

**AMENDED AND RESTATED AGREEMENT**  
**BETWEEN**  
**THE TAX INCREMENT FINANCING COMMISSION**  
**OF KANSAS CITY, MISSOURI**  
**AND**  
**DELTA QUAD HOLDINGS, LLC**  
**FOR THE IMPLEMENTATION**  
**OF CERTAIN IMPROVEMENTS CONTEMPLATED BY**  
**THE GRAND RESERVE TAX INCREMENT FINANCING PLAN**

**MAY \_\_, 2020**

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## **Exhibits**

<u>Exhibit A-1:</u>	A copy of Commission Resolution No. 12-9-15
<u>Exhibit A-2:</u>	A copy of Commission Resolution No. 12-10-15
<u>Exhibit A-3:</u>	A copy of Commission Resolution No. 3-11-20
<u>Exhibit A-4:</u>	A copy of Commission Resolution No. 4-21-20
<u>Exhibit B-1:</u>	A copy of Committee Substitute for Ordinance No. 160163
<u>Exhibit B-2:</u>	A copy of Committee Substitute for Ordinance No. 200265
<u>Exhibit C:</u>	A copy of the Plan
<u>Exhibit D:</u>	Improvements Description
<u>Exhibit D-1:</u>	Redevelopment Project Costs
<u>Exhibit D-2:</u>	Adjoining Improvement Costs
<u>Exhibit E:</u>	Interest Policy
<u>Exhibit F:</u>	Certification of Costs and Reimbursement Policy
<u>Exhibit G:</u>	Redevelopment Schedule
<u>Exhibit H:</u>	Annual Assessment Form
<u>Exhibit I:</u>	Certificate of Completion and Compliance Policy
<u>Exhibit J:</u>	Funding Schedule
<u>Exhibit K:</u>	Economic Activity Taxes Collection and Documentation Policy
<u>Exhibit L:</u>	Form Letter of Transferees
<u>Exhibit M:</u>	Workforce Policy
<u>Exhibit N:</u>	Procedures for Payment of Prevailing Wages
<u>Exhibit O:</u>	Environmental Policy
<u>Exhibit P:</u>	Environmental Disclosures
<u>Exhibit Q:</u>	Policy on Disputed Charges
<u>Exhibit R:</u>	Public Participation Worksheet
<u>Exhibit S:</u>	Bond Disbursement Policy

## AMENDED AND RESTATED AGREEMENT

THIS AMENDED AND RESTATED AGREEMENT (this “**Agreement**”), dated May \_\_\_\_, 2020, amends, restates and replaces that certain Agreement, dated June 14, 2016 (the “**Original Agreement**”), by and between the TAX INCREMENT FINANCING COMMISSION OF KANSAS CITY, MISSOURI (the “**Commission**”) and DELTA QUAD HOLDINGS, LLC, a Missouri limited liability company (the “**Redeveloper**”), with respect to the following facts and objectives:

A. The Commission was created pursuant to the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865, inclusive, of the Revised Statutes of Missouri, 1982, as amended (the “**Act**”), and by Ordinance No. 54556 of the City Council of Kansas City, Missouri (the “**City Council**”), adopted on November 24, 1982, as amended by Committee Substitute for Ordinance No. 911076, adopted on August 29, 1991, Ordinance No. 100089, adopted on January 28, 2010, Ordinance No. 130986, adopted on December 19, 2013, and Committee Substitute for Ordinance No. 140823, as amended on June 18, 2015 (collectively, the “**Authorizing Ordinances**”).

B. On December 9, 2015, by Resolution No. 12-9-15, attached hereto as **Exhibit A-1**, the Commission, after due notice in accordance with Sections 99.825 and 99.830 of the Act, considered and recommended that the City Council approve the Grand Reserve Tax Increment Financing Plan.

C. On December 9, 2015, the Commission adopted Resolution No. 12-10-15, attached hereto as **Exhibit A-2**, designating Redeveloper as the developer of the Original Plan.

D. On May 12, 2016, the City Council, by Committee Substitute for Ordinance No. 160163, attached hereto as **Exhibit B-1**, approved the Grand Reserve Tax Increment Financing Plan with certain amendments pursuant to the authority granted the Council by the Act (the “**Original Plan**”).

E. On June 14, 2016, the Commission and the Redeveloper entered into the Original Agreement for the implementation of certain improvements contemplated by the Original Plan.

F. On March 10, 2020, the Commission, by Resolution No. 3-11-20, attached hereto as **Exhibit A-3**, considered, approved and recommended that the City Council approve the First Amendment to the Original Plan (the “**First Amendment**”).

G. The First Amendment provides, in part, for (A) the historic rehabilitation and adaptive reuse of the approximately 301,533 square foot, 21- story former Federal Reserve Bank of Kansas City building located at 925 Grand Boulevard into an all-suite approximately 284-room hotel that will include restaurants, meeting and event facilities within Redevelopment Project Area 1 (the “**Project Improvements**”) and (B) an approximately 40,000 family entertainment center and the rehabilitation of the existing adjacent approximately 450-stall parking garage in an area adjacent to (and not within) Redevelopment Project Area 1 (the “**Adjoining Improvements**” and, together with the Project Improvements, the “**Improvements**”).

H. On May \_\_\_\_, 2020, the City Council, by Committee Substitute for Ordinance No. 200265, attached hereto as **Exhibit B-2**, approved the First Amendment.

I. The Commission, pursuant to Resolution No. 4-21-20, attached hereto as **Exhibit A-4**, and the Redeveloper now desire to amend, restate and replace the Original Agreement to set forth their agreements regarding the implementation of the Improvements contemplated by the First Amendment, as specifically described on **Exhibit D**, attached hereto.

NOW, THEREFORE, for and in consideration of the mutual covenants herein contained, the Commission and the Redeveloper agree as follows:

1. **Items Incorporated, Definitions, and Rules of Interpretation.** The representations, covenants and recitations set forth in the foregoing recitals and the following exhibits attached to this Agreement are material to this Agreement and are incorporated into this Agreement.

- Exhibit A-1:** A copy of Commission Resolution No. 12-9-15
- Exhibit A-2:** A copy of Commission Resolution No. 12-10-15
- Exhibit A-3:** A copy of Commission Resolution No. 3-11-20
- Exhibit A-4:** A copy of Commission Resolution No. 4-21-20
- Exhibit B-1:** A copy of Committee Substitute for Ordinance No. 160163
- Exhibit B-2:** A copy of Committee Substitute for Ordinance No. 200265
- Exhibit C:** A copy of the Plan
- Exhibit D:** Improvements Description
- Exhibit D-1:** Redevelopment Project Costs
- Exhibit D-2:** Adjoining Improvement Costs
- Exhibit E:** Interest Policy
- Exhibit F:** Certification of Costs and Reimbursement Policy
- Exhibit G:** Redevelopment Schedule
- Exhibit H:** Annual Assessment Form
- Exhibit I:** Certificate of Completion and Compliance Policy
- Exhibit J:** Funding Schedule
- Exhibit K:** Economic Activity Taxes Collection and Documentation Policy

- Exhibit L: Form Letter of Transferees
- Exhibit M: Workforce Policy
- Exhibit N: Procedures for Payment of Prevailing Wages
- Exhibit O: Environmental Policy
- Exhibit P: Environmental Disclosures
- Exhibit Q: Policy on Disputed Charges
- Exhibit R: Public Participation Worksheet
- Exhibit S: Bond Disbursement Policy

a. Unless otherwise defined in this Agreement, all capitalized words or terms used in this Agreement shall have the following meanings:

(i) Act: The Real Property Tax Increment Allocation Redevelopment Act, Section 99.800, *et seq.*, Revised Statutes of Missouri.

(ii) Additional City Contribution: An amount to be made available by the City (subject to annual appropriation) to the Commission pursuant to the Sales Tax Contribution Agreement to pay Certified Costs, equal to (1) 35% of the total retail sales taxes generated in Redevelopment Project Area from the City's 2.00% convention and tourism sales tax imposed on the retail sales of food and beverages pursuant to Section 68-551 of the City's Code of Ordinances (or any successor provision thereto), but no more than \$60,000 annually, plus (2) 35% of the total retail sales taxes generated in the Redevelopment Area from the City's 7.50% convention and tourism sales tax imposed on sales or charges for hotel rooms pursuant to Section 68-551 of the City's Code of Ordinances (or any successor provision thereto), but no more than \$400,000 annually, plus (3) 50% of all other retail sales taxes imposed by the City and generated in Redevelopment Project Area, but excluding those portions derived from each of the following: (a) the City's 1.00% capital improvements sales tax pursuant to Section 68-446 of the City's Code of Ordinances (or any successor provision thereto), and (b) the City's 0.50% public mass transit tax pursuant to Section 68-471 of the City's Code of Ordinances (or any successor provision thereto), and (c) the City's 0.375% KCATA tax pursuant to Section 68-475 of the City's Code of Ordinances (or any successor provision thereto), and (d) the City's 0.50% parks tax pursuant to Section 68-448 of the City's Code of Ordinances (or any successor provision thereto), and (e) any other sales tax authorized after the Effective Date of this Agreement; provided, however, that the Additional City Contribution shall not exceed \$11,805,988 in the aggregate.

(iii) Adjoining Improvements: The improvements described on Exhibit D.

(iv) Adjoining Improvement Costs: The costs related to the Adjoining Improvements that are set forth on **Exhibit D-2**.

(v) Affiliate: Any natural person, partnership, limited liability company, corporation, association, trust or other entity that directly or indirectly controls, is controlled by, or is under common control with the Redeveloper. As used in the definition of Affiliate, “**control**” means possession, directly or indirectly, of the power to direct or cause the direction of the management or policies of the Redeveloper or its Affiliates, whether through ownership of voting securities, by contract or otherwise.

(vi) Business Day: Any day other than a Saturday, Sunday or legal holiday, as designated by the City.

(vii) Certificate(s) of Completion and Compliance: The certificate(s) to be issued by the Commission pursuant to **Section 16** of this Agreement.

(viii) Certificate of Occupancy: A permit granted by the City upon the substantial completion of a building or improvement in conformance with the Construction Plans approved by the City in accordance with the City Code.

(ix) Certified Costs: The Reimbursable Project Costs which have been certified by the Commission pursuant to **Section 16**.

(x) City: City of Kansas City, Missouri.

(xi) City Code: The City Code of Ordinances of Kansas City, Missouri.

(xii) City Council: The governing body of the City.

(xiii) City Departments: The City Planning and Development Department, the City Planning Commission and such other departments and commissions of the City required to approve the Construction Plans.

(xiv) City Treasurer: The treasurer of the City.

(xv) Collection Authority: The City, the County Collector, or any other governmental official or body charged with the collection of Payments in Lieu of Taxes or Economic Activity Taxes.

(xvi) Commission: The Tax Increment Financing Commission of Kansas City, Missouri.

(xvii) Construction Contractor: Any individual, partnership, corporation, association or other entity, or any combination of such entities, who or which enters into a construction contract with the Redeveloper in connection with the implementation of Project Improvements contemplated by the Plan and this



Agreement, regardless of the number of employees pursuant to City Code of General Ordinances, Chapter 3, Article IV, Division 3, Sections 3-501 through 3-525, (City Construction Employment Program).

(xviii) Construction Plans: The plans and specifications for the Adjoining Improvements and the Project Improvements submitted by the Redeveloper and approved by the City pursuant to **Section 8** hereof.

(xix) County Assessor: The Assessor of Jackson County, Missouri.

(xx) County Collector: The Collector of Jackson County, Missouri.

(xxi) Debt Service: The amount required for the payment of Interest and Principal on Obligations and other payments required by the terms and conditions of obligations, including, but not limited to, mandatory or optional redemption payments, payments to reserve funds, arbitrage rebate payments and penalties.

(xxii) Economic Activity Account: The separate segregated account within the Special Allocation Fund into which Economic Activity Taxes are to be deposited.

(xxiii) Economic Activity Taxes or EATs: Fifty percent (50%) of the total additional revenue from taxes which are imposed by the City and other Taxing Districts, and which are generated by economic activities within each Redevelopment Project Area over the amount of such taxes generated by economic activities within such Redevelopment Project Area in the calendar year prior to the adoption of the ordinance designating such Redevelopment Project Area, while tax increment financing remains in effect, but excluding personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to Section 70.500, RSMo., taxes levied for the purpose of public transportation pursuant to Section 94.660, RSMo., taxes imposed on sales pursuant to subsection 2 of section 67.1712 for the purpose of operating and maintaining a metropolitan park and recreation district, licenses, fees or special assessments other than Payments in Lieu of Taxes and penalties and interest thereon, any sales tax imposed by a county with a charter form of government and with more than six hundred thousand but fewer than seven hundred thousand inhabitants, for the purpose of sports stadium improvement or levied by such county under section 238.410 for the purpose of the county transit authority operating transportation facilities, taxes imposed on sales under and pursuant to section 67.700 or 650.399 for the purpose of emergency communication systems and any other tax specifically excluded from tax increment financing by State statute, shall be allocated to, and paid by the local political subdivision collecting officer to the treasurer or other designated financial officer of the municipality, who shall deposit such funds in a separate segregated account within the special allocation fund; provided, however, if the voters in a Taxing District votes to approve an increase in such Taxing District's sales tax or use tax, other than the renewal of an expiring sales

or use tax, any additional revenues generated within an existing Redevelopment Project Area that are directly attributable to the newly voter-approved incremental increase in such taxing district's levy rate shall not be considered "Economic Activity Taxes", without the consent of such Taxing District. If a retail establishment relocates within one (1) year from one facility to another facility within the same county and the governing body of the municipality finds that the relocation is a direct beneficiary of tax increment financing, then for purposes of this definition the economic activity taxes generated by the retail establishment shall equal the total additional revenues from economic activity taxes which are imposed by a municipality or other taxing district over the amount of economic activity taxes generated by the retail establishment in the calendar year prior to its relocation to any Redevelopment Project Area..

(xxiv) Equity Investment: The total accumulated sums expended by the Redeveloper or any other non-governmental party that is an Affiliate of the Redeveloper in connection with any and all aspects of the Improvements, including but not limited to any and all costs, including Financing Costs incurred by the Redeveloper, Private Loan interest, expenses or investments made by the Redeveloper or any such non-governmental party prior to or subsequent to the date of this Agreement and incurred by Redeveloper or any such non-governmental party that is an Affiliate of the Redeveloper in connection with the acquisition of any property in any Redevelopment Project Area, due diligence, leasing, marketing, formation of entities, construction and implementation of the Improvements, including the principal amount of any subordinate Obligations so long as Redeveloper, or its Affiliates, is the owner or guarantor of such subordinate Obligations, commercial financing and any additional capital contributions made by Redeveloper or such non-governmental party that is an Affiliate of the Redeveloper. Except for Private Loan interest amounts that are capitalized in accordance with generally accepted accounting principles, the amount of Equity Investment shall not include annual interest paid by Redeveloper.

(xxv) Financing Costs: Those costs, which are identified by the budget of Redevelopment Project Costs incorporated within the Plan and identified on Exhibit D-1 to this Agreement, incurred by the Commission, or other issuer approved by the Commission as a result of issuing one or more series of Obligations, or the Redeveloper as a result of obtaining one or more Private Loans to pay all or any portion of Redevelopment Project Costs incurred or estimated to be incurred, including but not limited to interest incurred on Private Loans incurred by the Redeveloper or any Affiliate of the Redeveloper, but subject to the Commission's Interest Policy, attached hereto as Exhibit E loan fees, capitalized interest, financial advisor fees, legal fees, broker fees or discounts, original purchaser's discounts, printing and other costs related to such financing.

(xxvi) Improvements: The Project Improvements and Adjoining Improvements.

(xxvii) Improvement Costs: The aggregate amount of Redevelopment Project Costs and Adjoining Improvement Costs.

(xxviii) Net Cash Flow: Gross proceeds to the Redeveloper and/or its members or Affiliates from all income generated from the operations of the Improvements, including expense reimbursements received from tenants and any proceeds from the leasing of any portion of the Improvements, less (A) the costs to complete the construction and financing of the Improvements and (B) the amount of principal and interest payments of debt service on private debt obtained by the Redeveloper to finance the Improvements, as determined each calendar year. In the event the Redeveloper sells all or any part of the Improvements or if any or all of the Improvements are condemned, the proceeds from such sale or condemnation award that is received by the Redeveloper that is in excess of any existing debt related to the Improvements shall be considered in determining Net Cash Flow. Additionally, any casualty insurance proceeds (net of premiums and deductibles) which are not applied to the reconstruction of the Improvements shall be considered in determining the Net Cash Flow.

(xxix) Obligations: Bonds, loans, debentures, notes, special certificates or other evidences of indebtedness issued in accordance with this Agreement by the Commission, City or any other public body approved by the Commission and that are secured, at least in part, with TIF Revenues, to pay all or any portion of Reimbursable Project Costs incurred, or estimated to be incurred, to finance the cost of issuing such obligations, to establish reserves to refund or secure such Obligations, to finance the Interest costs associated with such Obligations or to refund, redeem or defease outstanding Obligations.

(xxx) Ordinance: An ordinance adopted by the City Council.

(xxxi) Payments in Lieu of Taxes or PILOTs: Revenues from real property in the area selected for a Redevelopment Project, which revenues according to the Redevelopment Project or Plan are to be used for a private use, which Taxing Districts would have received had the City not adopted tax increment allocation financing, and which would result from levies made after the time of the adoption of tax increment allocation financing during the time the current equalized value of real property in the Redevelopment Project Area exceeds the total initial equalized value of real property in such area until the designation is terminated pursuant to subsection 2 of Section 99.850. If the voters in a Taxing District vote to approve an increase in such Taxing District's levy rate for ad valorem tax on real property, any additional revenues generated within an existing Redevelopment Project Area that are directly attributable to the newly voter-approved incremental increase in such Taxing District's levy rate shall not be considered Payments in Lieu of Taxes subject to deposit into a Special Allocation Fund without the consent of such Taxing District. Revenues will be considered directly attributable to the newly voter-approved incremental increase to the extent that they are generated from the difference between the Taxing District's actual levy rate currently imposed and the maximum voter-approved

levy rate at the time that the Redevelopment Project was adopted. Payments in Lieu of Taxes which are due and owing shall constitute a lien against the real estate located within any Redevelopment Project Area from which they are derived, the lien of which may be foreclosed in the same manner as a special assessment lien as provided in Section 88.861 RSMo..

(xxxii) PILOT Account: The separate segregated account within the Special Allocation Fund into which Payments in Lieu of Taxes are to be deposited.

(xxxiii) Plan: The Grand Reserve Tax Increment Financing Plan, as approved by the Council, pursuant to Committee Substitute for Ordinance No. 160163, and as may be amended from time to time by the Council.

(xxxiv) Private Loan: Any indebtedness incurred by the Redeveloper or any Affiliate to pay all or any portion of Redevelopment Project Costs, incurred or estimated to be incurred.

(xxxv) Project Improvements: The improvements described on **Exhibit D**.

(xxxvi) Real Estate: The real property owned by the Redeveloper, which is located within any Redevelopment Project Area.

(xxxvii) Redevelopment Area: The area legally described on Exhibit 1.A to the Plan and depicted on Exhibit 2 to the Plan.

(xxxviii) Redevelopment Project(s): Any Redevelopment Project described within Section IV.B of the Plan and on Exhibit 1.B to the Plan, as may be amended from time to time, pursuant to Section 99.825 of the Act.

(xxxix) Redevelopment Project Area(s): Any Redevelopment Project Area described on Exhibit 1.B to the Plan, as may be amended from time to time, pursuant to Section 99.825 of the Act.

(xl) Redevelopment Project Costs: The sum total of all reasonable or necessary costs incurred or estimated to be incurred, including Financing Costs incurred by the Redeveloper, and any such costs incidental to the Project Improvements, identified on Exhibit 5.A. to the Plan.

(xli) Reimbursable Project Costs: Those Redevelopment Project Costs described on Exhibit 5.A to the Plan and **Exhibit D-1** to this Agreement, of which, \$4,199,137, may be reimbursed with PILOTs (if any) and EATs and \$10,461,180 may be reimbursed with the Additional City Contribution, as the case may be, in accordance with the terms and conditions of this Agreement.

(xlii) Reimbursable Project Costs Cap: The cap of \$14,660,317 of all Reimbursable Project Costs incurred by the Redeveloper that are permitted to be reimbursed in connection with the Project Improvements.

(xliii) Sales Tax Contribution Agreement: That certain Sales Tax Contribution Agreement by and among the City, the Redeveloper and the Commission dated June 14, 2016 and as may be amended from time to time.

(xliv) Site Plan: The final site plan for the Redevelopment Area submitted by the Redeveloper to the Commission and incorporated as Exhibit 2 to the Plan, as the same may be revised from time to time by Redeveloper with the approval of the City as provided in **Section 8** hereof.

(xlv) Special Allocation Funds: The funds established in connection with the Redevelopment Project into which, as required by the Act, all Economic Activity Taxes and PILOTs (if any) are deposited.

(xlvi) State: State of Missouri.

(xlvii) Taxing District: Any political subdivision of the State of Missouri located wholly or partially within any Redevelopment Project Area and having the power to levy taxes.

(xlviii) Term: The period during which the parties shall be required to perform under this Agreement, as described in **Section 34**.

(xlix) TIF Revenues: Payments In Lieu of Taxes (if any) and Economic Activity Taxes.

(l) Total Initial Equalized Assessed Value: That amount certified by the County Assessor which equals the most recently ascertained equalized assessed value of each taxable lot, block, tract, or parcel of real property within any Redevelopment Project Area immediately before tax increment financing has been approved by the City Council by Ordinance.

(li) Trustee: The designated trustee administering accounts and funds generated by the proceeds of Obligations and those portions of the Economic Activity Taxes and PILOTs (if any) generated within any Redevelopment Project Area which have been transferred to the Trustee pursuant to an Indenture.

b. Unless the context clearly indicates to the contrary, the following rules of interpretation shall apply to this Agreement:

(i) Unless the context otherwise requires or unless otherwise provided herein, the terms defined in this Agreement, which refer to a particular agreement, instrument or document also refer to and include all renewals, extensions, modifications, amendments and restatements of such agreement, instrument or document; provided, that, nothing contained in this sentence shall be construed to

authorize any such renewal, extension, modification, amendment or restatement other than in accordance with Section 32.

(ii) The words “hereof”, “herein” and “hereunder” and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. Section, subsection and exhibit references are to this Agreement, unless otherwise specified. Whenever an item or items are listed after the word “including”, such listing is not intended to be a listing that excludes items not listed.

(iii) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing person shall include individuals, corporations, partnerships, joint ventures, associations, joint stock companies, trusts, unincorporated organizations and governments and any agency or political subdivision thereof.

(iv) The table of contents, captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

2. Mutual Assistance and Conditions. The Commission and Redeveloper agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may be necessary or appropriate to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out said terms, provisions and intent.

3. Representations of the Redeveloper. Redeveloper makes the following representations and warranties, which representations and warranties are true and correct on the date hereof:

a. Organization and Authority. Redeveloper is a limited liability company duly organized and validly existing under the laws of the State of Missouri. The Redeveloper has all necessary power and authority to deliver and perform the terms and obligations of this Agreement and to execute and deliver the documents required of the Redeveloper herein, and such execution and delivery has been duly and validly authorized and approved by all necessary proceedings. Accordingly, this Agreement constitutes the legal valid and binding obligation of the Redeveloper, enforceable in accordance with its terms.

b. No Defaults or Violation of Law. The execution and delivery of this Agreement, the consummation of the transactions contemplated thereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any company or organizational restriction or of any agreement or instrument to which it is now a party, and do not and will not constitute a default under any of the foregoing.

c. No Litigation. No litigation, proceedings or investigations are pending or, to the knowledge of the Redeveloper (including the knowledge of the officer of the Redeveloper who executes this Agreement), threatened against the Redeveloper. In addition, no litigation, proceedings or investigations are pending or, to the knowledge of the Redeveloper (including the knowledge of the officer of the Redeveloper who executes this Agreement), threatened against the Redeveloper (or any officer of the Redeveloper) seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of the Redeveloper (or any officer of the Redeveloper) to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by the Redeveloper (or any officer of the Redeveloper) of the terms and provisions of this Agreement.

d. No Material Change. (i) The Redeveloper has not incurred any material liabilities or entered into any material transactions other than in the ordinary course of business except for the transactions contemplated by this Agreement and (ii) there has been no material adverse change in the business, financial position, prospects or results of operations of the Redeveloper, which could affect the Redeveloper's ability to perform its obligations pursuant to this Agreement from that shown in the financial information provided by the Redeveloper to the Commission prior to the execution of this Agreement, except for governmental authorizations and approvals of the type referenced in **Section 3.g** and **Section 3.h**.

e. Governmental or Corporate Consents. No consent or approval is required to be obtained from, and no action need be taken by, or document filed with, any governmental body or corporate entity, in connection with the execution, delivery and performance by the Redeveloper of this Agreement, except for governmental authorizations and approvals of the type referenced in **Section 3.g** and **Section 3.h**.

f. No Default. No default or event of default has occurred and is continuing, and to Redeveloper's knowledge no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a default or an event of default in any material respect on the part of the Redeveloper under this Agreement, or any other material agreement or material instrument to which the Redeveloper is a party or by which the Redeveloper is or may be bound.

g. Approvals. The Redeveloper has received and is in good standing with respect to certificates, licenses, inspections, franchises, consents, immunities, permits, authorizations and approvals, governmental or otherwise, necessary to conduct and to continue to conduct its business as heretofore conducted by it and to own or lease and operate its properties as now owned or leased by it. The Redeveloper will obtain those certificates, licenses, inspections, franchises, consents, immunities, permits, authorizations and approvals, governmental or otherwise, necessary to acquire, construct, equip, operate and maintain the Improvements. The Redeveloper has no reason to believe that all such certificates, licenses, consents, permits, authorizations or approvals which have not yet been obtained will not be obtained in due course.

h. Construction Permits. All governmental permits and licenses required by applicable law to construct, occupy and operate within the Redevelopment Area has been issued and are in full force and effect or, if the present stage of development does not allow such issuance, the Redeveloper has no reason to believe, after due inquiry of the appropriate governmental officials, that such permits and licenses will not be issued in a timely manner in order to permit the Improvements to be constructed pursuant to the Construction Plans and Redevelopment Schedule (as hereinafter defined).

i. Compliance with Laws. The Redeveloper is in compliance in all material respects with all valid laws, Ordinances, orders, decrees, decisions, rules, regulations and requirements of every duly constituted governmental authority, commission and court applicable to any of its affairs, business, operations as contemplated by this Agreement.

j. Financial Information. The financial statements of the Redeveloper or its Affiliates that are obligated to guarantee the financing of Redevelopment Project Costs (the “**Obligated Affiliates**”) and that have been furnished to the Commission in connection with the selection of the Redeveloper and the Commission’s decision to enter into this Agreement present fairly and accurately in all material respects, the financial position of the Redeveloper and the Obligated Affiliates as of the dates indicated. There has been no material adverse change in the financial position of the Redeveloper and the Obligated Affiliates since the date of such financial information. The Redeveloper understands and agrees that the Commission has relied upon the financial capacity of the Redeveloper and the Obligated Affiliates in its decision to enter into this Agreement.

