and amended by the September 11, 2014 Second Amendment and Restated Riverside Center Phase 3 Development Agreement, and a Third Amendment to the Amended and Restated Riverside Center Phase 3 Development Agreement dated of even date herewith (as so amended, the "Phase 3 Agreement").

9. **Miscellaneous.** The Phase 2 Agreement, as amended by this Sixth Amendment, remains in full force and effect, The Phase 2 Agreement, as amended by this Sixth Amendment, is binding on the parties' successors and assigns except to the extent expressly stated in this Fifth Amendment. This Sixth Amendment may be executed in any number of counterparts, all of which are considered one and the same Amendment notwithstanding that all parties hereto have not signed the same counterpart. Signatures of this Sixth Amendment which are transmitted by either or both electronic or telephonic means (including, without

limitation, facsimile and email) are valid for all purposes. Any party shall, however, deliver an original signature of this Sixth Amendment to the other party upon request.

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IN WITNESS WHEREOF, the parties to this Sixth Amendment have caused this instrument to be signed and sealed by duly authorized representatives of Optum, Authority and the City this 11 day of Feb, 2016.

Optum Services, Inc., a Delaware corporation

By: _____

Print Name: Adam Wilford

Its: Authorized Signatory

City of La Crosse, Wisconsin, a Wisconsin municipal corporation

By: Teri Lehrke

Print Name: Teri Lehrke

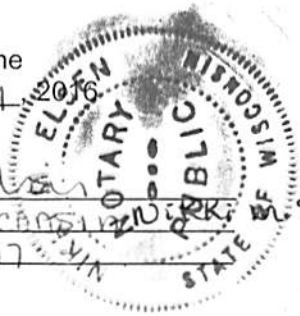
Its: City Clerk

Subscribed and sworn before me this 11 day of February, 2016

Brandy Menn
Notary Public, State of MN Brandy Menn
My Commission: 1-31-17

Subscribed and sworn before me this 2nd day of February, 2016

Nikki M. Elsen
Notary Public, State of WISCONSIN Nikki M. Elsen
My Commission: 6/23/17



Redevelopment Authority of the City of La Crosse, a Wisconsin public body corporate

By: Edward R. Przytarski

Print Name: Edward R. Przytarski

Its: Chairman

By: Jason Gilman

Print Name: Jason Gilman

Its: Executive Director

Subscribed and sworn before me this 2nd day of February, 2016

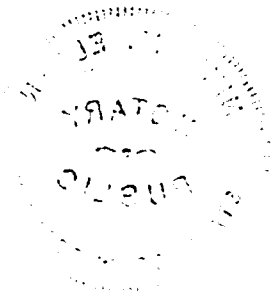
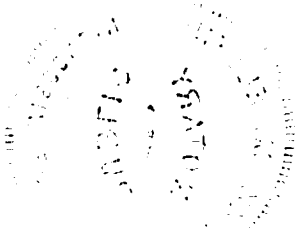
Nikki M. Elsen
Notary Public, State of WISCONSIN Nikki M. Elsen
My Commission: 6/23/17



Exhibit 1

Legal Description

Lot One (1) of Certified Survey Map No. 54 recorded in Volume 15 of Certified Survey Maps, pages 54 and 54A as Document No. 1578556, being a part of Lot 3, of Certified Survey Map in Volume 12, pages 76 and 76A, being Lots 1, 2, 3 and part of Lot 4 in Block 2 in Dunn, Dousman & Cameron's Addition to the City of La Crosse, La Crosse County, Wisconsin.



City of La Crosse, Wisconsin, a Wisconsin municipal corporation

By: Timothy Kabat
Print Name: Timothy Kabat
Its: Mayor

Subscribed and sworn before me
this 5th day of February, 2016

Brenda L. Buddenhagen
Notary Public, State of WI Brenda Buddenhagen
My Commission: 11-2-18





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