4. Survival of Representations. All representations of the Redeveloper contained in this Agreement or in any certificate or other instrument delivered by the Redeveloper pursuant to this Agreement, or in connection with the transactions contemplated thereby, shall, with respect to the Redeveloper and each of the Improvements, survive the execution and delivery thereof, as representations of facts existing as of the date of execution and delivery of the instruments containing such representations for one (1) year following the Commission’s issuance of a Certificate of Completion and Compliance in accordance with **Section 16** for such Improvements.

5. Eminent Domain. Reserved.

6. Redevelopment Project Area 1. Tax increment financing within Redevelopment Project Area 1 identified by the Plan became effective on May 12, 2016.

7. Improvements. In accordance with the Act and subject to the provisions of the Plan and this Agreement, to ameliorate, eliminate or satisfy those conditions which are the basis for eligibility and designation of the Redevelopment Area as a conservation area, the Redeveloper shall make or cause to be made Improvements within the Redevelopment Area as more particularly set out on **Exhibit D**.

8. Design Criteria and Review Procedures.

a. Subject to the provisions of this Agreement, the Redeveloper shall construct all Improvements in accordance with the Plan and the Construction Plans



submitted by the Redeveloper and approved by the City Departments, with any alterations that may be permitted and/or required in accordance with the City Code.

b. In order to insure that the Improvements and their construction will be in accordance with the provisions of this Agreement and the Construction Plans, and in substantial agreement with proposals made by the Redeveloper to the Commission and the City, the parties agree as follows:

(i) No Improvements, other than site preparation and life safety issues, shall be commenced or made unless and until all the Construction Plans therefor, in the detail herein required, or any changes thereto, (A) shall have been submitted to and approved, in writing, as required by the City Departments and (B) the Commission, or its designated representatives, shall have received such written approval from the City Departments.

(ii) At the request of Redeveloper, the City Departments shall have the absolute right in their judgment and discretion, at any time, to approve a variance from conformance to or a waiver of compliance with the Construction Plans.

(iii) Subsequent to commencement of the Improvements and until the termination of this Agreement, the Redeveloper shall, as part of the reports required by **Section 11**, describe in such detail as reasonably may be required by the Commission, the progress of the Redeveloper in the implementation of the Improvements and the status of any Redevelopment Project Area thereafter.

(iv) Neither the Commission, nor any officer, director, commissioner, member, employee or agent of the same, shall be liable to the Redeveloper with respect to Construction Plans or modifications submitted to the City Departments for approval, or for any other action in connection with its or their duties with respect to the Construction Plans. The Redeveloper agrees that it will not bring any action or suit to recover any damages against the Commission or any officer, director, commissioner, member, employee, or agent of any of them arising or in any way connected with the approval of or failure to approve any construction plans or changes submitted by the Redeveloper.

(v) In order to monitor the status of compliance with the Construction Plans, the Commission or the City Departments, or their respective designated representatives, may, upon providing a minimum of two (2) Business Days' notice to the Redeveloper, inspect the Improvements during regular business hours and in such detail as may be reasonably necessary to determine compliance.

## 9. Plan of Finance and Financing Commitments

a. It is acknowledged that prior to the execution of this Agreement, the Redeveloper submitted (i) the estimated Redevelopment Project Costs, which are reflected on Exhibit 5.A. to the Plan and as set forth on **Exhibit D-1** to this Agreement (ii) the estimated Adjoining Project Costs as set forth on **Exhibit D-2** to this Agreement, (iii) the anticipated sources of funds to pay the Redevelopment Project Costs as estimated

on Exhibit 7 to the Plan, (iv) evidence of commitments to finance the Redevelopment Project Costs as set forth on Exhibit 11 to the Plan, (v) the anticipated type and term of the sources of funds to pay Redevelopment Project Costs, and (vi) the anticipated type and terms of the Obligations to be issued, as estimated, as set forth on Exhibit 7 to the Plan (all of the foregoing information in (i) through (vi) hereinafter, collectively, shall be referred to as the “**Plan Financing**”) and such Plan Financing has not been modified since the approval of the Plan by the City. The Redeveloper shall notify the Commission as soon as reasonably practicable of any material changes in the Plan Financing that occur after the execution of this Agreement.

b. The Redeveloper represents and warrants to the Commission that, to the best of its present knowledge and belief, the Plan Financing submitted by the Redeveloper, if timely implemented and funded, will in all material respects enable the Redeveloper to timely implement the Improvements as required in this Agreement, including the Redevelopment Schedule (as hereinafter defined) incorporated herein, and the information and statements contained therein, taken as a whole, are accurate as of the date hereof, in all material respects and complete for the purposes for which used and made and do not fail to state any material facts necessary in order to make the statements or representations made therein, in light of the circumstances under which they were made, not misleading. The Redeveloper’s representation and warranty as set forth herein shall be deemed to be ongoing until termination or expiration of this Agreement.

c. The Redeveloper represents and warrants to the Commission that, to the best of its present knowledge and belief, the Improvement Costs identified on **Exhibit D-1** and **Exhibit D-2** are costs the Redeveloper or its Affiliates expect to incur in connection with all development the Redeveloper or its Affiliates intend to undertake in connection with the implementation of the Improvements pursuant to the Plan and this Agreement.

d. The Commission covenants and agrees to make available to Redeveloper the Additional City Contribution in accordance with the terms and conditions set forth in the Sales Tax Contribution Agreement.

10. **Redevelopment Schedule.** Subject to the provisions of the Plan and this Agreement (including the timely implementation and funding of the Plan Financing) and Excusable Delays, the Redeveloper with respect to the Improvements shall comply with the Redevelopment Schedule, attached hereto as **Exhibit G** (the “**Redevelopment Schedule**”).

11. **Progress Reports.**

a. Prior to May 31<sup>st</sup> of each year during the Term, beginning on May 31, 2021, and each anniversary thereafter until the termination of this Agreement, the Redeveloper shall report to the Commission the progress of its implementation of the Improvements (if any) as of December 31 of the prior calendar year and the status of the Redevelopment Project, pursuant to the Annual Assessment Form, attached hereto as **Exhibit H**. At the first regularly-scheduled meeting of the Commission following the fifth anniversary of the first submission of the Annual Assessment Form and on each

five-year anniversary thereafter, the Redeveloper shall prepare and present to the Commission a detailed report on the progress of implementation of the Improvements. Such report shall include at least the following information and may contain such other information with regard to the Redevelopment Project and Improvements as the Redeveloper wishes to present or the Commission may reasonably require:

(i) status of construction of the Improvements;

(ii) actual assessed value of each property located within the Redevelopment Area before and after completion of the Improvements as compared to Plan estimates;

(iii) actual Payments in Lieu of Taxes and Economic Activity Taxes generated by any Redevelopment Project Area as compared to Plan estimates;

(iv) actual Redevelopment Project Costs incurred and related to the Improvements compared to Plan estimates;

(v) actual start and completion dates of the Improvements compared to the Redevelopment Schedule; and

(vi) estimated start date of the Improvements not yet commenced at date of report.

b. The Redeveloper shall from time to time furnish such other reports on specific matters not addressed by the foregoing as the Commission may reasonably require.

12. Maintenance and Repair. During the Term, the Redeveloper or its successors or assigns, at its or their (as the case may be) sole cost and expense, shall cause all of the Real Estate to be maintained, preserved and kept in commercially reasonable repair and working order and condition and in as safe condition as its operations will permit and will make all commercially reasonable and necessary repairs, renewals, replacements and improvements. The Redeveloper shall maintain casualty insurance on such property and the improvements thereon in an amount equal to not less than ninety percent (90%) of the full replacement value thereof and provide the Commission with evidence of such insurance on demand. The Redeveloper shall incorporate in all transfer documents to Prospective Transferees (hereinafter defined) an obligation to comply with this **Section 12** and exert commercially reasonable efforts to enforce the provisions of this **Section 12** to the maximum extent permitted by law and further provide that the Commission is an intended third-party beneficiary of such provisions and as such, the Commission has a separate and independent right to enforce such provisions directly against any such transferee.

13. Control of Improvements. The Redeveloper shall have complete and exclusive control over the construction of the Improvements, which it owns or controls subject, however, to all applicable laws, rules and regulations, including, but not limited to, all ordinances, rules and regulations of the City, such as subdivision regulations, zoning ordinances, building codes and property maintenance codes. As to all parts of the Redevelopment Area then owned by the

Redeveloper from time to time, the Redeveloper hereby grants to the Commission, its agents and employees the right to enter at reasonable times for the purpose of inspecting the Improvements, subject, however, to (1) the rights of tenants or purchasers, which are not Affiliates of the Redeveloper and (2) all applicable safety procedures and requirements of Redeveloper or its contractor. The Commission, its agents or employees seeking access to parts of the Redevelopment Area owned by Redeveloper shall provide notice to the Redeveloper of not less than two (2) Business Days prior to entering the Redevelopment Area so that the Redeveloper can coordinate such entry with its project manager. Subject to such restrictions contained herein, the Redeveloper shall have complete and exclusive control over the construction, management, sale and leasing of property owned by it from time to time within the Redevelopment Area, including, without limitation, the selection of purchasers, the price and terms of sale, the fixing of rentals and the selection or rejection of tenants and guests.

14. Compliance with Laws. At all times during the Term and until termination of this Agreement as provided in **Section 34**, but subject to the Redeveloper's rights to contest the same in any manner permitted by law, the Redeveloper, at its sole cost and expense, shall comply in every respect with all applicable laws, ordinances, rules and regulations of all federal, state, county and municipal governments, agencies, bureaus or instrumentalities thereof now in force or which may be enacted hereafter which pertain to the construction, ownership, occupancy, use and operation of the property within the Redevelopment Area owned by Redeveloper, as well as the hiring of all Redeveloper's employees and independent contractors utilized in connection with the construction of the Improvements. The Redeveloper shall contractually require its independent contractors to comply with this **Section 14**, however, failure of Redeveloper's independent contractors to comply with this **Section 14** shall not be deemed a default under this Agreement by Redeveloper, so long as the Redeveloper exerts good faith efforts to enforce such contractual provisions that relate to this **Section 14**.

15. Property Taxes. At all times until termination of this Agreement as provided in **Section 34**, but subject to the Redeveloper's rights to contest the same in any manner permitted by law, the Redeveloper and its Affiliates shall pay, when due, all taxes levied upon any real or personal property owned by the Redeveloper or any of its Affiliates and located in the City. Upon the execution of this Agreement and during the last week of December of each year during the Term, the Redeveloper shall submit an affidavit or certificate to the Commission certifying its compliance and the compliance of its Affiliates with this **Section 15**.

16. Certificate of Completion and Compliance.

a. Within ninety (90) days after the Improvements, or any portions thereof as may be determined by the Redeveloper, are completed in all material respects, in order to ensure that the Redeveloper has satisfied its obligations under the Plan and this Agreement to implement the Improvements, the Redeveloper shall notify the Commission (the "**Notice of Completion**" or "**Notice of Partial Completion**") in writing:

(i) that construction of the Improvements, or such portions thereof as may be determined by the Redeveloper, have been completed in accordance with the Plan, that a Certificate of Occupancy, where appropriate, has been issued and

that the Redeveloper is in compliance with all other provisions of this Agreement as it relates to such Improvements;

(ii) of the actual private equity and debt used by the Redeveloper to complete the Improvements in accordance with the estimated Redevelopment Project Costs, which are reflected on Exhibit 5.A. to the Plan, or such portion thereof, which may include capitalized interest allocable to each building and the associated infrastructure improvements; and

(iii) that, with respect to such portion of the Improvements, it has complied with and has submitted all documents required by the Commission's Certification of Costs and Reimbursement Policy, attached hereto as **Exhibit F**, the Commission's Certificate of Completion and Compliance Policy, attached hereto as **Exhibit I**, the MBE/WBE Ordinance and the Workforce Policy, attached hereto as **Exhibit M**. Notwithstanding anything contained in this Agreement to the contrary or anything contained in the Commission's Certification of Costs and Reimbursement Policy, attached hereto as **Exhibit F**, in the event the actual Redevelopment Project Costs submitted for reimbursement by the Redeveloper, which are attributable to a single line item within the Budget (as defined in **Exhibit F**), exceed the budget for such single line item, the Commission, upon direction of the City and by separate Resolution, must approve such increase prior to reimbursement and, to the extent the actual Redevelopment Costs submitted for reimbursement by the Redeveloper from TIF Revenue or the Additional City Contribution, which are attributable to a single line item within the Budget exceed the Budget for such single line item by ten percent (10%) or more, the Redevelopment Plan must be amended to reflect the increased Redevelopment Project Costs prior to reimbursement from TIF Revenue or the Additional City Contribution. Notwithstanding anything contained in this Agreement to the contrary or anything contained in the Commission's Certification of Costs and Reimbursement Policy, attached hereto as **Exhibit F**, in the event the actual aggregate amount of Redevelopment Project Costs submitted for reimbursement by the Redeveloper exceed the aggregate amount of Redevelopment Project Costs set forth in the Budget, the Commission, upon direction of the City and by separate Resolution, must approve such increase prior to reimbursement and, to the extent the actual Redevelopment Project Costs submitted for reimbursement by the Redeveloper, exceed the aggregate amount of Redevelopment Project Costs set forth in the Budget by more than ten percent (10%), the Plan must be amended to reflect the increased Redevelopment Costs prior to reimbursement.

b. The Commission, upon receipt of the Notice of Completion and all such additional documents required by the Certificate of Completion and Compliance Policy, attached hereto as **Exhibit I**, shall within sixty (60) Business Days, examine and determine:

(i) whether construction of Improvements, or such portion thereof, have been completed in accordance with the provisions of the Plan, the

Construction Plans, this Agreement, including, but not limited to, the Commission's Funding Schedule, attached hereto as **Exhibit J**, the MBE/WBE Ordinance, the Workforce Policy, attached hereto as **Exhibit M**, and the Procedures for Payment of Prevailing Wages, attached hereto as **Exhibit N**; and

(ii) whether the Redevelopment Project Costs submitted by the Redeveloper to the Commission and reviewed by an independent cost certifier, who shall be hired at the expense of the Commission, shall be or have been certified pursuant to the Commission's Certification of Costs and Reimbursement Policy.

c. If the Commission determines that (i) construction of the Improvements, or such portion thereof, have been substantially completed in accordance with the provisions of the Plan, the Construction Plans, this Agreement, including, but not limited to, the Funding Schedule, the Affirmative Action Policy and the Procedures for Payment of Prevailing Wages; and (ii) all Redevelopment Project Costs related to the Project Improvements, or such portion thereof, that are eligible for reimbursement have been certified pursuant to the Commission's Certification of Costs and Reimbursement Policy (the "**Certified Costs**"), then the Commission, subject to the conditions of the Certificate of Completion and Compliance Policy, shall, concurrently with such determination, issue a Certificate of Completion and Compliance (the "**Certificate of Completion and Compliance**"); provided, however, notwithstanding the foregoing, the Commission shall not issue a Certificate of Completion and Compliance and shall not reimburse the Redeveloper for any Certified Costs, unless and until the Commission has received written acknowledgement from the Kansas City Missouri School District (the "School District") that the Redeveloper has made a \$200,000 contribution to the School District or, at the option of the School District, to the Kansas City Public Schools Education Foundation; provided, however, that in the event that the School District fails to provide such confirmation within fifteen (15) days after written request by the Commission, this condition may be satisfied by the Redeveloper by providing evidence of such contribution to the reasonable satisfaction of the Commission.

d. If the Commission determines that the Improvements, or any part thereof, have not been completed substantially in accordance with the provisions of this **Section 16** or that the Redevelopment Project Costs have not been certified pursuant to the Certification of Costs and Reimbursement Policy or the Redeveloper has not complied with the Certificate of Completion and Compliance Policy, then the Commission may, in its reasonable discretion: (i) not issue a Certificate of Completion and Compliance with respect to such Improvements; and/or (ii) issue a partial Certificate of Completion and Compliance for that portion of Improvements which the Commission determines are complete; and/or (iii) withhold certification and/or reimbursement of all or a portion of the Reimbursable Project Costs; provided however, that the Commission shall, concurrently with such determination, specify in writing the reason or reasons for not issuing a Certificate of Completion and Compliance and/or withholding its certification of Redevelopment Project Costs. Upon the request of the Redeveloper, the Commission shall hold a hearing at which the Redeveloper may present new and/or additional evidence supporting its request for certification.

e. The issuance of a Certificate of Completion and Compliance by the Commission shall be a conclusive determination of the satisfaction and termination of the covenants in this Agreement with respect to the obligations of the Redeveloper to complete the Improvements, or such portion thereof, within the dates for the beginning and completion thereof as set forth in the Redevelopment Schedule and in accordance with the criteria applicable thereto as herein set forth.

f. Each such Certificate of Completion and Compliance issued by the Commission shall contain a description of the real property affected thereby and shall be in such form as will enable such certificate to be accepted for recording in the Office of the Recorder of Deeds in the county in which such property is located.

17. Special Allocation Fund. The Commission or the City, as the case may be, shall establish and maintain a Special Allocation Fund for each Redevelopment Project, each of which shall contain no less than two (2) separate segregated accounts. Payments in Lieu of Taxes generated (if any) from the Redevelopment Project shall be deposited into the PILOT Account within the Special Allocation Fund. Economic Activity Taxes generated from the Redevelopment Project, shall be deposited into the Economic Activity Account within each Special Allocation Fund. Subject to the terms and conditions hereof, Payments in Lieu of Taxes and Economic Activity Taxes so deposited and any interest earned on such deposits will be used for the payment of Reimbursable Project Costs incurred by or on behalf of the Redeveloper or the Commission, as the case may be, including the retirement of the Obligations.

18. Payment of Redevelopment Project Costs – “Pay As You Go Basis”.

a. If the Certified Costs incurred by the Redeveloper are to be financed on a “Pay As You Go Basis”, then as funds are available within the Special Allocation Fund in accordance with the Plan and subject to the terms of the Certification of Costs and Reimbursement Policy, the Commission, shall timely reimburse the Redeveloper its Certified Costs up to the amount of the Reimbursable Project Costs Cap from available (i) collected Payments in Lieu of Taxes generated (if any) from the Effective Date of any Redevelopment Project Area and continuing until twenty-three (23) years thereafter and which are on deposit in such Special Allocation Fund, or which have been generated within said twenty-three (23) year period and deposited into the Special Allocation Fund after the end of such twenty-three (23) year period (ii) subject to the Council’s annual appropriation or collection of Economics Activity Taxes that are generated from the Effective Date of any Redevelopment Project Area and continuing until twenty-three (23) years thereafter and which are on deposit in such Special Allocation Fund, or which are generated within said twenty-three (23) year period and deposited into the Special Allocation Fund after the end of such twenty-three (23) year period (collectively, the items described in (i) and (ii) shall be referred to hereinafter as the “**TIF Revenue**”) and (iii) the Additional City Contribution received, pursuant to the Sales Tax Contribution Agreement; provided, however, that notwithstanding anything to the contrary contained herein, the Commission shall have no obligation to reimburse the Redeveloper for any of its Certified Costs unless and until Redeveloper receives a Certificate of Completion and Compliance for the Improvements or a portion thereof.

b. The Commission acknowledges that the Redeveloper will incur Financing Costs to finance the payment of Reimbursable Project Costs related to the Improvements appearing on **Exhibit D** prior to the time such costs are reimbursed and agrees that such Financing Costs incurred by Redeveloper for such Reimbursable Project Costs shall be reimbursed in accordance with the Commission's Certification of Costs and Reimbursement Policy and Interest Policy. Reimbursable interest associated with such Financing Costs shall be reimbursed to the Redeveloper following the certification of such Financing Costs. The interest rate associated with the Financing Costs shall not exceed the rate as set forth in the Commission's Interest Policy, attached hereto as **Exhibit E**. To the extent the Redeveloper has submitted to the Commission for certification Reimbursable Project Costs within sixty (60) days of the date such Reimbursable Project Costs were incurred ("**Timely Certification Request**"), the interest related to such Reimbursable Project Costs referenced in such Timely Certification Request, which may be reimbursed, shall be the amount of interest that has accrued from the date such interest was incurred. In the event a Timely Certification Request is not made, interest related to such Reimbursable Project Costs that may be reimbursed, shall be the amount of interest that has accrued from the date the Commission certifies the Reimbursable Project Costs to which such interest relates. Interest related to Financing Costs shall only be certified and reimbursed if the underlying Redevelopment Project Costs on which the interest was charged is also certified.

19. Payment of Redevelopment Project Costs – Issuance of Obligations. At any time prior to or after the execution of this Agreement, Obligations may be issued by the Commission as provided for in the Act and in one or more separate series for the purpose of financing Certified Costs. The proceeds of the Obligations may also be used to fund capitalized interest accounts, debt service reserve funds and other Financing Costs, as may be required to issue such Obligations. The Commission, or any other issuer approved by the Commission, may issue Obligations in such amount, at such times and upon such terms as determined by the Commission in its sole, but reasonable, discretion in light of all available information provided to it, including a written analysis of revenue projections performed by the Commission's underwriter or financial advisor. The Commission, or any other issuer approved by the Commission, may issue Obligations on terms, conditions and at an interest rate determined by the Commission at the time of issuance. The Commission shall have the right to select the designated bond counsel, financial advisor and Commission underwriter (and such additional consultants as the Commission deems necessary for the issuance of the Obligations). The Commission shall have sole control of the disbursement of the proceeds of the Obligations, subject to the provisions of this Agreement, the Trust Indenture related to such Obligations and the Commission's Bond Disbursement Policy, attached hereto as **Exhibit P**. The Obligations will be issued only after the Commission has evaluated information provided by the Redeveloper, including signed letters of intent, lease commitments or contracts for the development included in the Redevelopment Area, and written analysis of revenue projections performed by the Commission's underwriter or financial advisor, to reach a determination with respect to the sufficiency of projected TIF Revenue to be generated within the Redevelopment Area to pay Debt Service on the Obligations. The Commission may, at the Commission's sole discretion, but subject to the terms of the Trust Indenture related to the Obligations, pay Debt Service on Obligations issued to finance Certified Costs, in whole or in part. The interest rate, term and other conditions of the Obligations shall be determined by the Commission. The



Commission's decision to issue Obligations, which shall be at its sole discretion, may be conditioned upon the evidence of a commitment to finance provided by the Redeveloper pursuant to **Section 9**, demonstrating to the Commission's reasonable satisfaction that the Redeveloper will have sufficient funds available from sources other than Obligations to pay all Redevelopment Project Costs.

20. Payments in Lieu of Taxes.

a. Pursuant to the provisions of the Plan and the Act, including, but not limited to Section 99.845 thereof, when tax increment financing is established by ordinance for any Redevelopment Project Area, the real property located therein is subject to assessment for PILOTs. PILOTs shall be due between November 30 and December 31 of each year in which said amount is required to be paid and will be considered delinquent if not paid by December 31 of each such year; if delinquent, such PILOTs shall bear the same penalties as determined by the Commission with regard to administrative fees and costs as set forth in **Section 40**. The obligation to make said PILOTs shall be a covenant running with the land and shall create a lien in favor of the Commission on each such tax parcel as constituted from time to time that would otherwise be obligated to pay taxes had the City not adopted tax increment allocation financing and shall be enforceable by the Commission against the Redeveloper for all real property owned by the Redeveloper and its successors and assigns, as the case may be. It is anticipated Redevelopment Project Area 1 will be receiving Missouri Chapter 100 benefits in the form of one hundred percent (100%) real property tax abatement for the first twenty (20) years after the Redevelopment Project Area 1 is designated by the passage of an Ordinance by the City Council. Therefore, no PILOTs will be collected to pay any Reimbursable Project Costs at any time while such real property tax abatement is in effect. Subject to Section 99.850, the PILOTs to be generated within the Redevelopment Project Area 1 and deposited into the Special Allocation Fund while Tax Increment Financing remains in effect during years 21 through 23 of the Plan shall be declared surplus

b. Failure to pay PILOTs as to any property that would otherwise be obligated to pay taxes had the City not adopted tax increment allocation financing in any Redevelopment Project Area shall constitute a default by the owner of such property of the provisions of this **Section 20** hereof, and shall entitle the Commission, the City, the County Collector or any other government official or body charged with the collection of any such sums (any one or more of such persons hereinafter individually or collectively referred to as the "**Collection Authority**") to proceed against all or a portion of such property located within any Redevelopment Project Area and/or the owner thereof as in other delinquent property tax cases or otherwise as permitted at law or in equity, and, if applicable, such failure shall entitle the Collection Authority to seek all other legal and equitable remedies it may have to insure the timely payment of all such sums or of the principal of and interest on any outstanding Obligations (including notes or bonds) secured by such payments; provided, however, that the failure of any Redevelopment Project Area to yield sufficient PILOTs because the increase in the current equalized assessed value of such property is or was not as great as expected, shall not constitute a breach or default of this Agreement absent an action or omission of the Redeveloper that

shall independently constitute a breach or default. The Commission shall use all reasonable and diligent efforts to notify the County Collector, the City director of finance, the City Treasurer and all other appropriate officials and persons and seek to fully implement the PILOTs and reimbursements of Certified Costs as provided in this Agreement and in the Plan.

c. Notwithstanding anything to the contrary, herein, the lien on any property located within any Redevelopment Project Area shall be deemed (i) released as to any public street or other public way included within any plat proposed by the Redeveloper, effective upon the passage of an Ordinance by the City approving the same, and (ii) subordinated to the lot lines, easements and other matters established by any such plat, effective upon the passage of Ordinance by the City as aforesaid, and to any easement or like interests granted to the City or any public utility for public facilities or utilities or connection(s) thereto.

## 21. Reporting of Economic Activity Taxes

a. Pursuant to the provisions of the Plan and the Act, when tax increment financing is established by ordinance for each of any Redevelopment Project Areas, EATs shall be allocated and, when collected, shall be paid by the collecting officer to the City Treasurer for transfer to the Commission for the purpose of reimbursement or payment of Certified Costs pursuant to **Section 18(a)** hereof. The Redeveloper shall furnish to the Commission such documentation as is required by the Commission's Economic Activity Taxes Collection and Documentation Policy ("**EATs Documentation**"), attached hereto as **Exhibit K**, and shall exert reasonable efforts to contractually require purchasers, lessees or other transferees or possessors of property whose property interest or occupancy arises from a transfer by the Redeveloper and becomes effective subsequent to the execution of this Agreement (the "**Prospective Transferees**"), to comply with such obligation. The Redeveloper shall exert reasonable efforts to enforce such provisions and contractually require that the Commission be a third-party beneficiary to such provision. Such obligations of the Redeveloper and Prospective Transferees shall inure to and be binding upon the heirs, executors, administrators, successors and assigns of the respective parties as if they were in every case specifically named and shall be construed as a covenant running with the land and shall be enforceable as if such Prospective Transferee thereof was originally a party to and bound by this Agreement.

b. Failure to comply with the Economic Activity Taxes Documentation and Collection Policy with respect to any property located within any Redevelopment Project Area shall constitute a default by the Redeveloper or Prospective Transferee, as the case may be, of the provisions of **Section 21(a)** hereof, and shall entitle the Collection Authority to proceed against the Redeveloper or Prospective Transferee as in other delinquent tax cases or otherwise as permitted at law or in equity, and, if applicable, such failure shall entitle the Collection Authority to seek all other legal and equitable remedies it may have to ensure the timely payment of all such sums of the principal and interest on any outstanding bond secured by such payments; provided, however, that the failure of the Redeveloper or any Prospective Transferee owning property within any

Redevelopment Project Area to yield sufficient EATs to pay Certified Costs shall not constitute a breach or default of this Agreement absent an action or omission of the Redeveloper that shall independently constitute a breach or default. The Commission shall use all reasonable and diligent efforts to promptly notify the County Collector, the city director of finance, the City Treasurer and all other appropriate officials and persons and seek to fully implement collection of the EATs and reimbursement of Certified Costs as provided in this Agreement and in the Plan.

c. Prior to the issuance of any Certificate of Completion and Compliance for any portion of any Redevelopment Project Area, the Redeveloper shall (i) furnish, or use commercially reasonable efforts to cause all Prospective Transferees owning property within such portion of any Redevelopment Project Area to furnish their business name, address, and federal and state identification numbers, MITS number and location code, if applicable (the “**Business Information**”); (ii) provide a list of all tenants and/or business owners located within such portion of any Redevelopment Project Area (the “**Tenant List**”); and (iii) use commercially reasonable efforts to obtain and deliver to the Commission the Business Information and EATs Documentation of each tenant appearing on the Tenant List, which shall include, but shall not be limited to distributions of a letter to each such tenant appearing on the Tenant List in a form substantially similar to Exhibit L, attached hereto. Provided the Redeveloper has complied with the Economic Activity Taxes Collection and Documentation Policy, a Certificate of Completion and Compliance for any portion of any Redevelopment Project Area shall not be withheld on the basis that a party or entity not owned or controlled by the Redeveloper has failed to comply with the requirements of this Section.

## 22. Sale or Disposition of Project Property

a. Continuation of Payments In Lieu of Taxes. Subject to this **Section 22**, the Redeveloper, or any Prospective Transferee, may sell, transfer, convey, lease or otherwise dispose of any of the property located within any Redevelopment Project Area. In the event of the sale, lease or other voluntary or involuntary disposition of any or all of the real property of the Redeveloper or any Prospective Transferee located within any Redevelopment Project Area, PILOTs with respect to the real property so sold or otherwise disposed of shall continue and shall constitute a lien against the property from which they are derived, and such obligations shall inure to and be binding upon the owners of the property sold or transferred and their heirs, executors, administrators, successors and assigns and shall be construed as a covenant running with the land and enforceable as if such purchaser, transferee or other possessor thereof were originally a party to and bound by this Agreement.

b. Obligation to Ameliorate Existing Conditions. The Redeveloper’s undertakings pursuant to **Section 7** hereof, unless earlier satisfied and certified pursuant to **Section 16** hereof, shall inure to and be binding upon the heirs, executors, administrators, successors and assigns of the Redeveloper as if they were in every case specifically named and shall be construed as a covenant running with the land and enforceable against purchasers or lessees of all or substantially all of any Redevelopment Project Area as if such purchaser or lessee were originally a party to and bound by this

Agreement; provided, however, that the foregoing shall not apply to any party under any sale or lease of a parcel for the construction thereon of improvements to be used by the purchaser or lessee of the parcel or its affiliate (such as a sale, lease or transfer of a particular building area, or a build-to-suit project where a party takes a parcel to prepare and lease it to another party, within any Redevelopment Project Area for the construction and operation thereon) so long as such purchaser or lessee of the parcel or its Affiliate does not seek or receive any TIF Revenue for the cost of such improvements (an “Occupant”); and provided, further, that notwithstanding the foregoing, no Occupant shall be obligated under this Agreement except as an owner of property pursuant to **Section 20** hereof or as a Prospective Transferee pursuant to **Sections 21, 22** and **25** hereof, if applicable.

c. **Incorporation.** From and after the effective date of this Agreement, the restrictions set forth above in **Section 22.a** as well as those set forth in **Sections 20** and **21** and, to the extent any transferee, purchaser or assign desires to exercise any rights and interests of the Redeveloper under this Agreement, the Redeveloper shall include the restrictions set forth above in **Section 22.a** as well as those set forth in **Sections 20** and **21** and **Sections 7, 8, 10, 11–16, 18–34, 40–41, and 49–50**, hereof, into any lease, deed or other instrument conveying a controlling interest to a party that is not an Affiliate in the real property located within the Redevelopment Area and shall provide that said obligations or restrictions shall constitute a benefit held by both the Redeveloper and the Commission. Failure of the Redeveloper to require that such restrictions be placed in any such lease, deed or other instrument shall constitute a breach of this Agreement, but in no way modify, lessen or diminish the obligations and restrictions set forth herein relating to the Plan. Notwithstanding anything to the contrary in this Agreement, including without limitation any provision of this Agreement that provides for any terms or provisions to run with the land or to be binding on successors and assigns, it is agreed that only **Sections 20, 21** and **22.a** shall be binding upon any transferee, purchaser or assignee that does not seek to exercise any rights and interests of the Redeveloper under this Agreement; provided, however, the obligations related to such provisions shall not be transferred or assigned to the City or any governmental body or agency selected by the City to facilitate the bond financing contemplated by Committee Substitute for Ordinance No. 160163 and/or Committee Substitute for Ordinance No. 200265.

d. **Notification to Commission of Transfer.** From and after the date of this Agreement, the Redeveloper or Prospective Transferee, as the case may be, shall (i) notify the Commission in writing of any sale, lease or other disposition of any portions of the Real Estate and (ii) notify Commission’s attorney in writing within thirty (30) days after the effective date of such sale, lease or other disposition of the Business Information of such Prospective Transferees; provided, however, the obligation to notify the Commission provided herein shall not apply to a transfer to the City or any governmental body or agency selected by the City to facilitate the bond financing contemplated by Committee Substitute for Ordinance No. 160163 and/or Committee Substitute for Ordinance No. 200265.

23. Assignment

a. The Redeveloper represents that its undertakings pursuant to this Agreement are for the purpose of redevelopment and not for speculation.

b. Without limiting the rights of the Redeveloper or any third party under **Section 22** hereof, the Redeveloper agrees that this Agreement and the rights, duties and obligations hereunder may not and shall not be assigned by the Redeveloper without the written consent of the Commission obtained in advance of the assignment, which consent shall be granted in the event that the Commission determines in its reasonable discretion that the proposed assignee has the financial ability to perform the Redeveloper's duties and obligations under this Agreement in relation to the portion of the Improvements to be undertaken by such proposed assignee and the proposed assignee shall agree in writing to perform the Redeveloper's duties and obligations under this Agreement. Any approved assignee shall, by an instrument in writing, for itself and its successors and assigns, and expressly for the benefit of the Commission, assume all of the obligations of the Redeveloper under this Agreement as to all or part of the Improvements and Redevelopment Project Area being assigned and agree to be subject to all the conditions and restrictions to which the Redeveloper is subject (or, in the event the transfer is of or relates to a portion of the Redevelopment Area, such obligations, conditions and restrictions to the extent that they relate to such portion). If an assignment by Redeveloper occurs, all of the obligations, representations and warranties in this Agreement shall be binding on the assignee as "**Redeveloper,**" and Redeveloper or such assignor shall be immediately released and discharged from any and all obligations and liabilities under this Agreement arising after the date of the assignment. Nothing herein shall limit or prohibit Redeveloper from selling a non-controlling participation or interest in Redeveloper to a third party.

c. Notwithstanding the foregoing, the Commission's consent shall not be required for the Redeveloper to assign all rights and delegate all duties under this Agreement to an Affiliate.

d. Collateral Assignment. Notwithstanding the provisions of this **Section 23**, for purposes of securing the Plan Financing contemplated by **Section 9**, Redeveloper may assign or pledge its rights under this Agreement to any lender without the Commission's consent; provided that Redeveloper and such lender enter into a separate collateral assignment contract with the Commission in a form approved by the Commission. Such assignment or pledge shall remain subject to the terms, provisions and conditions of this Agreement and the collateral assignment contract.

24. MBE/WBE Ordinance. In connection with the implementation of the Improvements, the Redeveloper will comply with Ordinance No. 180535, as further amended and as may be amended from time to time (the "**MBE/WBE Ordinance**") and contractually require its contractors and subcontractors to comply with the terms and provisions of the MBE/WBE Ordinance, exert good faith efforts to enforce such provisions to the maximum extent permitted by law and further provide that the Commission shall be a third-party beneficiary with respect to the compliance and enforcement of such provisions. The MBE/WBE

Ordinance is intended to remedy past discrimination in contracts entered in with the City and the agencies enabled by the City, including the Commission by (a) establishing affirmative action goals with respect to the aggregate amount of all costs incurred in connection with the implementation of the Improvements, (b) requiring the Redeveloper to exert good faith efforts to meet such goals, (c) requiring the Redeveloper to deliver a professional services utilization plan and construction service utilization plan (the “**Utilization Plans**”) to the Human Relations Department of the City for its approval and (d) requiring the Redeveloper to exert good faith efforts, as determined in accordance with the MBE/WBE Ordinance, to comply with such utilization plan during the implementation of the Project Improvements and Public Improvements. The MBE/WBE Ordinance is intended to provide an equal opportunity for MBE’s, WBE’s, minorities and women to participate in the development of TIF-assisted redevelopment projects (“**Minority Participants**”). Prior to or simultaneously with the certification and reimbursement of any Redevelopment Costs incurred by the Redeveloper in connection with the Improvements, the Redeveloper shall report to the Commission the progress of the Redeveloper’s utilization of Minority Participants in the completion of the implementation of the Improvements and, within sixty (60) days of the completion of the Improvements, the Redeveloper shall provide a final report, which shall describe the utilization of Minority Participants in connection with the completion of the implementation of the Improvements. The Redeveloper will adhere to such reasonable rules, regulations, reporting procedures and forms which the Commission may from time to time promulgate for the purpose of facilitating uniform, orderly and efficient compliance with the MBE/WBE Ordinance and which do not alter the goals established by the City and incorporated within the Utilization Plans. Prior to any costs being incurred with respect to the Improvements, Utilization Plans, for the Improvements will be submitted to and approved by the City, in accordance with the MBE/WBE Ordinance.

25. Permitted Uses.

a. The Redeveloper shall take such action as is from time to time necessary to permit only such uses on property owned or controlled by the Redeveloper within any Redevelopment Project Area which conform to and are permitted by the Plan, and this Agreement.

b. The provisions of this **Section 25** shall be covenants running with the land and shall remain in effect for the duration of the Term. They shall be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and be enforceable by, the Commission, its successors and assigns, against the Redeveloper and its Prospective Transferees, their successors and assigns, and every successor in interest to the subject real property, or any part of it or any interest in it and any party in possession or occupancy of the real property or any part thereof (provided, subject to the provisions of **Section 22** hereof, that any such covenants shall be binding on the Redeveloper itself, such successor in interest to the subject property, and every part of the subject real property, and each party in possession or occupancy of the subject real property or any part thereof, only during their period of ownership).

26. Work Force. With respect to the implementation of the Improvements, the Redeveloper shall comply with the Commission’s Workforce Policy as amended from time to time and attached hereto as **Exhibit M** (the “**Workforce Policy**”) and incorporated herein by this

reference, and cause its Construction Contractors and subcontractors to comply with the terms and provisions of the Workforce Policy, exert good faith efforts to enforce such provisions to the maximum extent permitted by law and further provide that the Commission shall be a third party beneficiary with respect to the compliance and enforcement of such provisions. The Workforce Policy supports and implements the City's Code of General Ordinances, (Chapter 3, Article IV, Division 2, Sections 3-501 through 3-525, which creates a construction employment program ("**City Construction Employment Program**") that establishes goals for the employment of minority, women and resident workers for certain Construction Contractors engaged by the City, its departments and agencies, including the Commission.

27. Payment of Prevailing Wages. The Redeveloper shall (a) pay and cause all its Construction Contractors and subcontractors to pay prevailing wage rates set forth in the then existing applicable Annual Wage Order as established pursuant to RSMo § 290-210 through § 290-340, inclusive, for any scopes of work related to any portion of the Improvements for which Reimbursable Project Costs are anticipated to be paid or reimbursed pursuant to the terms and conditions of this Agreement, (b) comply with the procedures set forth on **Exhibit N**, attached hereto, and (c) indemnify, protect, defend and hold the Commission Indemnified Parties (as hereafter defined) harmless from and against any and all third-party claims, demands, liabilities and costs, including reasonable attorneys' fees, costs and expenses, arising from damage or injury, actual or claimed, of whatsoever kind or character (including consequential and punitive damages if awarded by a court of competent jurisdiction) occurring or allegedly occurring as a result of the Redeveloper's failure to comply with this **Section 27**.

28. Environmental Compliance, Indemnification and Insurance

a. The Redeveloper represents and warrants that:

(i) with respect to real property owned by the Redeveloper and located within the Redevelopment Area and on which the Improvements are made or constructed ("**Real Estate**"), it shall comply with the Commission's Environmental Policy, attached hereto as **Exhibit O**, and all applicable Environmental Laws;

(ii) to the best of its actual knowledge, it has complied with all applicable Environmental Laws with respect to the Real Estate (including soils, groundwater, surface water, buildings or other structures);

(iii) except as disclosed on **Exhibit P**, attached hereto, to the best of its actual (as opposed to constructive) knowledge, during the period of its ownership thereof, the Real Estate has not become contaminated with any Hazardous Substances at levels above applicable cleanup standards; and

(iv) based upon a Phase 1 Environmental Report previously provided to the Commission, it has neither received notice and it is not aware that it or any previous owner of the Real Estate is subject to liability for any Hazardous Substance disposal or contamination on the Real Estate above any de minimis non-reportable levels, nor has it received notice that it or any previous owner of

the Real Estate is subject to liability for any release or threat of release of any Hazardous Substance.

b. The Redeveloper hereby agrees to remediate all conditions identified on **Exhibit P** that relate to property upon which Improvements are to be constructed and are required to be in compliance with all Environmental Laws, including the removal or encapsulation of any lead-based paint, and thereafter submit to the Commission any notice, demand, letter, claim or request for information the Redeveloper receives indicating that it may be in violation of or liable under any Environmental Law with respect to the Real Estate.

c. As used herein, the term “**Environmental Law**” means any applicable federal, state or local law, regulation, order, decree, permit, authorization, opinion, common law relating to: (i) the protection, investigation or restoration of the environment, health, safety, or natural resources, (ii) the handling, use, presence, disposal, release or threatened release of any Hazardous Substance, (iii) noise, odor, wetlands, pollution, or contamination or (iv) standards of conduct concerning protection of human health (including, without limitation, employee health and safety), in each case as amended and as now or hereafter in effect, and the term “**Hazardous Substance**” means any substance that is: (A) oil or other petroleum products, (B) “**hazardous wastes**,” as defined by the Resource Conservation and Recovery Act, as amended (RCRA), 42 U.S.C. § 6901 *et seq.*, or similar state or local law, ordinance, regulation or order, (C) “**hazardous substances**,” as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. § 9601 *et seq.*, or similar state or local law, ordinance, regulation or order, (D) “**hazardous materials**,” as defined by the Hazardous Materials Transportation Act, as amended (HMTA), 49 U.S.C. § 1802, or similar state or local law, ordinance, regulation or order, (E) radioactive materials subject to the Atomic Energy Act, as amended (AEA), 42 U.S.C. § 2014 *et seq.*, or similar state or local law, ordinance, regulation or order, and (F) any other pollutant, contaminant, chemical, or substance whose presence creates or could create a hazard to health or the environment or a violation of any federal, state or local Environmental Law.

d. The Redeveloper shall fully protect, defend, indemnify, and hold harmless in full the Commission and its officers, directors, agents and employees (collectively, the “**Commission’s Indemnified Parties**”), from and against, and shall reimburse the Commission’s Indemnified Parties for, any and all losses, claims, actions, liabilities, damages, injunctive relief, injuries to persons, property or natural resources, fines, penalties, costs, reasonable expenses (including, without limitation, reasonable attorneys’ fees, consultants’ fees, expenditures, expenses and court costs), causes of action and sums paid in settlement of litigation arising directly or indirectly, in whole or in part, from any violation of any Environmental Law with respect to the Real Estate, as well as any Release, threatened Release, presence, Clean-up, treatment, transport, handling or disposal, of any Hazardous Materials at, on, under, in or from the Real Estate or in the air, land surface, subsurface strata, soil, surface water, groundwater or soil vapor on, under, in or from all or any part of the Real Estate, or resulting from the migration or the alleged or potential migration of Hazardous Materials from the Real Estate (collectively,



**“Environmental Costs”**). Without limiting the foregoing, Environmental Costs shall include (i) all costs of Clean-up, including remediation, testing, monitoring and restoration of any kind, and any disposal of Hazardous Materials, (ii) all costs and liabilities associated with claims for, damages to, and remedial action related to Hazardous Materials on, at, in or from the Real Estate, or impacting natural resources wherever located, (iii) all fines and other penalties associated with claims of noncompliance with any Environmental Laws which are related to Hazardous Materials at the Real Estate.

(i) **“Clean-up”** shall mean removal and/or remediation of, or other response to (including, without limitation, testing, monitoring, sampling or investigating of any kind) any Release of Hazardous Materials or contamination, to the satisfaction of all applicable governmental agencies, in compliance with Environmental Laws and in compliance with good commercial practice.

(ii) **“Release”** shall mean the spilling, leaking, disposing, discharging, emitting, depositing, injecting, leaching, escaping, or any other release or threatened release, however defined, and whether intentional or unintentional, of any Hazardous Material.

## 29. Indemnification

a. The Redeveloper and any successor or assign which assumes Redeveloper’s obligations under this Agreement (the **“Indemnifying Parties”**) shall indemnify, protect, defend and hold the Commission Indemnified Parties harmless from and against any and all third-party claims, demands, liabilities and costs, including reasonable attorneys’ fees, costs and expenses, arising from damage or injury, actual or claimed, of whatsoever kind or character (including consequential and punitive damages if awarded by a court of competent jurisdiction), to persons or property occurring or allegedly occurring as a result of any acts or omissions of the Indemnifying Parties, their respective constituent members or partners, their employees, agents, independent contractors, licensees, invitees or others acting by, through or under such Indemnifying Parties, in connection with its or their activities conducted pursuant to this Agreement and/or in connection with the ownership, use or occupancy and development or redevelopment of the Improvements.

b. In the event any suit, action, investigation, claim or proceeding (collectively, an **“Action”**) is begun or made as a result of which the Indemnifying Parties may become obligated to one or more of the Commission Indemnified Parties hereunder, the Commission Indemnified Party shall give prompt notice to the Indemnifying Parties of the occurrence of such event, but the failure to notify the Indemnifying Parties will not relieve the Indemnifying Parties of any liability that it may have to a Commission Indemnified Party. After receipt of such notice, the Indemnifying Parties may elect to defend, contest or otherwise protect the Commission Indemnified Party against any such Action, at the cost and expense of the Indemnifying Parties utilizing counsel of the Indemnifying Parties’ choice. The Commission Indemnified Party shall have the right, but not the obligation, to participate, at the Commission

Indemnified Party's own cost and expense, in the defense thereof by counsel of the Commission Indemnified Party's choice. In the event that the Indemnifying Parties shall fail timely to defend, contest or otherwise protect Commission Indemnified Party against such Action, the Commission Indemnified Party shall have the right to do so, and (if such defense is undertaken by the Commission Indemnified Party after notice to the Indemnifying Parties asserting the Indemnifying Parties' failure to timely defend, contest or otherwise protect against such Action), the Commission Indemnified Party may submit any bills for reasonable fees and third-party costs received from its counsel to the Indemnifying Parties for payment and, within thirty (30) days after such submission, the Indemnifying Parties shall transfer to the Commission Indemnified Party sufficient funds to pay such bills. The Indemnifying Parties acknowledge that such bills may be redacted to delete any information which would constitute attorney-client communication or attorney work product.

c. A Commission Indemnified Party shall submit to the Indemnifying Parties any settlement proposal that the Commission Indemnified Party shall receive. The Indemnifying Parties shall be liable for the payment of any amounts paid in settlement of any Action to the extent that the Indemnifying Parties consent to such settlement. Neither the Indemnifying Parties nor the Commission Indemnified Party will unreasonably withhold its consent to a proposed settlement.

d. The Indemnifying Parties expressly confirm and agree that they have provided this indemnification and assume the obligations under this Agreement imposed upon the Indemnifying Parties, in order to induce the Commission to enter into this Agreement. To the fullest extent permitted by law, a Commission Indemnified Party shall have the right to maintain an action in any court of competent jurisdiction to enforce and/or to recover damages for breach of the rights to indemnification created by, or provided pursuant to, this Agreement. If such court action is successful, the Commission Indemnified Party shall be reimbursed by the Indemnifying Parties for all fees and expenses (including reasonable attorneys' fees) actually and reasonably incurred in connection with such action (including, without limitation, the investigation, settlement or appeal of such action).

e. The right to indemnification set forth in this Agreement shall survive the termination of this Agreement.

f. Notwithstanding anything contained herein to the contrary, Redeveloper shall not be liable to the Commission's Indemnified Parties pursuant to the foregoing indemnity to the extent arising from the gross negligence or willful misconduct of the Commission's Indemnified Parties.

30. Events of Default. An "**Event of Default**" shall be deemed to have occurred if:

a. Failure to Implement Improvements and Adjoining Improvements. The Redeveloper fails to implement the Improvements in accordance with the terms and conditions of this Agreement, subject to Excusable Delays pursuant to **Section 36**, and such failure continues uncured for thirty (30) days after the Commission has provided

notice of such failure, pursuant to **Section 37**; provided, however, that if such failure cannot be cured within thirty (30) days and the Redeveloper is proceeding diligently, as reasonably determined by the Commission, to cure such failure, then the thirty (30) day cure period will be extended to a reasonable time period to allow for such a cure. Notwithstanding anything herein to the contrary, an Event of Default shall occur after the Commission has provided thirty (30) days' notice to the Redeveloper, pursuant to **Section 37**, for failure to complete the Improvements in accordance the Redevelopment Schedule, provided such failure is not the result of an Excusable Delay.

b. Failure to comply with Commission Policies. The Redeveloper breaches or fails to perform or observe any provision contained in the Commission's Policies, attached hereto, as such policies may be adjusted herein, including, but not limited to, the Economic Activity Taxes Collection and Documentation Policy, the Affirmative Action Policy, the Workforce Policy, the Procedures for Payment of Prevailing Wages, and the Environmental Policy, and such failure continues uncured for thirty (30) days after the Commission has provided notice of such failure, pursuant to **Section 37**; provided, however, that if such failure cannot be cured within thirty (30) days and the Redeveloper is proceeding diligently, as reasonably determined by the Commission, to cure such failure, then the applicable thirty (30) day cure period will be extended to a reasonable period of time to allow for such a cure.

c. Representations. Any representation or warranty contained in this Agreement or information required to be furnished to the Commission, including, but not limited to, any modification to Plan Financing described by **Section 9**, the Progress Reports described by **Section 11**, or any other writing furnished by the Redeveloper, is false or misleading in any material respect on the date made or furnished; provided, however, that to the extent that any such falsity of a representation or warranty is capable of being corrected, Redeveloper shall not be in default hereunder if Redeveloper shall correct such falsity within thirty (30) days after the Commission has provided notice of such failure, pursuant to **Section 37** and such failure shall not have adversely impacted or disadvantaged the Commission; provided, however, that if such falsity is capable of being corrected but cannot be corrected within thirty (30) days and the Redeveloper is proceeding diligently, as reasonably determined by the Commission, to correct such falsity, then the thirty (30) day cure period will be extended to a reasonable time period to allow for such correction, provided such falsity has not adversely impacted or disadvantaged the Commission.

d. Insolvency. The Redeveloper is unable to pay its debts generally as they become due, makes an assignment for the benefit of creditors, or an order, judgment, decree or injunction is entered adjudicating the Redeveloper bankrupt or insolvent or requiring the dissolution or split up of the Redeveloper or preventing the Redeveloper from conducting all or any part of its business; or any order for relief with respect to the Redeveloper is entered under the Federal Bankruptcy Code; or the Redeveloper petitions or applies to any tribunal for the appointment of a custodian, trustee, receiver or liquidator of the Redeveloper, or of any substantial part of the assets of the Redeveloper, or commences any proceeding relating to the Redeveloper under any bankruptcy reorganization, arrangement, insolvency, readjustment of debt, dissolution or liquidation

or similar laws of any jurisdiction now or hereafter in effect; or any such petition or application is filed, or any such proceeding is commenced, against the Redeveloper and either the Redeveloper by any act indicates its approval thereof, consent thereto or acquiescence therein or such petition, application or proceeding is not dismissed within sixty (60) days.

e. Failure to Pay Taxes. The Redeveloper, subject to the Redeveloper's right to contest the same in any manner permitted by law, shall fail to pay when due all taxes levied upon any real or personal property owned by the Redeveloper or any of its Affiliates and located in the City.

f. Failure to Maintain the Property. The Redeveloper fails to maintain the Real Estate in accordance with the provisions of **Section 12**; and such failure continues uncured for thirty (30) days after the Commission has provided notice of such failure, pursuant to **Section 37**; provided, however, that if such failure cannot be cured within thirty (30) days and Redeveloper is proceeding diligently, as reasonably determined by the Commission, to cure such failure, then the applicable thirty (30) day cure period will be extended to the time reasonably necessary to cure such failure;

g. Failure to Submit Reports. The Redeveloper fails to submit reports within the specified time periods set forth in this Agreement, including, but the limited to, the Progress Reports described by **Section 11**, the reports required by the Affirmative Action Policy, the reports required by the Workforce Policy, the Notice of Completion required by **Section 16** and the annual financial statement required by **Section 49(b)**; and such failure continues uncured for thirty (30) days after the Commission has provided notice of such failure, pursuant to **Section 37**; provided, however, that if such failure cannot be cured within thirty (30) days and the Redeveloper is proceeding diligently, as reasonably determined by the Commission, to cure such failure, then the thirty (30) day cure period will be extended to a reasonable time period to allow for such a cure.

h. Failure to Incorporate Provisions. The Redeveloper fails to comply with **Section 22**, in connection with the sale or transfer of property within the Redevelopment Area.

i. Cross-Defaults; Failure to Observe Other Obligations. There is an "**Event of Default**" has occurred and is continuing beyond the applicable cure period, or the Redeveloper fails to perform it obligations under any other agreement between the Commission and the Redeveloper. The foregoing shall constitute "**Events of Default**" whatever the reason or cause for any such Event of Default and whether it is voluntary or involuntary or is effected by operation of law or pursuant to any judgment, decree or order of any court or any order, rule or regulation of any administrative or governmental body.

j. Event of Default by Commission. If the Commission does not comply with provisions of this Agreement within the time limits and in the manner set forth in this Agreement, in that the Commission shall do, permit to be done, or fail or omit to do, or shall be about so to do, permit to be done, or fail or omit to have done, anything

contrary to or required of it by this Agreement or the Act, as it pertains to this Agreement, and if, within thirty (30) days after written notice of such default by the Redeveloper to the Commission, pursuant to **Section 37**, the Commission shall not have cured such default or commenced such cure and be diligently pursuing the same, as reasonably determined by the Redeveloper, if such cure would reasonably take longer than said thirty (30) day period, then the Redeveloper may institute such proceedings as may be necessary in its opinion to cure the default including, but not limited to, proceedings to compel specific performance by the Commission. If any action is instituted by the Redeveloper hereunder, the Commission shall pay any and all costs, fees and expenses, including reasonable attorneys' fees incurred by the Redeveloper enforcing this Agreement, if the Redeveloper prevails on its claim; provided, however, the Commission's obligation to pay such costs, fees and expenses shall be limited to amounts available within the Special Allocation Fund, which have not been previously pledged or otherwise encumbered by contract, and any such amounts so paid shall be in addition to amounts due to Redeveloper to pay Reimbursable Project Costs hereunder.

31. Consequences of Events of Default

a. If any Event of Default described in **Section 30** has occurred and is continuing beyond the applicable cure period, the Commission, (i) shall have no obligation to certify Redevelopment Project Costs incurred by the Redeveloper or reimburse the Redeveloper for any Certified Costs, (ii) may terminate this Agreement (iii) apply any deposit or other funds submitted by the Redeveloper to the Commission in payment of the damages suffered by it, (iv) withhold or apply funds claimed by the Redeveloper from the Special Allocation Fund for reimbursement of Certified Costs incurred in connection with the Plan to such extent as is necessary to protect the Commission from loss or to insure the Improvements are fully and successfully implemented in a timely fashion, (v) withhold issuance of a Certificate of Completion and Compliance for all or any portion of the Improvements where a Certificate of Completion and Compliance has not already been issued. If any action is instituted arising from this Agreement, the prevailing party in such action shall be entitled to recover from the other party all costs, fees and expenses, including reasonable attorneys' fees incurred; provided, however, the Commission's obligation to pay any costs, fees or expenses, including reasonable attorneys' fees shall be limited to amounts on deposit, from time to time, in the Special Allocation Fund.

b. The rights and remedies of the parties provided by this Agreement shall be cumulative and the exercise by either party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same Event of Default. No waiver made by a party shall be effective unless in writing, nor shall it apply to obligations beyond those expressly waived. The rights and remedies of the parties provided by this Agreement shall be such party's exclusive remedy.

c. The Redeveloper (for itself and its successors and assigns, and for all other persons who are or who shall become liable, by express or implied assumption or otherwise, upon or subject to any obligation or burden under this Agreement), waives to the fullest extent permitted by law and equity all claims or defenses otherwise available

on the ground of being or having become a surety or guarantor, whether by agreement or operation of law. This waiver includes, but is not limited to, all claims and defenses based upon extensions of time, indulgence or modification of terms of contract.

d. Any delay by the Commission in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this **Section 31** shall not operate as a waiver of such rights or limit them in any way. No waiver in fact made by the Commission of any specific default by the Breaching Party shall be considered or treated as a waiver of the rights of the Commission with respect to any other Events of Default by the Redeveloper, or with respect to the particular default except to the extent specifically waived.

e. **NOTWITHSTANDING ANYTHING HEREIN STATED IN THIS AGREEMENT TO THE CONTRARY, ANY UNRESOLVED DISPUTE WITH RESPECT TO THIS SECTION SHALL BE SUBMITTED TO NON-BINDING ARBITRATION BY A SINGLE ARBITRATOR BEFORE ANY UNRESOLVED DISPUTE SHALL BE SUBMITTED TO A COURT HAVING JURISDICTION OVER SUCH DISPUTE.** The arbitrator shall be a person located in the Kansas City metropolitan area agreed to by the parties. If the parties cannot agree to an arbitrator, the selection shall be made by the Presiding Judge of the Circuit Court of Jackson County, Missouri, on the application of either party. All expenses and fees of the arbitration and the arbitrator shall be assessed by the arbitrator as he or she finds equitable and just based on his or her findings with respect to the dispute arbitrated; provided, however, that each party shall bear the expenses and fees of any attorneys, accountants, expert witnesses or others appearing or submitting any materials on such party's behalf. Otherwise, the Commercial Arbitration Rules and Regulations of the American Arbitration Association, or any successor body, shall apply. Upon receipt of the finding of the arbitrator, the parties may: (i) agree to enter the finding with an appropriate court as the final determination of the disputed issue, (ii) reach a separate settlement agreement, or (iii) take further action as described below.

Within thirty (30) days of receipt of the decision by the arbitrator, either party may notify the other of an intention to submit the dispute to the court having jurisdiction over the matter. In the event the notifying party does not file a petition with the appropriate court within thirty (30) days after receipt of the arbitrator's decision, the decision by the arbitrator shall be binding and final. If the dispute is timely submitted to a court with jurisdiction over the matter, such dispute shall be heard as a new petition and not as an arbitration appeal. The award of the tribunal shall be final and binding (save for manifest error of law), and judgment shall be entered by a court having jurisdiction thereof. As part of the judgment granted, the substantially prevailing party (as determined by the tribunal's judgment) shall be awarded its reasonable court costs, reasonable attorneys' fees, and other reasonable costs incurred in pursuing the matter before a court.

f. No member, official, representative, agent or employee of the Commission shall be personally liable to Redeveloper or any successor in interest in the event of any default or breach by the Commission for payment of any amount which may become due to Redeveloper or its successor in interest or for the performance of any obligations under

the terms of the Agreement. No partner, shareholder, member, officer, director representative, agent or employee of Redeveloper or any of its Affiliates shall be personally liable to the Commission in the event any default or breach by Redeveloper for payment of any amount which may become due to Redeveloper or its successor in interest or for the performance of any obligations under the terms of the Agreement.

32. Modification. The terms, conditions and provisions of this Agreement can be neither modified nor eliminated except by written agreement between the Commission and the Redeveloper; provided, however, the Plan may be further amended by the City Council without the consent of either the Commission or the Redeveloper, but such amendment shall not modify or alter the obligations of the Redeveloper to implement the Improvements as set forth herein, unless agreed to, in writing, by the Redeveloper. Any such modification to this Agreement as approved shall be attached hereto and incorporated herein by reference. Notwithstanding anything herein to the contrary, neither this Agreement, including **Section 10** or this **Section 32** nor any exhibit incorporated herein and related thereto shall be modified, amended or supplemented, unless and until the parties hereto obtain the prior written consent of the City.

33. Reserved.

34. Term. This Agreement shall become effective on the date set forth herein, and shall remain in full force and effect until the completion of all Improvements called for in the Plan, as described herein, and so long thereafter (a) as obligations remain outstanding under this Agreement and (b) there are any remaining Certified Costs, which have not been reimbursed to the Redeveloper in accordance with this Agreement from TIF Revenue. Unless terminated pursuant to **Section 31**, at such time as all of the obligations and costs set forth in the preceding sentence have been satisfied and reimbursed, this Agreement shall terminate, provided that in any event, and notwithstanding anything to the contrary, the obligations of the Redeveloper and Commission arising under the terms and conditions of this Agreement, with respect to the Redevelopment Project and the Improvements, including, but not limited to, the reimbursement of Certified Costs, shall cease twenty-three (23) years after the Effective Date of the latest approved Redevelopment Project by Ordinance by the City, or when all other Reimbursable Project Costs have been repaid, whichever is earlier. Provided the Redeveloper is not in default of its obligations under this Agreement or this Agreement is not otherwise terminated, notwithstanding the foregoing, but only to the extent permitted by applicable law, TIF Revenue that accrued or was generated prior to the expiration of the twenty-three year period, but which was not deposited into the Special Allocation Fund or otherwise made available for reimbursement shall, at the time such TIF Revenue is deposited into the appropriate Special Allocation Fund, be used to reimburse the Redeveloper or the Commission, as the case may be, for any and all Redevelopment Project Costs incurred by the Commission or Certified Costs incurred by the Redeveloper prior to the conclusion of the twenty-three year period.

35. Applicability. This Agreement shall apply only to the Plan, Redevelopment Project, the Redevelopment Project Costs and Improvements.

36. Delays. The parties understand and agree that the Redeveloper shall not be deemed to be in default or breach of this Agreement because of delays or temporary inability to proceed due in whole or in part to causes beyond the reasonable control or without the material

fault of the Redeveloper (collectively, “**Excusable Delays**”). With the approval of the Commission, the time of performance hereunder shall be extended for the period of any Excusable Delays caused or resulting from any of the foregoing causes, it being understood that the Redeveloper is entitled to such extensions upon presentation of reasonable evidence and/or documentation of the periods of such Excusable Delays.

37. Notice. All notices required by this Agreement shall be in writing and shall be served either personally or by certified mail, or by any other delivery service which obtains a receipt for delivery unless any such notice is required by law and such law provides a different form of delivery or service. Any such notice or demand served personally shall be delivered to the party being served (provided that such notice may be delivered to the receptionist or any other person apparently in charge of such party’s office at its address hereinafter set forth), and shall be deemed complete upon the day of actual or attempted delivery, as shown by an affidavit of the person so delivering such notice. Any notice so served by certified mail shall be deposited in the United States Mail with postage thereon fully prepaid and addressed to the party or parties so to be served at its address hereinafter stated, and service of any such notice by certified mail shall be deemed complete on the date of actual or attempted delivery as shown by the certified mail receipt. Service of any such notice by another delivery service shall be deemed complete upon the date of actual or attempted delivery as shown on the receipt obtained by such delivery service.

Any notice to the Commission shall be addressed to the Secretary of the Commission at:

Tax Increment Financing Commission of Kansas City, Missouri  
300 Wyandotte, Suite 400  
Kansas City, Missouri 64105  
Attn: Executive Director

with a copy to:

Bryan Cave Leighton Paisner LLP  
3800 One Kansas City Place  
1200 Main Street  
Kansas City, Missouri 64105  
Attn: Wesley O. Fields, Esq.

Notices to the Redeveloper shall be addressed to:

Delta Quad Holdings, LLC  
c/o Roos Enterprises  
70932 Cambridge Court  
Niles, Michigan 49120  
Attn: David Roos



with a copy to:

Lewis Rice  
1010 Walnut, Suite 500  
Kansas City, Missouri 64106  
Attn: Douglas S. Stone, Esq.

Each party shall have the right to specify that notice be addressed to any other address by giving to the other party ten (10) days written notice thereof.

38. Recording. Upon full execution by the Redeveloper and the Commission of this Agreement, a memorandum of this Agreement shall be recorded by the Commission in the Jackson County's Office of the Recorder of Deeds.

39. Headings. The headings or captions of this Agreement are for convenience and reference only, and in no way define, limit or describe the scope or intent of the contract or any provisions hereof.

40. Administrative Fees and Costs.

a. In order to reimburse the Commission for its administrative costs and expenses (including staff time) in connection with administering tax increment financing with respect to the Plan, the Improvements and the performance of its obligations under this Agreement, the Commission and the Redeveloper have entered into the Funding Agreement. Any of the Commission's actual and reasonable costs and expenses which are not covered by the Funding Agreement for the services incidental to the Plan, which shall include, but shall not be limited to the following: professional services, including outsourced services such as financial analysis, construction and/or engineering review, legal services, certification of funds, audits, staff time, notices, mailings and copies shall be paid by the Redeveloper within thirty (30) days of having been billed for same and, to the extent permitted by Exhibit 5A to the Plan, may be claimed by the Redeveloper as Reimbursable Project Costs. In the event the Redeveloper disputes any such fees or expenses, such disputes shall be resolved in a manner pursuant to the Commission's Policy on Disputed Charges, attached hereto as Exhibit Q. If payment of said expenses has not been made in full within thirty (30) days of having been billed, a one and one-half percent (1.5%) fee will be applied to the unpaid balance as a late penalty. A one and one-half percent (1.5%) penalty fee will continue to accumulate monthly thereafter, up to a maximum cumulative penalty of eighteen percent (18%), until payment of all billed expenses and all penalties are paid in full.

b. The Commission shall retain as its administrative fee an amount equal to five percent (5%) of the EATS and PILOTS deposited into the Special Allocation Fund.

41. Relocation Costs. The Commission shall not be responsible for any relocation activity or costs thereof that may be required by law to be paid. The Redeveloper shall provide relocation services and benefits as provided for under the Plan and agrees to indemnify and hold the Commission harmless from any claim, cost or expense for said services and benefits made by individuals and entities arising from the implementation of the Plan, except that such costs,

which are approved by the City, shall be deemed by the Commission to be Redevelopment Project Costs. Notwithstanding the foregoing, the Commission, in its sole discretion, may assist in administering relocation activity if requested by the Redeveloper.

42. Validity and Severability.

a. It is the intention of the parties hereto that the provisions of this Agreement shall be enforced to the fullest extent permissible under the laws and public policies of the State of Missouri, and that the unenforceability (or modification to conform with such laws or public policies) of any non-material provision hereof shall not render unenforceable, or impair, the remainder of this Agreement. Accordingly, if any non-material provision of this Agreement shall be deemed invalid or unenforceable in whole or in part, this Agreement shall be deemed amended to delete or modify, in whole or in part, if necessary, the invalid or unenforceable provision or provisions, or portions thereof, and to alter the balance of this Agreement in order to render the same valid and enforceable.

b. If this Agreement contains any unlawful provisions not an essential part of this Agreement and which shall not appear to have a controlling or material inducement to the making thereof, such provisions shall be deemed of no effect and shall be deemed stricken from this Agreement without affecting the binding force of the remainder. In the event any provision of this Agreement is capable of more than one interpretation, one which would render the provision invalid and one which would render the provision valid, the provision shall be interpreted so as to render it valid.

43. Time is of the Essence. Time and exact performance are of the essence of this Agreement.

44. Sole Agreement. This Agreement, including all exhibits, riders or addenda attached hereto, as well as the Sales Tax Contribution Agreement, and any Funding Agreements and Cooperative Agreements, constitute the sole agreement between the parties and supersedes any prior understandings or written or oral agreements between the parties with respect to the Plan, including but not limited to that certain Funding Agreement.

45. Acknowledgments. The Redeveloper hereby represents, warrants, acknowledges and admits that (a) it and its officers have been advised by counsel on the negotiation, execution and delivery of this Agreement and any other instrument or document entered into in connection herewith; (b) it and its officers have made an independent decision to enter into this Agreement and such other instruments and documents, without reliance on any representation, warranty, covenant or undertaking by the Commission or its commissioners, members or staff, whether written, oral or implicit, other than as expressly set forth in this Agreement; (c) neither the Commission nor its commissioners, members or staff have made any representation, covenant or undertaking to the Redeveloper or its officers, employees, representatives or agents in connection with the rights and obligations of the Redeveloper pursuant to this Agreement and any such instruments or documents; (d) there are no representations, warranties, covenants, undertakings or agreements by the Commission or its commissioners, members or staff as to this Agreement or such instruments and documents except as expressly set forth herein or therein; (e) no joint

venture exists between the Commission and the Redeveloper; (f) without limiting any of the foregoing, neither the Redeveloper nor its officers are relying upon any representation by the Commission or its commissioners, members or staff, and no such representation has been made that the Commission will at the time of a breach or default hereunder waive, negotiate, discuss or refrain from taking any action with respect to such breach or default or any other term of this Agreement or such instruments or documents; and (g) the Commission has relied upon the truthfulness of the foregoing acknowledgments in deciding to execute and deliver this Agreement.

46. Technical Amendments. In the event that there are minor inaccuracies contained herein or any exhibit attached hereto or any other agreement contemplated hereby, or the parties agree that changes are required due to unforeseen events or circumstances, or technical matters arising during the Term, which changes do not alter the substance of this Agreement, the respective presiding officers of the Commission and the officers of the Redeveloper are authorized to approve such changes and are authorized to execute any required instruments and to make and incorporate such amendment or change to this Agreement or any exhibit attached hereto or any other agreement contemplated hereby.

47. Choice of Law. The interpretation, construction and performance of this Agreement shall be governed by the laws of the State of Missouri. Venue for any cause of action arising out of or in connection with this Agreement shall be in Jackson County, Missouri.

48. Multiple Counterparts. This Agreement may be executed in multiple counterpart copies, each of which will be considered an original and all of which shall constitute but one and the same instrument, binding on all parties hereto, even though all the parties are not signatory to the same counterpart. Any counterpart of this Agreement which has attached to it separate signature pages which together contain the signatures of all parties hereto shall be deemed for all purposes a fully executed original.

49. Public Participation in Cash Flow.

a. The purpose of affording public assistance to the Plan is to accomplish the stated public purposes and not to subsidize an otherwise economically viable development project. While it has been determined by both the Commission and the City Council that the Improvements would not be undertaken by the parties but for the public assistance being provided, the parties recognize that the ongoing profitability of the Improvements to the Redeveloper is based upon projections that may or may not be fulfilled. Therefore, in order to ensure that the public assistance being provided does not subsidize an unreasonable level of earnings for the Redeveloper, the parties agree that a reasonable level of earnings for construction and completion of all of the Improvements is an annual cash-on-cost cumulative rate of return on the Equity Investment of 11%. The parties acknowledge that the return on Equity Investment contemplated herein is intended to evaluate the return on the Redeveloper's real estate investment and not the return of any individual business within the Redevelopment Area. Therefore, if at the end of any calendar year of the Term, after completion of all of the Improvements, the Net Cash Flow exceeds the cash flow necessary to generate said cumulative 11% annual return on the Equity Investment for the current and all previous calendar years, a

percentage of such excess, calculated by dividing the Redevelopment Project Costs reimbursed to the Redeveloper from PILOTs and EATs by the total cost of completing the Improvements (the “**Commission Share**”), shall be contributed to the Commission (the “**Public Participation Amount**”), which shall be used by the Commission for any purpose consistent with the Act; provided, however, the aggregate total amount of the Public Participation Amount contributed to the Commission, if any, under this Agreement shall in no event exceed the cumulative amount of the Reimbursable Project Costs reimbursed to the Redeveloper from PILOTs and EATs under this Agreement (the “**Reimbursed Project Costs**”). The Public Participation Amount, Commission Share, the total cost of completing the Improvements, the Redevelopment Project Costs eligible for reimbursement and the Equity Investment and Private Loans, as certified to by the Commission pursuant to **Section 16** hereof and as estimated in the Plan, shall be submitted in a format as set forth on **Exhibit R**. For purposes of calculation of annual returns, all Redevelopment Project Costs certified by the Commission will be included in calculations for a period beginning upon the adoption of an ordinance approving the Plan and ending twenty-three (23) years after such adoption.

b. Redeveloper shall during the Term submit annually a complete written financial statement to the Commission in a format as set forth on **Exhibit R** showing in reasonable detail the calculation of actual earnings for the Improvements. Such statement shall include all income attributable to all Improvements and shall include only those expenses which are reasonable and necessary to the operation of the Improvements and are directly attributable thereto and shall include no indirect general administrative expenses but shall include developer fees, leasing commissions, and standard property management costs. The parties acknowledge that, for purposes of participation in cash flow, returns are calculated pursuant to the cash flow calculation chart set forth on **Exhibit R**. All such statements shall be certified to by the Redeveloper’s Chief Financial Officer or manager and shall be accompanied by the payment required under this **Section 49**. The Redeveloper shall provide such statements within one hundred twenty (120) days after the end of each calendar year following the execution of this Agreement.

c. In the event of a sale of all or substantially all of the Real Estate during the Term to a third party in a good faith, arms-length transaction (whether by purchase and sale agreement, whether for cash or cash equivalent, joint venture or similar agreement or merger/consolidation of the Redeveloper), or a transfer of all or substantially all of the property through a refinancing of the debt identified by the Plan Financing which causes in excess of fifty percent (50%) of the ownership of Redeveloper to change after the date of this Agreement and prior to May 12, 2039, the “**Proceeds**” of any of the foregoing shall be distributed as follows:

Step 1 – The Proceeds shall first be used to retire the existing private debt on or relating to the sale or refinance of the Improvements, and to pay or reimburse the Redeveloper for the reasonable and customary out-of-pocket costs, fees and expenses incurred by the Redeveloper in achieving the sale or refinancing.

Step 2 – Any balance of the Proceeds after Step 1 shall be used to make up any then-existing deficit in the Redeveloper’s achieving a cumulative annual rate of

return on Equity Investment from the Improvements, or a part thereof, for which a Certificate of Completion and Compliance has been issued of at least 11% through the date of the sale or refinancing.

Step 3 – Any balance of the Proceeds after Step 2 shall be used to return to the Redeveloper the Equity Investment in the Improvements for which a Certificate of Completion and Compliance has been issued as of the date of the sale or refinancing.

Step 4 – Commission Share of any balance of the Proceeds after Step 2 shall be contributed to the Commission, which shall be used by the Commission for any purpose consistent with the Act.

d. After any sale or refinancing as described herein, the Redeveloper shall re-submit for certification the Equity Investment applicable to the Improvements remaining. The provision of this **Section 49** (*i.e.*, Public Participation in Cash Flow) shall no longer be applicable to such Improvements sold. The Commission agrees to issue an estoppel certificate to such third party so confirming this fact within ten (10) days after such sale.

e. If, as a result of a refinancing, the Redeveloper has, pursuant to Step 2 in subsection c, been paid such amount as is necessary to make up any then-existing deficit in the Redeveloper achieving a cumulative annual rate of return of 11% on the Equity Investment and the Redeveloper has fully recovered 100% of its Equity Investment in the Improvements for which a Certificate of Completion and Compliance has been issued as computed in Step 3, thereafter, on an annual basis, the Commission Share of all Net Cash Flow and the Commission Share of the proceeds of any sale or additional refinancing available after Step 1 shall be contributed to the Commission, which shall be used by the Commission for any purpose consistent with the Act. If, as a result of a refinancing or refinancings, the Redeveloper has, pursuant to Step 2 in subsection c, been paid such amount as is necessary to make up any then-existing deficit in the Redeveloper achieving a cumulative annual rate of return of 11% on the Equity Investment and the Redeveloper has recovered part, but not 100%, of its Equity Investment in the Plan for which a Certificate of Completion and Compliance has been issued as computed in Step 3 in subsection c, thereafter, for purposes of computing the Commission's potential share in Net Cash Flow or any sale or refinancing Proceeds, the amount of the Redeveloper's Equity Investment in the Improvements shall be reduced by the amount of such investment that has been returned to the Redeveloper under Step 3.

f. Upon thirty (30) days prior written notice, the Commission may cause an audit of the Redeveloper's statements and calculations referred to herein by the Commission's staff or consultant. If, as a result of any such audit, the Commission believes that the Redeveloper owes the Commission more money than has been remitted by the Redeveloper as heretofore described, then the Commission shall inform the Redeveloper of its position in writing along with providing reasonable details of the Commission's position. Notwithstanding anything herein stated in this Agreement to the contrary, any unresolved dispute with respect to this **Section 49** shall be submitted to binding arbitration by a single arbitrator. The arbitrator shall be a person located in the

Kansas City metropolitan area agreed to by the parties. If the parties cannot agree to an arbitrator, the selection shall be made by the Presiding Judge of the Circuit Court of Jackson County, Missouri, on the application of either party. The expenses and fees of the arbitration and arbitrator shall be shared equally by the Redeveloper and by the Commission; provided, however, that each party shall bear the expenses and fees of any attorneys, accountants, expert witnesses or others appearing or submitting any materials on such party's behalf. Otherwise, the Commercial Arbitration Rules and Regulations of the American Arbitration Association, or any successor body, shall apply.

50. Special Terms and Conditions. In the event of a variance between the provisions of the Plan and this Agreement, this Agreement shall supersede, so long as the exterior boundaries of the Redevelopment Area are not altered or the general land uses are affected or the nature of any Redevelopment Project is changed from what is set forth in the Plan, which in such event, the Plan, as modified, shall control.

a. In **Section 49** hereof and **Exhibit R** hereto, the term “**Equity Investment**” shall be deemed to include the total sum of cash contributions to the Improvements from any source obtained by the Redeveloper.

b. The following provisions shall amend **Section 49**, Public Participation in Cash Flow:

(i) The Commission shall apply all of the Commission's Share to the reimbursement of Certified Costs in order to hasten the fulfillment of its reimbursement obligations; provided such reimbursement does not result in the Redeveloper receiving a cumulative return on its Equity Investment in an amount in excess of 11%; and

(ii) The foregoing notwithstanding, in the event of a refinancing where all or a part of the cash proceeds to the Redeveloper are either reinvested in the Improvements or placed in an escrow or other reserve account at a level required by the Redeveloper's or its Obligated Affiliates' lender(s) to be later reinvested in the Improvements, there shall be no public participation in such reinvested escrowed or reserved proceeds on account of such refinancing.

**SECTION 31(e) and SECTION 49(f)** OF THIS AGREEMENT CONTAIN A BINDING ARBITRATION PROVISION WHICH MAY BE ENFORCED BY THE PARTIES HERETO.

*[The remainder of this page left intentionally blank. Signature pages follow.]*

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed pursuant to due authority as of the date first above set forth.

TAX INCREMENT FINANCING COMMISSION  
OF KANSAS CITY, MISSOURI

ATTEST:

\_\_\_\_\_  
Heather A. Brown, Secretary

By: \_\_\_\_\_  
Alissia R. Canady, Chair

Approved as to form:

\_\_\_\_\_  
Wesley O. Fields  
Counsel to the Commission

STATE OF MISSOURI     )  
  ) ss.  
COUNTY OF JACKSON    )

On this \_\_\_\_ day of \_\_\_\_\_, 2020, before me, a Notary Public in and for said State, personally appeared Alissia R. Canady, Chair of the Tax Increment Financing Commission of Kansas City, Missouri, who is personally known to me to be the same person who executed, as such official, the within instrument on behalf of said Commission and such person duly acknowledged to me that she executed the same for the purposes therein stated, and that the execution of the same was the free act and deed of said Commission.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year above written.

\_\_\_\_\_  
Notary Public

My Commission Expires:  
  
\_\_\_\_\_





**EXHIBIT A-1**

**A Copy of Commission Resolution No. 12-9-15**

## RESOLUTION NO. 12-9-15

### A RESOLUTION OF THE TAX INCREMENT FINANCING COMMISSION OF KANSAS CITY, MISSOURI RECOMMENDING APPROVAL OF THE GRAND RESERVE TAX INCREMENT FINANCING PLAN AND RECOMMENDING APPROVAL AND DESIGNATION OF REDEVELOPMENT PROJECT AREA 1 WITHIN THE REDEVELOPMENT AREA TO THE CITY COUNCIL OF KANSAS CITY, MISSOURI.

WHEREAS, the Tax Increment Financing Commission of Kansas City, Missouri (“TIF Commission”) was created pursuant to the Real Property Tax Increment Allocation Act, Sections 99.800 to 99.865 RSMo 1982 (the “Act”) and by Ordinance No. 54556 of the City Council (the “Council”) of Kansas City, Missouri (the “City”), adopted on November 29, 1982, and amended by Ordinance No. 911076, adopted on August 29, 1991, Ordinance No. 100089, as amended, adopted on January 28, 2010, Ordinance No. 130986 on December 19, 2013 and Committee Substitute for Ordinance No. 140823, as amended, on June 18, 2015; and

WHEREAS, Delta Quad Holdings, LLC (“Developer”), submitted to the TIF Commission a proposal for approval of the Grand Reserve Tax Increment Financing Plan (“TIF Plan”); and

WHEREAS, on October 24, 2014, the TIF Commission mailed written notices of a public hearing to consider the TIF Plan to all taxing districts from which taxable property is included in the proposed Redevelopment Area (“Taxing Districts”), in compliance with Sections 99.825 and 99.830, RSMo; and

WHEREAS, John Sweeny and Jack Feldman, representing Jackson County, Kevin Masters and Shana Long, representing the Kansas City School District, and Debbie Siragusa, representing all other Taxing Districts, were present and seated on the Commission as voting members to consider the Plan; and

WHEREAS, on November 10, 2014 and December 1, 2014, the TIF Commission published notice in *The Pulse* of the scheduled TIF Commission public hearing to consider the merits of the TIF Plan, in compliance with Section 99.830, RSMo; and

WHEREAS, on December 1, 2014, the TIF Commission mailed written notices of a public hearing to consider the TIF Plan to all persons in whose name the general taxes for the last preceding year were paid on each lot, block, tract, or parcel of land lying within the Redevelopment Area, in compliance with Section 99.830, RSMo; and

WHEREAS, a copy of the notice of the public hearing has been submitted to the Director of the Department of Economic Development, in compliance with Sections 99.825 and 99.830, RSMo; and

WHEREAS, the public hearing conducted by the TIF Commission to consider the TIF Plan on December 10, 2014, and as was continued several times to December 9, 2015, was open to the public, a quorum of the Commissioners was present and acted throughout, and the proper notice of such hearing was given in accordance with all applicable laws including Chapter 610, RSMo; and

WHEREAS, on December 9, 2015, at **10:15 a.m.**, the TIF Commission opened the public hearing to consider the TIF Plan and, after taking evidence and public testimony during the hearing, pursuant to Resolution No. 12-8-15, closed the public hearing; and

WHEREAS, after considering the evidence and testimony received during the public hearing, the TIF Commission now desires to recommend that the Council make required findings and take certain actions to adopt and implement the TIF Plan and the Redevelopment Project described therein.

NOW, THEREFORE, be it resolved by the Tax Increment Financing Commission of Kansas City, Missouri:

1. Findings. In accordance with Section 99.810, RSMo, the TIF Commission makes the following findings and recommends that the Council, by ordinance, make the following findings regarding the TIF Plan:

A. the TIF Plan sets forth in writing a general description of the program to be undertaken to accomplish its objectives, including the estimated redevelopment project costs, the anticipated sources of funds to pay the costs, evidence of the commitments to finance the project costs, the anticipated type and term of the sources of funds to pay costs, the anticipated type and terms of the obligations to be issued, the most recent equalized assessed valuation of the property within the Redevelopment Area which is to be subjected to payments in lieu of taxes and economic activity taxes pursuant to Section 99.845, RSMo, an estimate as to the equalized assessed valuation after redevelopment, and the general land uses to apply in the Redevelopment Area;

B. the Redevelopment Area is a conservation area, as such term is defined in Section 99.805, RSMo, because more than fifty percent (50%) of the structures in the area have an age of thirty-five (35) years or more and, although the area is not yet a blighted area, it is detrimental to the public health, safety, morals, or welfare due to varied and extensive: aging and advanced aging, dilapidation, obsolescence, deterioration, depreciation of physical maintenance and excessive vacancies. An independent Conservation Analysis undertaken by Belke Appraisal & Consulting Services, Inc., attached to Exhibit 10, provides evidence of such conditions.

C. the proposed redevelopment satisfies the “but for” test set forth in Section 99.810, RSMo, in that the Redevelopment Area has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of tax increment financing, and the TIF Plan is accompanied by an independent analysis conducted by Springsted Incorporated and an affidavit, signed by the Developer, attesting to this statement;

D. the TIF Plan is in conformance with the FOCUS Plan for the development of the City as a whole, as well as the Greater Downtown Area Plan;

E. the TIF Plan contains estimated dates of completion of the redevelopment project described therein and estimated dates for the retirement of obligations incurred to finance redevelopment project costs, and said dates are not more than twenty-three (23) years from the adoption of an ordinance approving a Redevelopment Project within the Redevelopment Area;

F. a Relocation Assistance Plan has been developed for relocation assistance for businesses and residences, and the relocation of any business or residents in the Redevelopment Area, if necessary, will take place in accordance with the Relocation Assistance Plan attached to the TIF Plan;

G. the TIF Plan contains a cost-benefit analysis showing the economic impact of the TIF Plan on each taxing district and political subdivision within the Redevelopment Area if the project is built pursuant to the TIF Plan or is not built and evidence that the proposed project is financially feasible for the Developer to construct with the assistance of tax increment financing;

H. the TIF Plan does not include the initial development or redevelopment of any gambling establishment; and

I. the areas selected for the Redevelopment Project include only those parcels of real property and improvements thereon which will be directly and substantially benefited by the Redevelopment Project improvements.

2. Recommendations. The TIF Commission recommends that the Council take the following actions with respect to the TIF Plan:

A. adopt an ordinance to make the findings recommended in Section 1 above, to approve the TIF Plan and Redevelopment Project 1 described in the TIF Plan, to designate Redevelopment Area as a redevelopment area as provided in Section 99.805(11); and

B. introduce a separate ordinance designating Redevelopment Project Area 1 described by the Plan and authorizing tax increment financing within such designated redevelopment project area within ten (10) years from the Council's passage of the ordinance approving the TIF Plan.

**ADOPTED** by the Tax Increment Financing Commission of Kansas City, Missouri this 9th day of December, 2015.



**TAX INCREMENT FINANCING COMMISSION  
OF KANSAS CITY, MISSOURI**

By: \_\_\_\_\_

*Cynthia M. Circo*  
Cynthia M., Chair

**ATTEST:**

*Heather A. Brown*  
Heather A. Brown, Executive Director

**EXHIBIT A-2**

**A Copy of Commission Resolution No. 12-10-15**

**RESOLUTION NO. 12-10-15**

**A RESOLUTION OF THE TAX INCREMENT FINANCING COMMISSION OF KANSAS CITY, MISSOURI DESIGNATING DELTA QUAD HOLDINGS, LLC AS THE DEVELOPER OF THE GRAND RESERVE TAX INCREMENT FINANCING PLAN.**

**WHEREAS**, the Tax Increment Financing Commission of Kansas City, Missouri (“TIF Commission”) was created pursuant to the Real Property Tax Increment Allocation Act, Sections 99.800 to 99.865 RSMo 1982 (the “Act”) and by Ordinance No. 54556 of the City Council (the “Council”) of Kansas City, Missouri (the “City”), adopted on November 29, 1982, and amended by Ordinance No. 911076, adopted on August 29, 1991, Ordinance No. 100089, as amended, adopted on January 28, 2010, Ordinance No. 130986 on December 19, 2013 and Committee Substitute for Ordinance No. 140823, as amended, on June 18, 2015; and

**WHEREAS**, on December 9, 2015, at 10:15 a.m. a public hearing was conducted by the TIF Commission thereby approving the Grand Reserve TIF Plan pursuant to Resolution No. 12-9-15; and

**WHEREAS**, the Commission desires to designate Delta Quad Holdings, LLC as the redeveloper of the Plan.

**NOW THEREFORE, BE IT RESOLVED BY THE TAX INCREMENT FINANCING COMMISSION OF KANSAS CITY, MISSOURI, AS FOLLOWS:**

**Section 1. Designation of Developer.** The Commission hereby designates Delta Quad Holdings, LLC as redeveloper of the Grand Reserve Tax Increment Financing Plan.

**Section 2. Further Authority.** The Commission shall, and the officers, agents and employees of the Commission are hereby authorized and directed to, take such further action, and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this Resolution.

**Section 3. Effective Date.** This Resolution shall take effect and be in full force immediately after its adoption by the Commission.

**ADOPTED** by the Tax Increment Financing Commission of Kansas City, Missouri this 9th day of December, 2015.




**TAX INCREMENT FINANCING COMMISSION  
OF KANSAS CITY, MISSOURI**

By: \_\_\_\_\_

Cynthia M. Circo, Chair

**ATTEST:**

  
\_\_\_\_\_  
Heather A. Brown, Executive Director

**EXHIBIT B-1**

**A Copy of Committee Substitute for Ordinance No. 160163**

COMMITTEE SUBSTITUTE FOR ORDINANCE NO. 160163

Taking certain actions and approving various economic development incentives in relation to the redevelopment by Delta Quad Holdings, LLC of the vacant structure and related facilities formerly occupied by the Federal Reserve Bank of Kansas City at 925 Grand Boulevard, including accepting the recommendations of the Tax Increment Financing Commission of Kansas City, Missouri as to the findings related to the Grand Reserve Tax Increment Financing Plan; approving the Grand Reserve Tax Increment Financing Plan; approving and designating Redevelopment Project Area 1 as a Redevelopment Project and adopting tax increment financing therefor; approving additional financial assistance for the Redevelopment Project and authorizing the City Manager to enter into a Sales Tax Contribution Agreement in furtherance of such purpose; approving an Industrial Development Plan for the purpose of the renovation, construction, furnishing and equipping of a service facility which provides interstate commerce; authorizing and approving various agreements for the purpose of setting forth covenants, agreements and obligations of the parties; authorizing the issuance of taxable industrial revenue bonds in a maximum aggregate principal amount not to exceed \$135,000,000; authorizing and approving certain other documents and actions in connection with the issuance of said bonds; authorizing the construction of certain public streetscape in the public right of way; recognizing this ordinance as having an accelerated effective date; and directing the City Clerk to transmit copies of this ordinance.

WHEREAS, pursuant to the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865, RSMo, as amended (the "TIF Act"), the City Council of Kansas City, Missouri (the "City Council") created the Tax Increment Financing Commission of Kansas City, Missouri (the "Commission"); and

WHEREAS, the Grand Reserve Tax Increment Financing Plan (the "Original Redevelopment Plan") is a comprehensive program intended to reduce, prevent or eliminate blight, conserve and redevelop substandard property and enhance the tax base within the redevelopment area (the "Redevelopment Area") through the implementation of a project (the "Redevelopment Project") and other improvements, and the adoption of tax increment financing; and

WHEREAS, the Original Redevelopment Plan was proposed to the Commission; and

WHEREAS, the Commission has been duly constituted and its members appointed; and, after all proper notice was given or waived, the Commission met in public hearing and after receiving the comments of all interested persons and taxing districts with respect to the Original Redevelopment Plan, closed said public hearing, and adopted its Resolution (the "Resolution") recommending to the City Council the acceptance of certain findings related to the Original Redevelopment Plan, the approval of the Original Redevelopment Plan and the designation of the Redevelopment Area and the redevelopment project area for the Redevelopment Project described therein ("Redevelopment Project Area 1"); and



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WHEREAS, subsequent to the Commission's adoption of the Resolution, certain amendments were made to the Original Redevelopment Plan that do not enlarge the exterior boundaries of the Redevelopment Area, and do not substantially affect the general land uses established in the Original Redevelopment Plan or substantially change the nature of the Redevelopment Project, and notice of such amendments was duly given as required by the TIF Act; and

WHEREAS, the Original Redevelopment Plan, as so amended (the "Redevelopment Plan") provides for (A) the historic rehabilitation and adaptive reuse of the approximately 301,533 square foot, 21-story former Federal Reserve Bank of Kansas City building located at 925 Grand Boulevard into an all-suite approximately 301 room hotel that will include restaurants, meeting and event facilities within Redevelopment Project Area 1 (the "Tower Hotel"), and (B) the redevelopment of a four-story Annex Building into a 24-room boutique hotel and coffee house (the "Boutique Hotel"), along with an approximately 86,443 square foot data center (the "Data Center") and the rehabilitation of the existing adjacent 150-stall parking garage (the "Garage") within the Redevelopment Area but not within Redevelopment Project Area 1, and (C) the construction of certain public improvements in the right-of-way and otherwise on or constituting public property (the "Project Improvements"); and

WHEREAS, the Commission and Delta Quad Holdings, LLC (the "Redeveloper") will enter into an agreement (the "Redevelopment Agreement"), which shall provide, inter alia, for the implementation of the Project Improvements and for the reimbursement of certain redevelopment project costs related to the Redevelopment Project, as identified by the Redevelopment Plan, that have been incurred by the Redeveloper and certified, pursuant to the Redevelopment Agreement, by the Commission (the "Certified Costs"); and

WHEREAS, based on an independent professional analysis of the anticipated financial return on the amount of private investment necessary to perform the Project Improvements, and in order to eliminate blight, foster the preservation of an historic structure, and promote development that facilitates growth of tourism and redevelopment of an historically challenging redevelopment site within the eastern side of the City's downtown, the City is willing to provide additional assistance so that the Project Improvements, which would otherwise not be realized, to the detriment of the public interest, may proceed; and

WHEREAS, the City is authorized pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution, as amended, and Sections 100.010 to 100.200, inclusive, of the Revised Statutes of Missouri, as amended, and the City of Kansas City Charter (collectively, the "Chapter 100 Act"), to issue its revenue bonds for carrying out a project or projects under the Chapter 100 Act, such revenue bonds to be paid solely from revenue received from such project, and to enter into a lease of certain real and personal property associated with the Project Improvements to be financed with the proceeds of such revenue bonds with any person, firm or corporation; and

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WHEREAS, the City has heretofore prepared and approved plans for the industrial development of the City and desires to approve an Industrial Development Plan (the "Chapter 100 Plan") for the purpose of carrying out the Project Improvements as a development project under the Chapter 100 Act (the "Chapter 100 Project") for the Redeveloper; and

WHEREAS, the City intends to issue its Taxable Industrial Revenue Bonds (Grand Reserve Project) (the "Chapter 100 Bonds") in one or more series for the purpose of furthering the Chapter 100 Project located in the Redevelopment Area; and

WHEREAS, notice of the Chapter 100 Project was given to the taxing jurisdictions in accordance with Section 100.059.1 of the Revised Statutes of Missouri; and

WHEREAS, the City Council has heretofore and does hereby find and determine that it is desirable for the economic development of the City and within the public purposes of the Chapter 100 Act that the City Council approve the Chapter 100 Plan as proposed by the Redeveloper; and that the City issue the Chapter 100 Bonds, as more fully described in the Indenture and in the Lease, as hereinafter defined and authorized, proceeds of which shall be used for the purchase of certain real property and personal property associated with the Chapter 100 Project and which shall be located in the Redevelopment Area and leased by the City to the Redeveloper, with an option to purchase; and

WHEREAS, for a Chapter 100 bond issuance, the City Council has previously established a policy (Ordinance No. 041033) for the review and approval of these projects, one component of which suggests a maximum bond term of 10 years and another of which suggests payments-in-lieu-of-taxes (PILOTS) at a level of no less than 50% of the amount the property would have paid if it had been fully taxed, to the affected taxing jurisdictions during the term of the Chapter 100 Bonds; and

WHEREAS, the City Council wishes in this instance to waive its Chapter 100 policy based upon the independent professional analysis of the anticipated financial return on the amount of private investment necessary to perform the Project Improvements and the eventual net benefits to taxing jurisdictions from the implementation of the Chapter 100 Project; and

WHEREAS, the principal amount of the taxable Chapter 100 Bonds will be issued over a period of time not to exceed ten years, commensurate with the City's incremental acquisition of the property comprising the Chapter 100 Project, and such property will be leased by the City to the Redeveloper for a period of not to exceed twenty years for the real property, ten years for the personal property associated with the Tower Hotel and five years for the personal property associated with the Boutique Hotel, the Data Center and the Garage, in each of such three cases commencing in the year of the first advance for such respective property (subject to earlier termination as provided in the Lease); and

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WHEREAS, the Tower Hotel, the Boutique Hotel, the Data Center and the Garage will be owned by the City during the term of the Lease; and

WHEREAS, the Redevelopment Agreement, the Sales Tax Contribution Agreement and/or the Lease will obligate the Redeveloper to construct the Project Improvements, which Project Improvements include modifications and improvements to the public sidewalks and the installation of planters, streetlights and other streetscape to be located in the public right of way and owned by the City in accordance with a design approved by the Department of Public Works and/or other departments of the City having authority with respect thereto (the "Public Streetscape Improvements"); NOW, THEREFORE,

BE IT ORDAINED BY THE CITY COUNCIL OF KANSAS CITY:

Section 1. That the recommendation of the Commission concerning the findings related to the Redevelopment Plan as set forth in the Resolution is hereby accepted and the Redevelopment Plan is hereby approved and adopted.

Section 2. That the following described area is hereby designated a Redevelopment Area:

All of Lots 103,104, 105, 106, 107, 108, 111, 112,113, 114, 115, 116, 117 and 118, Swopes Addition to the City of Kansas City, now Kansas City, a subdivision in Kansas City, Jackson County, Missouri; together with that part of the vacated North-South alley lying East and adjacent to Lots 103 through 106, inclusive, and West and adjacent to Lots 114 through 118, inclusive.

Section 3. That in accordance with the recommendations of the Commission as set forth in the Resolution, the City Council hereby finds that:

- (a) The Redevelopment Area is a conservation area as described in the Conservation Study;
- (b) The Redevelopment Area has not been subject to growth and development through investment by private enterprise and would not reasonably be anticipated to be developed without the adoption of the tax increment financing and the Redevelopment Plan is accompanied by an affidavit of the Redeveloper;
- (c) The Redevelopment Plan conforms to FOCUS, the comprehensive plan for the development of the City as a whole, and the Greater Downtown Area Plan;
- (d) The area selected for the Redevelopment Project includes only those parcels of real property and improvements thereon which will be directly and substantially benefited by the Redevelopment Project improvements;

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- (e) The estimated dates of completion of the respective Redevelopment Project and retirement of obligations, if any, issued pursuant to the TIF Act to finance Redevelopment Project Costs, have been stated in the Redevelopment Plan and such estimated dates are not more than 23 years from the effective adoption of any ordinance approving a Redevelopment Project within the Redevelopment Area;
- (f) A plan has been developed for relocation assistance for businesses and residences;
- (g) A cost-benefit analysis showing the economic impact of the Redevelopment Plan on each taxing district at least partially within the boundaries of the Redevelopment Area if the Project Improvements are built pursuant to the Redevelopment Plan or are not built, and evidence that the proposed Project Improvements are financially feasible has been prepared; and
- (h) The Redevelopment Plan does not include the initial development or redevelopment of any gambling establishment.

Section 4. That the Redevelopment Area is a substandard area located within the City's urban core area that will continue to deteriorate to the detriment of the public without the assistance described in this ordinance.

Section 5. That without limiting other forms of financing or obligations issued by other entities, the Commission, as may be requested by the Redeveloper, is authorized to issue obligations in one or more series of bonds secured by the Grand Reserve Account of the Special Allocation Fund to finance Redevelopment Project Costs, to pledge funds in the Special Allocation Fund for the payment of obligations issued to finance Redevelopment Project Costs identified by the Redevelopment Plan and to reimburse the Redeveloper for such costs, and subject to any constitutional limitations, to acquire by purchase, donation, lease or eminent domain, own, convey, lease, mortgage, or dispose of, land or other property, real or personal, or rights or interests therein, and grant or acquire licenses, easements and options with respect thereto, all in the manner and at such price the Commission determines, to enter into such contracts and take all such further actions permitted by the TIF Act as are reasonably necessary to achieve the objectives of the Redevelopment Plan pursuant to the power delegated to it by the City. Any obligations issued pursuant to the TIF Act to finance Redevelopment Project Costs shall contain a recital that they are issued pursuant to Sections 99.800 to 99.865, which recital shall be conclusive evidence of their validity and of the regularity of their issuance.

Section 6. That pursuant to the provisions of the Redevelopment Plan, the City Council approves the pledge of all funds that are deposited into the Grand Reserve Account of the Special Allocation Fund to the payment of Redevelopment Project Costs as authorized by the TIF Act and authorizes the Commission to pledge such funds on its behalf.

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Section 7. That the area selected for Redevelopment Project Area 1 legally described as follows:

Those portions of Lots 103, 104, 105 and 106, Swope's Addition to the City of Kansas, now Kansas City, Jackson County, Missouri situated above the horizontal plane generally described as the existing subflooring of the Floor 1 lobby of the building located at 925 Grand Street, Kansas City, Missouri;

together with:

Those portions of Lots 114, 115, 116, 117 and 118, Swope's Addition to the City of Kansas, now Kansas City, Jackson County, Missouri, and the entire vacated North-South alley adjacent to and connecting Lots 103, 104, 105 and 106, Swope's Addition, with said Lots 115, 116, 117 and 118, together with the east half of said vacated alley adjacent to Lot 114, all lying between two horizontal planes, the lower plane being generally described as the existing subflooring of the Floor 1 lobby of the building located at 925 Grand Street, and the upper horizontal plane being generally described as eleven (11) feet above and parallel to such lower plane.

is approved and designated by the Redevelopment Plan as Redevelopment Project Area 1.

Section 8. That tax increment allocation financing is hereby adopted for taxable real property in the above described area selected for Redevelopment Project Area 1. Pursuant to the TIF Act, as it may be amended from time to time and incorporated herein, after the total equalized assessed valuation of the taxable real property in Redevelopment Project Area 1 exceeds the certified total initial equalized assessed valuation of the taxable real property in Redevelopment Project Area 1, the ad valorem taxes, and payment in lieu of taxes, if any, arising from the levies upon the taxable real property in such project by taxing districts and tax rates determined in the manner provided in the TIF Act each year after the effective date of the ordinance until redevelopment project costs that constitute Certified Costs have been paid shall be divided as follows:

1. That portion of taxes levied upon each taxable lot, block, tract, or parcel of real property which is attributable to the initial equalized assessed value of each such taxable lot, block, tract or parcel of real property in the area selected for Redevelopment Project Area 1 shall be allocated to and, when collected, shall be paid by the Jackson County Collector and the City Treasurer to the respective affected taxing districts in the manner required by law in the absence of the adoption of tax increment allocation financing;
2. Payments in lieu of taxes attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of

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real property in the area selected for Redevelopment Project Area 1 over and above the initial equalized assessed value of each such unit of property in the area selected for Redevelopment Project Area 1 shall be allocated to and, when collected, shall be paid to the City Treasurer who shall deposit such payments in lieu of taxes, which are necessary to the payment of Redevelopment Project Costs, into a special fund called the "Special Allocation Fund" of the City for the purpose of paying Redevelopment Project Costs and obligations incurred in the payment thereof. Any payments in lieu of taxes which are not paid within sixty (60) days of the due date shall be deemed delinquent and shall be assessed a penalty of one percent (1%) per month.

Section 9. That in addition to the payments in lieu of taxes described in subsection 2 of Section 8 above, fifty percent (50%) of the total additional revenue from taxes which are imposed by the City or taxing districts, and which are generated by economic activities within the area selected for Redevelopment Project Area 1 over the amount of such taxes generated by economic activities within such area in the calendar year prior to the passage of this ordinance, while tax increment financing remains in effect, but excluding certain taxes, fees and special assessments specifically identified by the TIF Act, other than payments in lieu of taxes, shall be allocated to, and paid by the collecting officer to the City Treasurer or other designated financial officer of the City, who shall deposit such funds, which are necessary for the payment of Redevelopment Project Costs, in a separate segregated account within the Special Allocation Fund for the purpose of paying such Redevelopment Project Costs.

Section 10. That the City Council hereby agrees to provide an additional source for payment of Certified Costs by committing, subject to annual appropriation and subject to actual collection, in addition to the revenues available under the TIF Act, a defined portion of certain tax revenues realized by the City and generated in the Redevelopment Area that are not otherwise captured by the TIF Act as more particularly described in the Redevelopment Plan (the "Additional City Contribution"), in an amount not to exceed \$11,805,989 payable over a period not to exceed twenty-three (23) years.

Section 11. That the City Manager is authorized to enter into a Sales Tax Contribution Agreement with the Commission, Redeveloper, or such combination of parties as appropriate, for the purposes of providing for the Additional City Contribution for payment of Certified Costs. The Sales Tax Contribution Agreement is approved in substantial form to that which is attached hereto.

Section 12. That the City Council hereby finds and determines that the Chapter 100 Project will promote the economic well-being and industrial development of the City and the Chapter 100 Project will be in furtherance of the public purposes set forth in the Chapter 100 Act. The City Council hereby approves the Chapter 100 Plan for the Chapter 100 Project, which includes the following provisions:

- (a) Expansion and construction of the Project Improvements, which are service facilities which provide interstate commerce and an office industry,

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including real property acquisition and improvements, located in the Redevelopment Area in the City of Kansas City, Missouri; and

(b) A total estimated project cost of approximately \$135,000,000 to fund acquisition, construction, renovation and related building costs and acquisition and installation of furnishings, equipment and other personal property; and

(c) The costs for the real property and personal property will be funded from proceeds of the sale of up to \$135,000,000 maximum principal amount of Taxable Industrial Revenue Bonds to be issued by the City and purchased by the Redeveloper or other purchaser named in the herein-defined Purchase Agreement.

Section 13. That the City is hereby authorized to enter into the following documents with respect to the financing of the Chapter 100 Project (the "City Documents"), in such form as shall be approved by the officials of the City executing such documents, such officials' signatures thereon being conclusive evidence of their approval thereof:

(a) One or more Trust Indentures (collectively, the "Indenture"), between the City and the trustee named therein (the "Trustee"), pursuant to which the Chapter 100 Bonds shall be issued and the City shall pledge the Chapter 100 Project and assign certain of the payments, revenues and receipts received pursuant to the Lease to the Trustee for the benefit and security of the owners of the Chapter 100 Bonds upon the terms and conditions as set forth in the Indenture.

(b) One or more Lease Agreements (collectively, the "Lease"), between the City and the Redeveloper, under which the City will acquire the Chapter 100 Project and lease the Chapter 100 Project to the Redeveloper pursuant to the terms and conditions in said Lease, in consideration of rental payments by the Redeveloper which will be sufficient to pay the principal of, premium, if any, and interest on the Chapter 100 Bonds.

(c) Purchase Agreements, as defined below, under which the purchaser named therein agrees to purchase the Chapter 100 Bonds.

Section 14. That the City is hereby authorized to issue and sell its Taxable Industrial Revenue Bonds (Grand Reserve Project), in a maximum aggregate principal amount not to exceed \$135,000,000, for the purpose of providing funds for certain real and personal property associated with the Chapter 100 Project. The Chapter 100 Bonds shall be issued and secured pursuant to the herein authorized Indenture and shall bear such date, shall mature at such time, shall be in such denominations, shall be in such form, shall be subject to redemption and other terms and conditions, and shall be issued in such manner, subject to such provisions, covenants and agreements, as are set forth in the Indenture.

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Section 15. That the Chapter 100 Bonds will be sold to the Redeveloper or other purchaser under the terms of one or more Bond Purchase Agreements between the City and the Redeveloper or other purchaser (collectively, the "Purchase Agreement"). The maximum aggregate principal amount of the Chapter 100 Bonds shall be \$135,000,000.00; the interest rate on the Chapter 100 Bonds shall be 3.00% per annum; principal shall be payable at maturity; the maturity date shall be no later than December 31, 2037, but (i) as to the portion of the Chapter 100 Bonds that financed the acquisition and redevelopment of the real property, in the year twenty years subsequent to the transfer of real property to the City, (ii) as to the portion of the Chapter 100 Bonds that financed the acquisition of the personal property associated with the Tower Hotel, in the year that is ten years subsequent to the first advance for such personal property and (iii) as to the portion of the Chapter 100 Bonds that financed the acquisition of the personal property associated with the Boutique Hotel, the Data Center and the Garage, in the year that is five years subsequent to the first advance for such personal property; the Chapter 100 Bonds shall be purchased at 100% of the principal amount thereof; and the Chapter 100 Bonds may be redeemed at any time at a redemption price equal to the principal amount thereof plus accrued interest. The Director of Finance or the City Treasurer is each authorized to execute the Purchase Agreement for and on behalf of and as the act and deed of the City.

Section 16. That the Chapter 100 Bonds and the interest thereon shall be limited obligations of the City payable solely out of certain payments, revenues and receipts derived by the City from the Lease described herein, and such payments, revenues and receipts shall be pledged and assigned to the Trustee as security for the payment of the Chapter 100 Bonds as provided in the Indenture. The Chapter 100 Bonds and the interest thereon shall not constitute general obligations of the City or the State of Missouri. The Chapter 100 Bonds shall not constitute indebtedness within the meaning of any constitutional or statutory debt limitation or restriction, and are not payable in any manner by taxation.

Section 17. That the City is hereby authorized to establish with the Trustee pursuant to the Indenture, a special trust fund in the name of the City to be designated the "City of Kansas City, Missouri, Bond Fund – Grand Reserve Project" and the City shall cause all sums required by the Indenture to be deposited therein and shall create all accounts therein required by the Indenture.

Section 18. That the Mayor is hereby authorized to execute the Chapter 100 Bonds and to deliver the Chapter 100 Bonds to the Trustee for authentication for and on behalf of and as the act and deed of the City in the manner provided in the Indenture. The Director of Finance is hereby authorized to execute the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this ordinance, for and on behalf of and as the act and deed of the City. The City Clerk or a deputy City Clerk of the City is hereby authorized to attest to and affix the seal of the City to the Chapter 100 Bonds and the City Documents and such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this ordinance.



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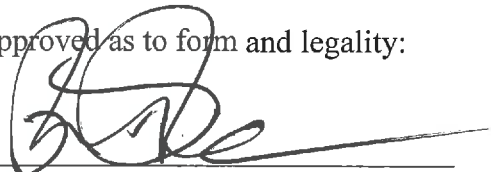
Section 19. That the Redevelopment Agreement, the Sales Tax Contribution Agreement and/or the Lease shall require the Redeveloper to construct the Project Improvements generally, and in particular shall require that the Public Streetscape Improvements be constructed by the Redeveloper on behalf of and for the benefit of the City, and in accordance with the requirements (as to design and otherwise) of the Department of Public Works and/or other departments of the City having authority with respect thereto.

Section 20. That the Mayor, Director of Finance and other officials, agents and employees of the City as required, are hereby authorized to take such further action, and execute such other documents, certificates and instruments as may be necessary or desirable to carry out and comply with the intent of this ordinance and to carry out, comply with and perform the duties of the City with respect to the Chapter 100 Bonds, the City Documents, and the Sales Tax Contribution Agreement.

Section 21. That this ordinance, relating to the design, repair, maintenance or construction of a public improvement, and fixing the interest rate on bonds, is recognized as an ordinance with an accelerated effective date as provided by Sections 503(a)(3)(D) and 503(a)(3)(F) of the City Charter and shall take effect in accordance with Section 503(a)(1) of the City Charter.

Section 22. That the City Clerk shall send a copy of this ordinance to the County Clerk and County Executive of Jackson County, Missouri.

Approved as to form and legality:



Brian T. Rabineau  
Assistant City Attorney



Authenticated as Passed

  
Sly James, Mayor  
Marilyn Sanders, City Clerk

MAY 12 2016

Date Passed

**EXHIBIT B-2**

**A Copy of Committee Substitute for Ordinance No. 200265**

**EXHIBIT C**

**A Copy of the Plan**

A copy of the Grand Reserve Tax Increment Financing Plan and all amendments thereto are on file and may be viewed at the offices of the Tax Increment Financing Commission of Kansas City, Missouri, located at 1100 Walnut Street, Suite 1700, Kansas City, Missouri, 64106.

## **EXHIBIT D**

### **Improvements Description**

Project Improvements: the historic rehabilitation and adaptive reuse of the approximately 301,533 square foot, 21- story former Federal Reserve Bank of Kansas City building located at 925 Grand Boulevard into an all-suite approximately 284 room hotel that will include restaurants, meeting and event facilities within Redevelopment Project Area 1 and any and all necessary infrastructure to support Redevelopment Project Area 1.

Adjoining Improvements: the redevelopment of an approximately 40,000 square foot family entertainment center and the rehabilitation of the existing adjacent approximately 450-stall parking garage.

## EXHIBIT D-1

### Redevelopment Project Costs

DEVELOPMENT COSTS	COST	DEVELOPER PORTION	TIF REIMBURSABLE	SALES TAX DEDICATION REIMBURSABLE	CID SALES TAX REIMBURSABLE <sup>1</sup>
Building Acquisitions/Carry Costs	\$ 22,121,475	\$ 22,121,475	\$ -	\$ -	\$ -
Construction & Rehab Costs	\$ 69,727,627	\$ 62,936,012	\$ 1,923,568	\$ 4,868,048	\$ -
Parking Garage Costs	\$ 3,500,000	\$ 2,671,065	\$ -	\$ -	\$ 828,935
Work in Public ROW	\$ 500,000	\$ -	\$ -	\$ -	\$ 500,000
Construction Contingency	\$ 4,725,000	\$ 4,725,000	\$ -	\$ -	\$ -
Cost Certification & Audit Fee	\$ 300,000	\$ 300,000	\$ -	\$ -	\$ -
Architect's Fee - Design	\$ 3,000,000	\$ 3,000,000	\$ -	\$ -	\$ -
Architect's Fee - Supervision Fee	\$ 130,000	\$ 130,000	\$ -	\$ -	\$ -
Survey	\$ 110,000	\$ 110,000	\$ -	\$ -	\$ -
Hotel Market Study	\$ 38,000	\$ 38,000	\$ -	\$ -	\$ -
Hotel Consultant	\$ 350,000	\$ 350,000	\$ -	\$ -	\$ -
Hotel Pre-Sales & Pre-Opening	\$ 460,900	\$ 460,900	\$ -	\$ -	\$ -
Historic Tax Credit Consultant	\$ 15,000	\$ 15,000	\$ -	\$ -	\$ -
TIF Program - Legal, Consultants & Studies	\$ 225,000	\$ 225,000	\$ -	\$ -	\$ -
Exterior Signage	\$ 250,000	\$ -	\$ 250,000	\$ -	\$ -
FF&E	\$ 8,000,000	\$ 8,000,000	\$ -	\$ -	\$ -
FF&E - FEC	\$ 6,000,000	\$ 6,000,000	\$ -	\$ -	\$ -
Construction Interest	\$ 2,862,951	\$ 2,862,951	\$ -	\$ -	\$ -
Insurance - Construction Period GL	\$ 372,564	\$ 372,564	\$ -	\$ -	\$ -
Real Estate Taxes - Construction Period	\$ 1,028,513	\$ 1,028,513	\$ -	\$ -	\$ -
Legal - Construction Loan	\$ 400,000	\$ 400,000	\$ -	\$ -	\$ -
Title & Recording - Construction Loan	\$ 20,000	\$ 20,000	\$ -	\$ -	\$ -
Construction Loan Fee	\$ 1,266,185	\$ 1,266,185	\$ -	\$ -	\$ -
Bridge/Mezzanine Loan Fee	\$ 630,000	\$ 630,000	\$ -	\$ -	\$ -
Construction Inspection Fee	\$ 300,000	\$ 300,000	\$ -	\$ -	\$ -
Interest - Construction Period	\$ 2,625,000	\$ 2,625,000	\$ -	\$ -	\$ -
Misc. Costs	\$ 693,937	\$ 693,937	\$ -	\$ -	\$ -
Bridge Loan Interest	\$ 3,175,000	\$ 3,175,000	\$ -	\$ -	\$ -
National Park Service Fee	\$ 25,000	\$ 25,000	\$ -	\$ -	\$ -
Operating Reserves	\$ 7,216,428	\$ 7,216,428	\$ -	\$ -	\$ -
State Tax Credit Issuance Fee	\$ 465,339	\$ 465,339	\$ -	\$ -	\$ -
Development Fee	\$ 12,500,000	\$ 12,500,000	\$ -	\$ -	\$ -
<b>Total Development Costs</b>	<b>\$ 153,033,919</b>	<b>\$ 144,663,368</b>	<b>\$ 2,173,568</b>	<b>\$ 4,868,048</b>	<b>\$ 1,328,935</b>
Percentages	100.00%	94.53%	1.42%	3.18%	0.87%
Permanent Interest Cost	\$ 58,352,477	\$ 49,294,854	\$ 2,025,569	\$ 5,593,132	\$ 1,438,922
<b>Grand Total</b>	<b>\$ 211,386,396</b>	<b>\$ 193,958,222</b>	<b>\$ 4,199,137</b>	<b>\$ 10,461,180</b>	<b>\$ 2,767,857</b>
Percentages	100.00%	91.76%	1.99%	4.95%	1.31%

**EXHIBIT D-2**

**Adjoining Improvement Costs**

<b>DEVELOPMENT COSTS</b>	<b>COST</b>
Construction Cost	\$ 12,000,000
Owners Representative	\$ 300,000
Design Architect/Civil Engineer	\$ 500,000
Construction Interest	\$ 295,553
Construction Loan Fee	\$ 236,442
Construction Loan Closing Costs	\$ 150,000
Legal Fees (Counsel, Tax Credit, Closing, etc...)	\$ 100,000
Accountant Fees	\$ 25,000
Title Insurance Fee	\$ 20,000
Third Party Reports ( <i>Market Study, Appraisal, PNA, Phase 1, Phase 2, etc...</i> )	\$ 35,000
Cost Certification & Audit	\$ 50,000
FF&E	\$ 2,000,000
Developer Fee	\$ 1,800,000
<b>TOTAL USE OF FUNDS</b>	<b>\$ 17,511,995</b>

**EXHIBIT E**  
**Interest Policy**

**Policy Name:** Interest Policy

**Date Approved:** May 13, 2009

**Resolution Number:** 1-1-04, as revised by Resolutions 3-1-04 , 12-1-04 and 5-23-09

**Policy Statement:** This Interest Policy describes the amount of interest that may accrue upon:

- (i) Payments in Lieu of Taxes ( PILOTs) and Economic Activity Taxes (EATs) deposited within checking and investment accounts of the Special Allocation Fund,
- (ii) Redevelopment Costs incurred by redevelopers in connection with the implementation of a Redevelopment Plan or Redevelopment Project, or
- (iii) Redevelopment Costs incurred by redevelopers in connection with the implementation of infrastructure improvements that the Tax Increment Financing Commission (“TIF Commission”) may reimburse pursuant to and in accordance with the TIF Commission’s Certification of Cost and Reimbursement Policy, as amended from time to time. (All capitalized terms not defined herein shall have the respective meanings ascribed to them under the Real Property Tax Increment Financing Allocation Act, Sections 99.800 to 99.865, inclusive, of the Revised Statutes of Missouri, the “Act”). Each is summarized below:

**1. Accrued Interest on PILOTs and EATs deposited into checking or other investment accounts within the Special Allocation Fund.**

- a. The TIF Commission shall reimburse a redeveloper from the principal amount of PILOTs and EATs deposited within designated accounts of the Special Allocation Fund, together with any interest that may accrue on such principal amounts, for all Redevelopments Costs incurred by the redeveloper and certified by the TIF Commission, pursuant to the TIF Commission’s Certification of Costs and Reimbursement Policy, as amended from time to time.
- b. Upon the full reimbursement of all certified Redevelopment Costs incurred by the redeveloper, the TIF Commission shall use any remaining or surplus principal amount of PILOTs and EATs, together with any interest thereon, for any such purpose that is consistent with the Act.

**2. Accrued Interest as a Reimbursable Redevelopment Cost.**

- a. In order to reimburse financing costs, including interest incurred by the redeveloper in connection with the implementation of a Redevelopment Plan, Redevelopment Project or public improvement, the redeveloper must (i) reference interest as two line items within the budget of estimated Redevelopment Costs within the Redevelopment Plan, specifically, one line item for construction period interest (interest incurred prior to a



Certificate of Completion and Compliance) and the second for permanent financing interest (interest incurred after the issuance of a Certificate of Completion and Compliance); (ii) submit all documentation required by the TIF Commission's Certification of Cost and Reimbursement Policy or reasonably requested by the TIF Commission or the independent certifier of the TIF Commission (the "Cost Certifier").

- b. Construction period interest on Redevelopment Project Costs that is to be reimbursed following certification shall be reimbursed to a redeveloper following the certification of such construction period interest costs. Construction period interest shall accrue at such rate as set forth in this Policy and, provided the Redevelopment Project Costs for which the construction period interest relates are presented by a redeveloper to the Commission for certification within sixty (60) days of the date such Redevelopment Project Costs are incurred ("Timely Certification Request"), reimbursable construction period interest shall begin to accrue on such Redevelopment Project Costs as of the date a redeveloper incurs the Redevelopment Project Costs. In the event a Timely Certification Request is not made, construction period interest shall begin to accrue on the date the Commission certifies such Redevelopment Project Costs. Construction period interest and permanent financing interest incurred on the financing of Redevelopment Project Costs shall only be certified and reimbursed if the underlying Redevelopment Project Costs on which the interest was charged is also certified.
- c. In the event a redeveloper incurs financing costs, including interest, on amounts such redeveloper was loaned for the purpose of implementing a Redevelopment Plan from a "Non-Affiliate" third party in an arms-length transaction, the TIF Commission shall reimburse such redeveloper the *actual* financing costs incurred and substantiated by documentation submitted by the redeveloper to the TIF Commission up to an amount that is not in excess of the prime rate established by United Missouri Bank, N.A. (the "Prime Rate"), plus 3%.
- d. In the event a redeveloper incurs financing costs, including interest, on amounts such redeveloper was loaned for the purpose of implementing a Redevelopment Plan from an Affiliate<sup>1</sup> of such redeveloper, the TIF Commission shall reimburse the redeveloper the actual financing costs incurred and substantiated by documentation submitted by the redeveloper to the TIF Commission up to an amount that is not in excess of the Prime Rate, plus .5%.

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<sup>1</sup> Affiliate shall have the meaning provided by Rule 12b-2 promulgated under the Securities Exchange Act of 1934, as amended.

- e. Unless otherwise agreed to by the TIF Commission, the TIF Commission shall not reimburse a redeveloper for any interest that may accrue on such redeveloper's equity investment in a Redevelopment Project.

**EXHIBIT F**

**Certification of Costs and Reimbursement Policy**

**Policy Name:** Certification of Costs and Reimbursement Policy

**Date Approved:** January 14, 2004; Revised September 8, 2004, March 9, 2005, November 9, 2005, January 11, 2006, September 12, 2007, May 13, 2009, October 14, 2009 and September 12, 2018

**Resolution Number:** 1-1-04, 9-2-04, 3-4-05, 11-3-05, 1-4-06, 9-28-07, 5-22-09, 10-15-09 and 9-04-18

**Policy Statement:** The purpose of this Certification of Costs and Reimbursement Policy is to outline the procedure and set forth all such requirements and obligations that redevelopers of Redevelopment Plans (“Redeveloper(s)”), the Tax Increment Financing Commission (the “Commission”) and the Commission’s independent cost certifier (the “Cost Certifier”) must observe and comply with such that Redevelopers may be reimbursed for eligible Redevelopment Project Costs incurred in connection with the implementation of a Redevelopment Plan, Redevelopment Project or public improvement, except to the extent a Redeveloper is to be reimbursed with proceeds of Bonds or Obligations, in which event the Redeveloper may be reimbursed for eligible Redevelopment Project Costs, in accordance with the Commission’s Bond Issuance and Disbursement Policy. (All capitalized terms not defined herein shall have the respective meanings ascribed to them in the Real Property Tax Increment Financing Allocation Act, Sections 99.800 to 99.865, inclusive, of the Revised Statutes of Missouri, as amended, the “Act”).

**Actions Required Prior to Certification**

1. The Commission and the City Council of Kansas City, Missouri (the “City”) must (a) make all such findings required by Section 99.810 of the Act with respect to the approval of any Redevelopment Plan or Redevelopment Project for which Redevelopment Project Costs are to be certified and reimbursed, and (b) upon making such findings, approve such Redevelopment Plan, which shall include a budget of eligible Redevelopment Project Costs (the “Budget”) and such Budget shall denote which Redevelopment Project Costs are eligible for reimbursement. The Budget will be incorporated as an exhibit to a redevelopment agreement, which shall provide for the implementation of all or a portion of a Redevelopment Plan.
2. The Commission and Redeveloper must properly execute a funding agreement or such other agreement that provides for the payment of the Commission’s costs and expenses and the Redeveloper must deliver to the Commission all such amounts due and owing thereunder from time to time. Redevelopment Project Costs shall not be reimbursed if any amounts owing under the funding agreement are in dispute or the Redeveloper is otherwise in breach of the funding agreement for failure (a) to pay costs and expenses when they may become due or (b) to maintain any required deposit specified therein.

3. The Commission and the Redeveloper must properly execute a redevelopment agreement, which shall provide, inter alia, for the implementation of such improvements identified within a Redevelopment Plan and for which the Redeveloper will incur costs and seek reimbursement. Redevelopment Project Costs shall not be certified or reimbursed if the Redeveloper is in breach of a redevelopment agreement. In no event shall a Redeveloper be reimbursed for (a) any fee imposed upon a Redeveloper, as a result of such Redeveloper's request of the Commission to delay its consideration of a Redevelopment Plan, Project or amendment thereto or (b) any liquidated damages, penalty fees, interest charges or any additional costs related thereto, which are imposed as a result of the Redeveloper's noncompliance with the terms of any agreement that relates to the implementation of a Redevelopment Plan, Redevelopment Project or public improvement.
4. Upon the execution of a Redevelopment Agreement, the Commission shall provide the Redeveloper with the following forms, which shall be completed prior to or simultaneously with its request for certification of Redevelopment Project Costs: (a) Environmental Compliance Certificate, attached hereto as **Schedule 1**, (b) Affidavit as to Sources of Funds, attached hereto as **Schedule 2**, (c) Affidavit as to Payment of Prevailing Wages, attached hereto as **Schedule 3** and (d) Request for Certification form, attached hereto as **Schedule 4**.
5. The Commission shall not reimburse a Redeveloper any amount in excess of the aggregate amount of budgeted reimbursable Redevelopment Project Costs identified by a Redevelopment Plan. In the event the actual Redevelopment Project Costs submitted for reimbursement by the Redeveloper are in excess of the budgeted amount of reimbursable Redevelopment Project Costs identified by a Redevelopment Plan, the City Council must approve an amendment to the Redevelopment Plan that shall provide for the reimbursement of such excess amount prior to the certification of such excess amount of reimbursable Redevelopment Project Costs; provided however, to the extent the actual Redevelopment Project Costs which are attributed to a single line item within the Budget, exceed the budget for such single line item by (a) an amount equal to or in excess of the lesser of 10% or (b) an amount equal to or in excess of \$1 million, or the actual aggregate amount of Redevelopment Project Costs submitted for reimbursement by the Redeveloper exceed the aggregate amount of Redevelopment Project Costs set forth in the Budget by (c) an amount equal to or in excess of the lesser of 10% or (d) an amount equal to or in excess of \$1 million, the Commission, upon providing all requisite notices required by the Act, shall conduct a public hearing to consider an amendment to the Redevelopment Plan that would increase the budget so as to permit the reimbursement of such excess amount, and upon the recommendation and approval by the City Council of such amendment to the Redevelopment Plan, the Cost Certifier, subject to its normal practices and procedures, shall certify such excess amount for reimbursement. To the extent there is a dispute between the Cost Certifier and the Redeveloper as to whether the excess costs should be attributed to a particular line item within the Budget, the Commission shall accept the interpretation of the Cost Certifier.

## **Obligation of Redeveloper Prior to Reimbursement**

1. Prior to the Commission's reimbursement of any Redevelopment Project Costs, the Redeveloper must certify to the Commission, on a form substantially similar to **Schedule 1**, that to its knowledge, there exists no Hazardous Substances, at levels above applicable clean-up standards on any real property within the Redevelopment Area. In the event such Hazardous Substances exist, the Redeveloper shall state, in writing, what measures it intends to undertake to clean-up such Hazardous Substances to standards consistent with federal, state and local laws. For purposes of this section, Hazardous Substance means any substance that is (i) oil or other petroleum products, (ii) "hazardous waste," as defined by the Resource Conservation and Recovery Act, as amended (RCRA), 42 U.S.C. §6901 *et. seq.*, or similar state or local law, ordinance, regulation or order (iii) "hazardous substances" as defined by the Comprehensive Environmental Response Compensation and Liability Act of 1980, as amended (CERCLA), 42 U.S.C. §9601 *et. seq.*, or similar state or local law, ordinance, regulation or order (iv) "hazardous materials as defined by the Hazardous Materials Transportation Act, as amended (HMTA), 49 U.S.C. §1802, or similar state or local law, ordinance, regulation or order (v) "radioactive materials" subject to the Atomic Energy Act, as amended (AEA) 42 U.S.C. §2014 *et. seq.*, or similar state or local law, ordinance, regulation or order, and (vi) any other pollutant, contaminant, chemical, or substance whose presence creates or could create a hazard to health or the environment or violation of any federal, state, or local law.
2. At the time the Redeveloper submits Redevelopment Project Costs for certification, the Redeveloper shall include with each such submission to the Commission all documentation, as reasonably requested by the Commission or the Cost Certifier, which shall be certified by an officer of the Redeveloper, that shall identify and detail in connection with such submission all payments made to Minority Owned Businesses ("MBE's") and Women Owned Businesses ("WBE's"), which have been certified by the City of Kansas City, Missouri and who are listed on the Redeveloper's construction services utilization plan or professional services utilization plan (the "Utilization Plans") attached to the Redevelopment Agreement.
3. Prior to the Commission's reimbursement of any eligible Redevelopment Project Costs, the Redeveloper shall submit an affidavit to the Commission certifying (a) the sources of funds to pay all Redevelopment Project Costs and (b) that the Redevelopment Project Costs that shall be reimbursed with Payments in Lieu of Taxes (PILOTs), Economic Activity Taxes (EATs) and such other funds within the Special Allocation Fund shall not be reimbursed or otherwise paid from any other public source.
4. Prior to reimbursement of eligible Redevelopment Project Costs, the Redeveloper shall cause its contractors and subcontractors to file with the Commission an affidavit stating that it has complied with the Missouri Prevailing Wage Act, RSMo. §§ 290.210 to 290.340.

5. All closing costs and expenses related to the issuance of bonds, which are to be financed by Economic Activity Taxes (EATs) and/or Payments in Lieu of Taxes (PILOTs), must be incorporated into a budget and submitted to the Commission for approval prior to the Commission declaring its intent to proceed with issuing or consenting to the issuance of bonds to pay for Redevelopment Project Costs (see the Commission's Bond Disbursement Policy – Resolution #5-6-04).
6. The Redeveloper will be requested to be present during the Commission meeting to address questions or concerns that may arise concerning a certification request.

### **Obligation of Commission Staff During Certification Process**

1. Staff to the Commission ("TIFC Staff") will forward to the Cost Certifier a cover letter detailing the following: (a) the certification request as stated by the Redeveloper, (b) a list of all MBE's and WBE's identified in a certification request, (c) any special issues related to the certification request or the Redevelopment Project (i.e. environmental concerns and cost overruns), (d) a contact person for the Redeveloper, (e) the date the TIFC Staff would like to receive a completed report from the Cost Certifier and (f) the date TIFC Staff would like to present the certification request and the Cost Certifier's report to the Commission.
2. TIFC Staff will forward original documentation submitted by the Redeveloper to the Cost Certifier along with the following, if necessary: a copy of the Redevelopment Plan and necessary amendments; a copy of the current redevelopment agreement; a copy of this Policy, a copy of governing Redevelopment Project resolutions and ordinances; a copy of any other internal documentation that may assist in the process of certifying Redevelopment Project Costs such as other agreements or contracts; and any other information requested by the Cost Certifier.
3. In the event questions or requests for additional documentation arise during the review process, TIFC Staff will maintain a copy of all additional documentation provided to the Cost Certifier.
4. The Commission (a) shall not consider requests for certification of eligible Redevelopment Project Costs from the Redeveloper that are not submitted by the Redeveloper pursuant to this policy (unless such requests for reimbursement are made pursuant to the Commission's Bond Disbursement Policy), (b) shall not consider requests for certification of eligible Redevelopment Project Costs from the Redeveloper that are not submitted to the Commission within eighteen (18) months from the date such eligible reimbursable Redevelopment Project Costs were incurred by the Redeveloper and (c) shall not reimburse certified costs that are related to the construction of the improvements contemplated by a redevelopment plan and that are incurred more than twenty-four (24) months prior to the City Council's approval, by ordinance, of the Redevelopment Project Areas

identified by the Plan and the Redevelopment Agreement from which the Redeveloper anticipates the collection of PILOTS and EATS to reimburse such Redevelopment Project Costs. Any exception to this subsection (4) must be approved in writing by the Commission.

### **Cost Certifier's Review and Report**

1. Upon the Cost Certifier's receipt of a request for certification, the Cost Certifier shall review all documentation provided with such request.
2. The Cost Certifier will issue a report in a form acceptable to the Commission notating the amount recommended for certification by the Commission, any disallowed or questioned costs and what costs are considered to be associated with infrastructure. The Cost Certifier will give a complete breakout of all costs, including those costs related to MBE and WBE participation, for accounting purposes.
3. TIFC Staff will notify the Redeveloper of disallowed or questioned costs and the reason for the questioned costs included in the recommendation from Cost Certifier. In the event the Redeveloper is able to address the disallowed or questioned costs, TIFC Staff will assist in gathering any additional documentation to complete the report and work to assist the Redeveloper and Cost Certifier to answer the questions and complete the report.
4. The Cost Certifier will be requested to be present at the Commission meeting to discuss any special issues related to the report and recommendation for certification. TIFC Staff will present any outstanding disallowed or questioned costs to the Commission during the presentation.

### **Presentation to the Commission**

1. Prior to each monthly Commission meeting, TIFC Staff will notify each Redeveloper of the amount to be recommended for certification.
2. TIFC Staff will present to the Commission the following: the total request for certification as presented by each Redeveloper; the total amount paid to MBE's and WBE's; the Cost Certifier reviewing the request; any disallowed or questioned costs related to the request; any outstanding issues needing to be addressed prior to Commission approval and amount recommended for certification.

### **Following the Commission Meeting**

1. Following the Commission's certification of Redevelopment Project Costs, TIFC Staff will notify its controller of the certified amount and the controller, to the



extent the Redeveloper is in compliance with its Funding Agreement and there are sufficient funds within the designated Special Allocation, shall reimburse the Redeveloper for such certified amount within thirty (30) days after certification.

2. All originals and reports will be maintained in the EDC's central filing system.

**The Commission must approve in writing any exception to the Certification of Costs and Reimbursement Policy.**

**Schedule 1**

**ENVIRONMENTAL COMPLIANCE CERTIFICATE**

I, \_\_\_\_\_ [name] \_\_\_\_\_, the \_\_\_\_\_ [title] \_\_\_\_\_ of \_\_\_\_\_ [company] \_\_\_\_\_, a \_\_\_\_\_ corporation (the "Developer"), in connection with the implementation of Projects \_\_\_\_\_ (the "Redevelopment Projects") of the \_\_\_\_\_ Tax Increment Financing Plan (the "Plan") dated \_\_\_\_\_, 200\_\_ hereby certify that:

1. The Developer has received a copy and reviewed the terms of the Certification of Costs and Reimbursement Policy (the "Policy") of the Tax Increment Financing Commission of Kansas City, Missouri (the "Commission") and has had an opportunity to discuss and ask questions of the staff to the Commission with respect to the Policy.
2. All capitalized terms within this Certificate that are not defined shall have the meanings ascribed to them in the Policy.
3. The Developer acknowledges that the Policy, a copy of which is attached hereto as Exhibit A, is intended to outline the procedure and set forth all such requirements and obligations that redevelopers of Redevelopment Plans must observe and comply in order for redevelopers to be reimbursed for eligible Redevelopment Project Costs incurred in connection with the implementation of a Redevelopment Plan, Redevelopment Project or public improvement.
4. The Developer hereby certifies that, to its knowledge, except as set forth on Exhibit B, attached hereto, there exist no Hazardous Substances, at levels above applicable clean-up standards on any real property within the redevelopment area of the Redevelopment Projects.
5. The Developer hereby certifies that in the event Hazardous Substances exist, prior to the reimbursement of any eligible Redevelopment Project Costs, the Developer shall state, in writing, to the Commission what measures the Developer intends to undertake to clean-up such Hazardous Substances to standards consistent with federal, state and local laws.
6. The undersigned has delivered this Certificate to the Commission prior to the certification of any eligible Redevelopment Project Costs. The undersigned acknowledges and agrees that this Certificate is being materially relied upon by the Commission and, to the extent any statement or representation made herein is not true and correct in all material respects, the Commission may withhold the reimbursement of any eligible Redevelopment Project Costs, with respect to the implementation of the improvements contemplated by the Plan.

**IN WITNESS WHEREOF**, the undersigned has executed this Certificate as of \_\_\_\_\_, 200\_\_.

**DEVELOPER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Exhibit A**

**Certification of Costs and Reimbursement Policy**

**Exhibit B**

**Existing Hazardous Conditions**

**Schedule 2**

**AFFIDAVIT AS TO SOURCES OF FUNDS**

I,       [name]      , the       [title]       of       [company]      , a \_\_\_\_\_ corporation (the "Developer"), in connection with the implementation of Projects \_\_\_\_\_ (the "Redevelopment Projects") of the \_\_\_\_\_ Tax Increment Financing Plan (the "Plan") dated \_\_\_\_\_, 200\_\_ hereby certify that:

1. The Developer has received a copy and reviewed the terms of the Certification of Costs and Reimbursement Policy (the "Policy") of the Tax Increment Financing Commission of Kansas City, Missouri (the "Commission") and has had an opportunity to discuss and ask questions of the staff to the Commission with respect to the Policy.
2. All capitalized terms within this Certificate that are not defined shall have the meanings ascribed to them in the Policy.
3. The Developer acknowledges that the Policy, a copy of which is attached hereto as Exhibit A, is intended to outline the procedure and set forth all such requirements and obligations that redevelopers of Redevelopment Plans must observe and comply in order for redevelopers to be reimbursed for eligible Redevelopment Project Costs incurred in connection with the implementation of a Redevelopment Plan, Redevelopment Project or improvement contemplated by a Redevelopment Plan or Redevelopment Project.
4. The Developer hereby certifies to the Commission that the amount of each source of funds expended to date by the Developer to pay the Redevelopment Project Costs for which the Developer is now seeking certification and reimbursement are reflected on Exhibit B, attached hereto.
5. The Developer hereby certifies to the Commission that the Redevelopment Project Costs for which the Developer is now seeking certification and reimbursement from Payments in Lieu of Taxes and/or Economic Activity Taxes will not be reimbursed or otherwise paid from any other public source.
6. The undersigned has delivered this Certificate to the Commission prior to the certification and reimbursement of Redevelopment Project Costs referenced on the attached Disbursement Request Form. The undersigned acknowledges and agrees that this Certificate is being materially relied upon by the Commission and, to the extent any statement or representation made herein is not true and correct in all material respects, the Commission may withhold the reimbursement of any eligible Redevelopment Project Costs, with respect to the implementation of the Plan.

**IN WITNESS WHEREOF**, the undersigned has executed this Certificate as of \_\_\_\_\_, 200\_\_.

**DEVELOPER:**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Exhibit A**

**Certification of Costs and Reimbursement Policy**

**Exhibit B**

**Sources of Funds**

### Schedule 3

#### **AFFIDAVIT AS TO PAYMENT OF PREVAILING WAGES**

I, \_\_\_\_\_ [name], the \_\_\_\_\_ [title] of \_\_\_\_\_ [company], a \_\_\_\_\_ corporation (the “Developer”), in connection with the implementation of Projects \_\_\_\_\_ (the “Redevelopment Projects”) of the \_\_\_\_\_ Tax Increment Financing Plan (the “Plan”) dated \_\_\_\_\_, 200\_\_ hereby certify that:

1. The Developer has received a copy and reviewed the terms of the Certification of Costs and Reimbursement Policy (the “Policy”) of the Tax Increment Financing Commission of Kansas City, Missouri (the “Commission”) and has had an opportunity to discuss and ask questions of the staff to the TIF Commission with respect to the Policy.
2. All capitalized terms within this Certificate that are not defined shall have the meanings ascribed to them in the Policy.
3. The Developer acknowledges that the Policy, a copy of which is attached hereto as Exhibit A, is intended to outline the procedure and set forth all such requirements and obligations that redevelopers of Redevelopment Plans must observe and comply in order for redevelopers to be reimbursed for eligible Redevelopment Project Costs incurred in connection with the implementation of a Redevelopment Plan, Redevelopment Project or public improvement.
4. The Developer hereby confirms and attests to the Commission that it has (a) paid and caused all its contractors and subcontractors to pay prevailing wage rates set forth on the Annual Wage Order, attached hereto as Exhibit B, for all Project Improvements and Public Improvements to which costs related thereto are anticipated to be reimbursed under that certain Redevelopment Agreement, dated \_\_\_\_\_, by and between the Developer and the Commission.
5. The Developer hereby confirms and attests to the Commission that it has complied with the Payment of Prevailing Wage Procedures attached as Exhibit \_\_\_\_, to the Redevelopment Agreement (the “Prevailing Wage Procedures”), including performing or adhering and causing its contractors to perform and adhere to the following:
  - a. abstaining from contracting with contractors or subcontractors on the Missouri Secretary of State’s list of Prevailing Wage Act violators;
  - b. keeping full and accurate records clearly indicating the names, occupations and crafts of every workman employed in connection with the construction of the Project Improvements and Public Improvements to which costs related thereto are anticipated to be reimbursed under the Redevelopment Agreement;
  - c. posting a clearly legible statement of Prevailing Wage Rates at all sites for the construction of the Project Improvements and Public Improvements to which costs related thereto are anticipated to be reimbursed under the Redevelopment Agreement;



- d. preparing a copy of all payrolls made on a weekly basis for all construction work related to the Project Improvements and Public Improvements to which costs related thereto are anticipated to be reimbursed under the Redevelopment Agreement;
- e. causing the general contractor and all subcontractors to maintain a daily record of all construction work related to the Project Improvements and Public Improvements to which costs related thereto are anticipated to be reimbursed under the Redevelopment Agreement;
- f. maintaining and verifying Daily Labor Force Records submitted by the general contractors and subcontractors for all construction work related to the Project Improvements and Public Improvements to which costs related thereto are anticipated to be reimbursed under the Redevelopment Agreement;
- g. conducting weekly interviews with construction workers on Project Improvements and Public Improvements sites to verify prevailing wage compliance;
- h. requiring that contractors and subcontractors certify that the payrolls are in compliance with the Annual Wage Order, attached as Exhibit B;
- i. reviewing contractor/subcontractor payrolls for all construction work relating to the Project Improvements and Public Improvements to which costs related thereto are anticipated to be reimbursed under the Redevelopment Agreement; and
- j. prior to commencing construction in connection with the Project Improvements and Public Improvements to which costs related thereto are anticipated to be reimbursed under the Redevelopment Agreement, notifying the Commission and the Missouri Department of Labor, on a form attached hereto as Schedule I to the Prevailing Wage Procedures, of the scope of the work to be done, the various types of craftsmen who will be needed and the date work will commence.

6. The undersigned acknowledges and agrees that this Affidavit is being materially relied upon by the Commission.

7. The information, statements and averments in this Affidavit are, to the best of my knowledge and belief, true, accurate and complete in all material respects.

**IN WITNESS WHEREOF**, the undersigned has executed this Certificate as of \_\_\_\_\_, 200\_\_\_\_\_.

**DEVELOPER:**

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

**Exhibit A**

**Certification of Costs and Reimbursement Policy**

**Exhibit B**

**Annual Wage Order**

**Schedule 4**

**REQUEST FOR CERTIFICATION**

<b>Description of Costs</b>	<b>Budget of Total Costs</b>	<b>Eligible Reimbursement Costs</b>	<b>Requested Amount of Certification</b>	<b>Payee*/Payee**</b>

\* Indicates Payees that have been certified as a Minority Owned Business (MBE) by the Human Relations Department of the City of Kansas City, Missouri (HRD) and that appear on the Utilization Plan attached to the Redevelopment Agreement.

\*\* Indicates Payee's that have been certified as a Women Owned Business (WBE) by the HRD and that appear on the Utilization Plan attached to the Redevelopment Agreement.

**EXHIBIT G**

**Redevelopment Schedule**

Construction Begins	Summer 2020
Construction Completed	Fall 2021

**EXHIBIT H**

**Annual Assessment Form**

# Tax Increment Financing Annual Report

## Section 1: Description of the Plan and Project

1. Name of City and/or County (entity that approved the TIF Plan or Project): \_\_\_\_\_
2. Name of Plan or Project: \_\_\_\_\_
3. Report Period: From \_\_\_\_\_, 20\_\_\_\_, to \_\_\_\_\_, 20\_\_\_\_
4. Name of the person who prepared this Annual Report \_\_\_\_\_
5. Contact Information
  - a) City or County Contact Agency \_\_\_\_\_
  - b) Person \_\_\_\_\_
  - c) Phone \_\_\_\_\_
  - d) Fax \_\_\_\_\_
  - e) E-mail Address \_\_\_\_\_
  - f) Private Sector Developer \_\_\_\_\_
  - g) Person \_\_\_\_\_
  - h) Phone \_\_\_\_\_
  - i) Fax \_\_\_\_\_
  - j) E-mail Address \_\_\_\_\_
6. Original Date Plan/Project Approved \_\_\_\_\_
7. Ordinance Number (if available) \_\_\_\_\_
8. Most Recent Plan Amendment Date (if any) [99.865.1(9)] \_\_\_\_\_
9. Ordinance Number (if available) \_\_\_\_\_
10. State House District \_\_\_\_\_
11. State Senate District \_\_\_\_\_
12. School District \_\_\_\_\_
13. General Location of Area or Project Area (if feasible, please attach copy of Redevelopment Area Boundary Map from Plan [99.865.1(10)])  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_  
\_\_\_\_\_

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14. Brief description of Plan/Project [99.865.1(10)] \_\_\_\_\_

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15. Plan/Project Status (*Circle one which best describes status*):

- a) *Starting-Up*                      b) *Seeking Developer*                      c) *Under Construction*  
d) *Fully-Operational*                      e) *Inactive*                      f) *District Dissolved*

*If Clarification Is Needed:* \_\_\_\_\_

16. Area Type (*Circle All Applicable*):

- a) *Blight*                      b) *Conservation*                      c) *Economic Development*

17. How was the “but-for” determination made? (*Circle All Applicable*):

- a) Project had unusual/extraordinary costs that made the project financially unfeasible in the market place.  
b) Project required significant public infrastructure investment to remedy existing inadequate conditions.  
c) Project required significant public infrastructure investment to construct adequate capacity to support the project.  
d) Project required parcel assembly and/or relocation costs.  
e) Other (describe): \_\_\_\_\_

18. Major Development Obstacles to be Overcome: \_\_\_\_\_

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19. Briefly Describe the Project’s Public Benefits [99.865.1(10)] \_\_\_\_\_

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20. Briefly Describe Agreements with the Developer [99.865.1(9)] \_\_\_\_\_

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21. Brief Description of Any Agreements with the Affected Taxing Districts [99.865.1(9)] \_\_\_\_\_

22. Number of Relocated Residences During This Report Period \_\_\_\_\_

23. Number of Relocated Businesses During This Report Period \_\_\_\_\_

24. Number of Parcels Acquired Through Use of Eminent Domain Power In This Report Period (99.865.1(12)): \_\_\_\_\_

25. Identify any Businesses that have Relocated to the Redevelopment Area During This Report Period: (*Completion of This Section Satisfies Requirements of 99.810.2 'New Business Report; Otherwise Due by the last day of February*).

Name	Address	Phone Number	Primary Business Line	Relocated from What City/County?

*(Please Attach List Separately If Necessary or Desired)*

26. Estimate of New Jobs: *Projected*: \_\_\_\_\_ *Actual to date*: \_\_\_\_\_

27. Estimate of Retained Jobs: *Projected*: \_\_\_\_\_ *Actual to date*: \_\_\_\_\_

## Section 2: Tax Increment Financing Revenues

28. TIF Revenue Deposits to the Special Allocation Fund as of the Report Date:

a. Payments in Lieu of Taxes (PILOTs): [99.865.1(6)]

Total received since inception: \$ \_\_\_\_\_ Amount on hand: \$ \_\_\_\_\_  
*(As of Report Date)*

b. Economic Activity Taxes (EATs): [99.865.1(8)]

Total received since inception: \$ \_\_\_\_\_ Amount on hand: \$ \_\_\_\_\_  
*(As of Report Date)*

**Total Revenue on hand in the Special Allocation Fund as of Report Date: [99.865.1(1)]** \$ \_\_\_\_\_

29. Expenditures for Total Project Costs Funded by TIF: [99.865.1(2)]

		<b>Total Since Inception:</b>	<b>Report Period Only:</b>
a) Public Infrastructure (streets, utilities, etc)	\$	_____	\$ _____
b) Site Development (grading, dirt moving, etc.)	\$	_____	\$ _____
c) Rehab of Existing Buildings [99.865.1(11)]	\$	_____	\$ _____
d) Acquisition of Land or Buildings [99.865.1(11)]	\$	_____	\$ _____
e) Other (specify): _____	\$	_____	\$ _____
f) Other (specify): _____	\$	_____	\$ _____

Amount Paid on Debt Service: [99.865.1(3)]

g) Payments of Principal and Interest on Outstanding Bonded Debt:

Since Inception: \$ \_\_\_\_\_ This Reporting Period: \$ \_\_\_\_\_

h) Reimbursement to Developer for Eligible Costs:

Since Inception: \$ \_\_\_\_\_ This Reporting Period: \$ \_\_\_\_\_

(i) Reimbursement to Municipality (or Other Public Entity) for Eligible Costs:

Since Inception: \$ \_\_\_\_\_ This Reporting Period: \$ \_\_\_\_\_

30. Anticipated TIF Reimbursable Costs (Only include hard costs; do not include interest or bond issuance costs.)

a. Public Infrastructure and Site Development Costs	\$	_____
(Utility Extensions, Road Improvements, Stormwater, Demolition, Grading, etc.)		
b. Property Acquisition and Relocation Costs	\$	_____
c. Project Implementation Costs (Including Professional Fees)	\$	_____
d. Other (specify, as applicable): _____	\$	_____
e) Other (specify): _____	\$	_____
f) Other (specify): _____	\$	_____
<b>Total Anticipated TIF Reimbursable Project Costs</b>	<b>\$</b>	<b>_____</b>

31. Anticipated Total Project Costs \$ \_\_\_\_\_

(Please attach a copy of the budgets from the Redevelopment Plan for Anticipated Total Project Costs and Anticipated Reimbursable TIF Costs if any revisions occurring since previous filing.)

32. TIF Financing Method (circle all that apply):

- |                  |                             |               |          |
|------------------|-----------------------------|---------------|----------|
| a) Pay-as-you-go | b) General Obligation Bonds | c) TIF Notes  | d) Loan  |
| e) TIF Bond      | f) Industrial Revenue Bond  | g) Other Bond | h) Other |

Maturity of TIF Obligations (*term of the TIF payout*)

33. Original Estimate (# of Years to Retirement) \_\_\_\_\_

34. Current Anticipated Estimate (# of Years to Retirement) \_\_\_\_\_

Estimated Increase in Tax Generation

35. Original Assessed Value of the Redevelopment Project: *[99.865.1(4)]* \$ \_\_\_\_\_

36. Assessed Valuation Added to the Redevelopment Project (As of the end of the report period): *[99.865.1(5)]*  
\$ \_\_\_\_\_

37. Anticipated Assessed Value at Time of District Termination: \$ \_\_\_\_\_

38. Total Amount of **Base Year** EATs *[99.865.1(7)]* \$ \_\_\_\_\_

39. Total Amount of **Base Year** PILOTs \$ \_\_\_\_\_

40. Total Annual EATs Anticipated at Time of District Termination \$ \_\_\_\_\_

41. Total Annual PILOTs Anticipated at Time of District Termination \$ \_\_\_\_\_

42. Percentage of EATs Captured (*per TIF Plan, usually up to 50%*) \_\_\_\_\_ %

43. Total Years Anticipated to Capture EATs (*per TIF Plan, up to 23 years*) \_\_\_\_\_

44. Percentage of PILOTs Captured (*per TIF Plan, usually up to 100%*) \_\_\_\_\_ %

45. Total Years Anticipated to Capture PILOTs (*per TIF Plan, up to 23 years*) \_\_\_\_\_

**EXHIBIT I**

**Certificate of Completion and Compliance Policy**

**Policy Name: Certificate of Completion and Compliance Issuance Policy**

**Date Approved: December 8, 2004**

**Resolution Number: 12-2-04**

**Policy Statement:** The purpose of this Certificate of Completion and Compliance Issuance Policy is to outline the procedure and set forth all such requirements and obligations that redevelopers of Redevelopment Plans (“Redeveloper(s)”) must observe and comply with in order to receive a Certificate of Completion and Compliance from the Tax Increment Financing Commission (the “Commission”) in connection with the completion of a Redevelopment Plan, Redevelopment Project or public improvement. (All capitalized terms not defined herein shall have the respective meanings ascribed to them in the Real Property Tax Increment Financing Allocation Act, Sections 99.800 to 99.865, inclusive, of the Revised Statutes of Missouri, as amended, the “Act”).

- I. Upon completion of each Redevelopment Project and in order to ensure a Redeveloper’s compliance with the respective Redevelopment Plan in which such Redevelopment Project is located and the Commission’s policies related thereto, the Redeveloper shall certify, in writing, to the Commission (“Certification Report”):
  - a. that construction of the project improvements has been completed in accordance with the respective Redevelopment Plan, that a Certificate of Occupancy, where appropriate, has been issued and that the Redeveloper is in compliance with all the provisions of its Redevelopment Agreement with the Commission,
  - b. that the amount of the total costs incurred by the Redeveloper in completing the project improvements and submitted to the Commission for certification and reimbursement is within the lesser of ten percent (10%) or \$1,000,000 of the budget of Redevelopment Costs set forth in the respective Redevelopment Plan,
  - c. the actual private equity and debt used by the Redeveloper to complete the project improvements, which may include capitalized interest during construction, but not during any “lease-up” period and
  - d. that the Redeveloper has complied with the Commission’s Certification of Costs and Reimbursement Policy, as amended from time to time, and that the Commission has certified all Redevelopment Costs incurred that are eligible for reimbursement.
- II. The Commission, upon receipt of the Certification Report, shall examine and determine:
  - a. whether construction of the Redevelopment Project has been completed in accordance with the provisions of the respective Redevelopment Plan, the

respective Redevelopment Agreement, the plans and specifications approved by the City of Kansas City, Missouri (the “Approved Plans”), the Commission’s Funding Schedule, as amended from time to time, the Economic Activity Tax Policy and Procedures, as amended from time to time, the Commission’s Affirmative Action Policy, as amended from time to time, and

- b. whether the Redevelopment Costs submitted by the Redeveloper to the Commission and reviewed by an independent cost certifier have been certified pursuant to the Commission’s Certification of Costs and Reimbursement Policy.
- III. If the Commission determines that (i) the construction of a Redevelopment Project has been completed in accordance with the provisions of the respective Redevelopment Plan, the Approved Plans, the respective Redevelopment Agreement, the Commission’s Affirmative Action Policy, the Economic Activity Tax Policy and Procedures and other required governmental approvals, and (ii) all Redevelopment Costs related to the Redevelopment Project that are eligible for reimbursement have been certified pursuant to the Commission’s Certification of Costs and Reimbursement Policy, then the Commission shall issue a Certificate of Completion and Compliance.
- IV. If the Commission determines that the Redevelopment Project, or any part thereof, has not been completed substantially in accordance with the provisions of this Policy or that the Redevelopment Costs have not been certified pursuant to the Certification of Costs and Reimbursement Policy, then the Commission may, in its reasonable discretion: (x) not issue a Certificate of Completion and Compliance, and/or (y) withhold reimbursement of certified Redevelopment Costs, provided, however, that the Commission shall specify in writing the reason or reasons for not issuing a Certificate of Completion and Compliance and withholding its certification of Redevelopment Costs. Upon the request of the Redeveloper, the Commission shall hold a hearing at which the Redeveloper may present new and/or additional evidence.
- V. Each such Certificate of Completion and Compliance issued by the Commission shall contain a description of the real property affected thereby and shall be in such form as will enable such certificate to be accepted for recording in the Office of the Recorder of Deeds in the county in which such property is located.

**EXHIBIT J**  
**Funding Schedule**

# TIF Commission Funding Schedule

	ACTIVITY	SCHEDULE
<b>Cost Recovery for Agency Expenses</b>	Agency's Prof. Staff Expense (direct hourly billing)	Salary/hr. + Overhead
	Professional Services (e.g., appraisal, title, etc.)	Actual invoice amount
	Legal Services	Actual invoice amount
	Miscellaneous Direct Plan/Project Expense	other due diligence expense, out-of-pocket administrative cost

<b>Engagement: Funding Agreement</b>	Plan/Project/Amendment Advance (replenished upon depletion—unused balance returned)	\$20,000/\$10,000/\$10,000
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## PHASE FEES

<b>Plan Preparation</b>	Plan Application Fee (non-refundable)	\$3,000
	Public Hearing Continuance Fee (see note below)	\$1,000

<b>Redeveloper Proposals</b>	Fee for RFP Developers Kit	None
	Submission Fee for Redeveloper's Application	\$1,000 residential; \$2,000 nonresidential

<b>Bond Financing</b>	Bond Application Fee	\$3,000
	Issuance Fee	Up to \$10,000,000 0.5% \$10,000,001-\$25,000,000 .375% \$25,000,001+ 0.25% (.1% for refinancing), plus issuance expenses

<b>Land Acquisition</b>	Offer to Purchase	Actual invoice amount
	Acquisition Fee	Actual invoice amount

	Certificate of Completion & Compliance Fee	\$.05/sq. ft. nonresidential \$100/dwelling unit
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**EXHIBIT K**

**Economic Activity Taxes Collection and Documentation Policy**

**Policy Name:** Economic Activity Taxes Documentation and Collection Policy

**Date Approved:** November 20, 2010

**Resolution Number:** 11-31-10

**Policy statement:** Establish a procedure for Developers to assist the Tax Increment Financing Commission of Kansas City, Missouri in collecting and documenting, on a timely basis, information necessary to determine the amount of Economic Activity Taxes, as defined by the Real Property Tax Increment Allocation Redevelopment Act, Missouri Revised Statutes, Section 99.845.3 (“EATs Revenue”), that is generated within redevelopment project areas implemented by such Developers (“Redevelopment Project Areas”).

I. Determination of the “Base” at the Time a Redevelopment Project Area is Approved by Ordinance

A. Section 99.845 RSMo. specifies that the base amount of economic activity taxes identified for the purpose of determining EATs Revenue is the amount of economic activity taxes identified in the calendar year prior to the adoption of a redevelopment project and the designation of a redevelopment project area by ordinance (the “Base”). Prior to the designation of a Redevelopment Project Area by the City Council, the Developer shall provide the Commission with the list of businesses located within the proposed Redevelopment Project Area and certify, to its actual knowledge, that such list is accurate.

B. In the event the Developer determines that certain businesses, whose base amount of economic activity taxes were not incorporated within the Base, but were located and operating within a Redevelopment Project Area at the time the Base was established, the Developer shall immediately notify the Commission of such businesses.

II. Procedures for Documentation and Collection of Economic Activity Taxes

A. Obligations of a Developer Owned and/or Occupied Redevelopment Project

1. Sales Taxes: The Developer shall submit to the Commission on a semi-annual basis documentation of the amount of sales taxes paid within the Redevelopment Project Area. Typically, this documentation will consist of copies of all sales tax returns and a cover sheet stating the total amount of sales taxes paid during the reporting period. Alternatively, a Developer may submit to the Commission the businesses’ MITS numbers as well as such businesses’ location codes. (See Exhibit 1 attached hereto).

2. Earnings Taxes: The Developer shall submit to the Commission on a semi-annual basis documentation of the amount of earnings taxes withheld or paid by workers whose jobs, at the time such earnings were withheld or paid, were located

within the Redevelopment Project Area. This documentation will consist of copies of all earnings tax returns (including Corporate Profits Taxes) and a cover sheet stating the amount of earnings taxes withheld from or paid by workers during a reporting period whose jobs, at the time such earnings taxes were withheld or paid, were located within the Redevelopment Project Area. Alternatively, the Developer may submit a form provided by the Commission, which sets forth the businesses' Federal Identification numbers as well as the percentage of earnings taxes generated by workers of such businesses located within the Redevelopment Project Area.

3. Net Profits Taxes: The Developer shall submit to the Commission on an annual basis documentation of the amount of net profits taxes paid by businesses operating within the Redevelopment Project Area. This documentation will consist of copies of the net profits tax returns and a cover sheet stating the amount of net profits taxes paid by businesses operating within the Redevelopment Project Area during the reporting period. Alternatively, the Developer may submit a form provided by the Commission, which sets forth the businesses' Federal Identification numbers as well as the percentage of net profits taxes generated by such businesses operating within the Redevelopment Project Area.

4. Food and Beverage Taxes: The Developer shall submit to the Commission on a semi-annual basis documentation of the amount of food and beverage taxes paid by businesses operating within the Redevelopment Project Area. This documentation will consist of copies of all food and beverage tax returns and a cover sheet stating the total amount of food and beverage taxes paid by businesses operating within the Redevelopment Project Area during the reporting period. Alternatively, the Developer may submit a form provided by the Commission, which sets forth the businesses' Federal Identification numbers as well as the percentage of food and beverage taxes generated by such businesses operating within the Redevelopment Project Area.

5. Utility Taxes: The Developer shall provide to the Commission on a semi-annual basis copies of all utility bills paid and a cover sheet showing the total amount paid to each utility provider for service provided within the Redevelopment Project Area during each six-month reporting period.

B. Obligations of Developer who sells or leases real property within a Redevelopment Project Area.

1. Sales Taxes: The Developer shall include as a part of all assignments, sales and lease agreements entered into prior to the termination of the Redevelopment Project Area, and contractually require for inclusion in any subsequent assignments, sales, leases and subleases, a provision that all businesses located within the Redevelopment Project Area shall submit to the Commission documentation of the amount of sales taxes paid within the Redevelopment Project Area. Typically, this documentation will consist of copies of all sales tax returns

filed and a cover sheet stating the total amount of sales taxes paid during the reporting period. Alternatively, a Developer may incorporate within its assignments, sales and lease agreements a provision that obligates all businesses located within the Redevelopment Project Area to submit to the Commission such businesses' MITS numbers as well as such businesses' location codes. (See Exhibit 1 attached hereto).

2. Earnings Taxes: The Developer shall include as a part of all assignments, sales and lease agreements entered into prior to the termination of the Redevelopment Project Area, and contractually require for inclusion in any subsequent assignments, sales, leases and subleases, a provision that all businesses located within the Redevelopment Project Area submit to the Commission documentation of the amount of earnings taxes withheld or paid by workers whose jobs, at the time such earnings taxes were withheld or paid, were located within the Redevelopment Project Area. This documentation will consist of copies of all earnings tax returns filed and a cover sheet stating the total amount of earnings taxes paid by workers during a reporting period whose jobs, at the time such earnings taxes were withheld or paid, were located within the Redevelopment Project Area. Alternatively, a Developer may incorporate a provision within its assignments, sales and lease agreements a provision that all businesses located within the Redevelopment Project Area shall submit to the Commission the businesses' Federal Identification numbers as well as the percentage of earnings taxes generated by the businesses operating within the Redevelopment Project Area.

3. Net Profits Taxes: The Developer shall include as a part of all assignments, sales and lease agreements entered into prior to the termination of the Redevelopment Project Area, and contractually require for inclusion in any subsequent assignments, sales, leases and subleases, the provision that all businesses located within the Redevelopment Project Area submit to the Commission documentation of the amount of net profits taxes paid by businesses operating within the Redevelopment Project Area. This documentation will consist of copies of the net profits tax returns and a cover sheet stating the amount of net profits taxes paid by businesses operating within the Redevelopment Project Area during the reporting period. Alternatively, a Developer may incorporate a provision within its assignments, sales and lease agreements a provision that all businesses located within the Redevelopment Project Area shall submit to the Commission the businesses' Federal Identification numbers as well as the percentage of net profits taxes generated by such businesses operating within the Redevelopment Project Area.

4. Food and Beverage Taxes: The Developer shall include as a part of all assignments, sales and lease agreements entered into prior to the termination of the Redevelopment Project Area, and require for inclusion in any subsequent assignments, sales, leases and subleases, a provision that all businesses located within the Redevelopment Project Area submit to the Commission documentation

of the amount of food and beverage taxes paid by businesses operating within the Redevelopment Project Area. This documentation will consist of copies of all food and beverage tax returns filed and a cover sheet stating the total amount of food and beverage taxes paid by businesses operating within the Redevelopment Project Area during the reporting period. Alternatively, the Developer may submit a form provided by the Commission, which sets forth the businesses' Federal Identification numbers as well as the percentage of food and beverage taxes generated by such businesses operating within the Redevelopment Project Area.

5. Utility Taxes: The Developer shall include as a part of all assignments, sales and lease agreements entered into prior to the termination of the Redevelopment Project Area, and require for inclusion in any subsequent assignments, sales, leases and subleases, a provision that all businesses located within the Redevelopment Project Area submit to the Commission documentation of the amount of utility taxes paid by such businesses located within the Redevelopment Project Area. This documentation will consist of copies of all utility bills paid and a cover sheet stating the total amount of utility taxes paid to each utility provider for service provided within the Redevelopment Project Area during each six-month reporting period.

The conditions set forth in this Section II.B. shall be made a part of the property record. This will be accomplished by filing for record a memorandum of agreement with respect to the developer's agreement which will become a part of the real estate records pertaining to all the property within the Redevelopment Project Area described by a tax increment financing plan and will serve to put any subsequent taker of such property, either lessee or purchaser, of the existence of the developer's contract and of its provisions. In addition, at the time of any sale or lease, the Commission shall be apprised of said sale or lease of property during the life of the Redevelopment Plan.

### III. Developer Compliance with this Economic Activity Tax Policy and Procedure

The Developer shall not be deemed to be in compliance with this Policy unless:

- A. Ninety percent (90%) of all documentation, which is required to be submitted pursuant to this Policy (the "EATs Documentation"), is submitted semi-annually to the Commission. Specifically, each year, the EATs Documentation shall be submitted by July 31st for the period beginning January 1 and ending June 30 and by January 31st for the period beginning July 1 and ending December 31. One (1) copy of the EATs Documentation shall be submitted to the Commission.
- B. In the event all EATs Documentation is not submitted in accordance with Section III.A., the Developer has taken the following actions:
  - 1. delivered written notice, between May 15 and May 31 and November 15 and November 30, to all tenants located within all Redevelopment Project Areas that (a) the Developer has been designated to develop pursuant to a

resolution or (b) are being improved by such Developer pursuant to a redevelopment agreement between the Developer and the Commission;

2. visit all tenants within each Redevelopment Project Area, as requested by the Commission's EATs compliance officer, between May 31 and June 30 and November 30 and December 31 and all tenants that are delinquent in submitting EATs Documentation at any time thereafter;
3. (i) include in lease agreements entered into after the execution of a redevelopment agreement with the Commission an obligation that tenants provide all EATs Documentation required to be submitted to the Commission in accordance with this Policy and (ii) enforce such obligation to the maximum extent permitted by law;
4. prior to July 15<sup>th</sup> and January 15<sup>th</sup>, made telephone calls or delivered emails to all tenants located within the Redevelopment Project Areas informing such tenants of their obligation to submit EATs Documentation to the Commission and maintain a log thereof, including date, time, and name or person talked to (Collectively, "Good Faith Efforts"); and
5. provided the Commission with an annual certified list of businesses located within each Redevelopment Project Area, by February 15 of each year that the Plan/Project is active.

**As a condition to the certification of any redevelopment project costs to the Developer, the Commission EATs compliance officer must certify to the Commission that the Developer has complied with this Section of this Policy.**

#### IV. Monitoring of Future Lease of Property

The Developer of the property shall provide to the Commission on an annual basis a certified list of businesses within the Redevelopment Project Area. The certified list shall list the name of the business, the address, the business identification number, and the date of occupancy if such has occurred within the last year.

#### V. Confidentiality

All documentation will be held confidential by the Commission to the extent allowed by law. Documentation of Economic Activity Taxes received by the Commission will be treated as follows:

1. If studies and documents are presented to the Commission for this purpose marked "Confidential," they will be so treated by the Commission and staff;
2. Confidential studies and documents shall be shared with staff members and Commission only on a "need-to-know" basis;

3. The information shall be kept in a special confidential file separate from the Commission's public records;
4. Staff members violating the confidentiality of any such material will be disciplined.

**EXHIBIT L**

**Form Letter of Transferees**



[Date]

«Name»

«Company»

«Address»

«City»

RE: «Plan» («Project») Tax Increment Financing Plan

Dear «Title»:

As you may be aware, your business is located within the «**Plan**» Tax Increment Financing (TIF) Plan Area. The City Council of Kansas City, Missouri (the “**Council**”), upon the recommendation of the Tax Increment Financing Commission of Kansas City, Missouri, approved the «**Plan**» Tax Increment Financing (TIF) Plan Area on «**Date**». The purpose of this TIF plan is to assist in the redevelopment of Kansas City, Missouri (the “**City**”). The TIF Plan provides financing for a variety of public improvements by using a portion of the increased taxes generated from higher property values and new economic activity within the TIF Plan Area.

Businesses located within TIF Plan Areas are required to pay the same taxes as businesses in non-TIF areas. However, instead of all your taxes being utilized by the City, county, or state (the “**Taxing Entities**”) for general services to all residents located within such Taxing Entities, a portion of your taxes collected will be used to reimburse redevelopment costs incurred for public improvements within your taxing district or the «**Plan**» Tax Increment Financing (TIF) Plan Area, until all such redevelopment costs are paid. After all redevelopment costs have been paid, your taxing district may continue to receive a portion of those increased taxes for twenty-three (23) years after the last redevelopment project in your taxing district has been approved by City Council.

Economic Activity Taxes (EATs) include sales taxes, food and beverage taxes, earnings taxes, utility taxes and net profits taxes paid to each Taxing Entity. In TIF plan areas, a portion of these EATs are collected from the city and county and deposited into a special fund for use as described.

In order to accurately determine the portion of taxes to be allocated to pay for redevelopment costs for public improvements in your taxing district, certain information is needed from the businesses within the TIF plan area. This information is requested on a semi-annual basis from you and the other businesses within the TIF plan area.

Semi-annually, EATs information requested from the businesses is outlined in the attached information and includes the following: a photo copy of the annual net profits tax return submitted to the City; a photo copy of the quarterly individual earnings tax return submitted to the City; a photo copy of the quarterly food and beverage tax return filed with the City; a photo copy of the monthly sales tax returns filed with the State; and photo copies of the monthly utility bills for electric, gas, water, phone and steam.

Two copies of information are to be sent to the City Finance Department no later than \_\_\_\_\_ to the following individual:

Dan Bagunu  
City of Kansas City, Missouri  
414 East 12<sup>th</sup> Street, First Floor  
Kansas City, MO 64106

[Name]

[Date]

In addition to the copies provided to City Finance, please forward a copy to the TIF Commission for tracking purposes at the following address:

TIF Financial Coordinator  
Economic Development Corporation  
1100 Walnut, Suite 1700  
Kansas City, MO 64106

Enclosed is a copy of the EAT's summary form outlining the above information. If you have further questions please contact me at (816) 221-0636.

Sincerely,

TIF Financial Coordinator

cc: Alissia R. Canady  
Heather A. Brown  
Wesley O. Fields

**EXHIBIT M**  
**Workforce Policy**

**Policy Name:**                    **Workforce Policy**

**Date Approved:**                **July 27, 2009 and June 11, 2014**

**Resolution Numbers:**        **7-5-09 and 6-2-14**

**Policy Statement:**    WHEREAS, the City, pursuant to City Code of General Ordinances, Chapter 3, Article IV, Division 2, Sections 3-501 through 3-525 (“City Construction Employment Program”) established goals for the employment of minority, women and resident workers for certain construction contractors engaged by the City, its departments and agencies, including the TIFC; and

WHEREAS, in accordance with the City’s mandate set forth in the Workforce Ordinance, the TIFC hereby adopts, in substantial form, the terms and conditions of the City Construction Employment Program.

THEREFORE, in order to comply with the Workforce Ordinance and the City Construction Employment Program, the TIFC shall adhere to the following requirements:

- (1)    comply or exert good faith efforts to comply with the Employment Construction Program established by the Workforce Ordinance, as it may be amended from time to time,
- (2)    contractually require Redeveloper(s) to cause Construction Contractors and their subcontractors to achieve or exert good faith efforts to achieve the Construction Employment Goals established by the Workforce Ordinance, as it may be amended from time to time,
- (3)    comply with all reporting requirements set forth in this Workforce Policy, and
- (4)    contractually require Redeveloper(s) to cause Construction Contractors and their subcontractors to comply with all reporting requirements set forth in this Workforce Policy.

**I.    DEFINITIONS**

Apprentice – A person of legal working age who has entered into a program for training and employment to learn a skilled construction trade.

Apprenticeship Program - A program approved by the Bureau of Apprenticeship Training providing for no less than 2,000 hours of reasonably continuous employment and for participation in an approved schedule of work experience through employment, which shall be supplemented by a minimum of 144 hours per year of related instruction.

City – The City of Kansas City, Missouri.

City Construction Employment Program - The program established by the City by the Workforce Ordinance regarding the recruitment, training, mentoring and retention of employees, including apprentices and journeymen, on Construction Projects.

City Council – The governing body of the City.

Construction Contract – A contract estimated by the TIFC prior to solicitation by Redeveloper as requiring more than 800 construction labor hours and with an estimated cost that exceeds \$300,000.00 for the construction, reconstruction, improvement, enlargement or alteration of any Project Improvements contemplated by a Redevelopment Agreement in connection with the implementation of a tax increment financing plan.

Construction Contractor – An individual, partnership, corporation, association or other entity, or any combination of such entities, who or which enters into a Construction Contract with the TIFC or a Redeveloper, regardless of the number of employees.

Construction Employment Goals - The percentages of construction labor hours to be performed by minorities and women workers for a Construction Contractor on all construction projects of that Construction Contractor throughout the Kansas City Metropolitan Statistical Area, during the construction time period of a Construction Contract unless otherwise waived by the TIFC, upon the recommendation of the Director.

Construction Hours Affidavit – A statement by a Construction Contractor, verified under oath, setting forth the Construction Contractor’s intent to meet or exceed, and to cause the subcontractors of every tier to meet or exceed, the Construction Employment Goals while performing a Construction Contract.

Construction Labor Hour - A sixty minute period of time devoted by a worker, employed by a Construction Contractor, performing labor on a construction project job site; or, preparing, fabricating or painting materials or equipment to be used or incorporated on a construction project job site.

Construction Project - Any project performed by a Construction Contractor in the Kansas City Metropolitan Statistical Area.

Construction Services - Activities undertaken to complete the construction, reconstruction, improvement, enlargement or alteration of any fixed work that relates to the implementation of a Redevelopment Plan, Project or Project Improvement, including environmental remediation and demolition, but excluding Professional Services.

Construction Workforce Board - A board created by the City in accordance with the City Workforce Ordinance.

Director – The director of the Human Relations Department of the City or his/her designee, or the person within the City Manager’s Office that is assigned to perform the tasks delegated to the director of the Human Relations Department of the City.

Equal Opportunity Clause - A statement prohibiting discrimination on construction projects based on race, color, sex, sexual orientation, gender, identity, age, national origin or ancestry, religion, or physical disability as proscribed in the Kansas City Code of Ordinances, Chapter 38, Article III, Section 38-103.

Fixed Work - Any permanent building or structure to be reconstructed, improved, enlarged or altered under a Construction Contract.

Good Faith Waiver - A waiver that, upon the recommendation of the Director, is granted by the TIFC and is based upon a showing by a Redeveloper that despite undertaking in good faith the actions outlined in this Workforce Policy, the Redeveloper, the Construction Contractor, the subcontractors of any tier, or both, were unable to achieve the Construction Employment Goals.

Kansas City Metropolitan Statistical Area or (MSA)- The Missouri counties of Cass, Clay, Jackson and Platte and the Kansas counties of Johnson, Leavenworth and Wyandotte.

Incentive Construction Employment Goal - An aspirational goal for company-wide employment of minorities and women intended to encourage Construction Contractors to invest additional money and resources to hire and retain minorities and women on their workforce in order to achieve participation percentages well in excess of the Minimum Employment goals and the percentage of minorities and women generally available in the workforce by providing public recognition upon the completion of a Construction Contract, to the Construction Contractor who achieves such goal.

Journeyman - One who has completed an apprenticeship in a trade or craft and is recognized in the particular trade or craft as a journeyman.

Labor Union - Any organization which exists, in whole or in part, for the purpose of collective bargaining; for dealing with employers concerning grievances, terms or conditions of employment; or, for other mutual aid or protection of workers in relation to employment.

Minorities - Persons who are citizens or lawful permanent residents of the United States and who:

- a. Have origins in any of the Black racial groups of Africa, and who has historically and consistently identified himself or herself as being such a person (“African Americans”);
- b. Have origins in any of the peoples of Mexico, Puerto Rico, Cuba, Central or South America, or any of the Spanish speaking islands of the Caribbean, regardless of race and who has historically and consistently identified himself or herself as being such a person (“Hispanic Americans”);

c. Have origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent or the islands of the Pacific or the Northern Marianas, or the Indian subcontinent and who has historically and consistently identified himself or herself as being such a person (“Asian Americans”); and

d. Maintain cultural identification through tribal affiliation or community recognition with any of the original peoples of the North American continent; or those who demonstrate at least one-quarter descent from such groups, and who has historically and consistently identified himself or herself as being such a person. (“Native Americans”).

Project Improvements - Those activities undertaken and facilities constructed in order to implement the provisions of a Redevelopment Plan pursuant to a Redevelopment Agreement.

Redeveloper – An individual, partnership, corporation, association or other entity, or any combination of such entities, who or which enters into a Redevelopment Agreement.

Redevelopment Agreement - Any agreement between TIFC and a Redeveloper for the implementation of a Redevelopment Plan, Project or Project Improvement .

Resident – An individual residing or domiciled within the City.

TIFC - The Tax Increment Financing Commission of Kansas City, Missouri, created pursuant to the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865 of the Revised Statutes of Missouri, 1986, as amended (the “Act”), and by Ordinance No. 54556 of the City Council of Kansas City, Missouri, adopted on November 24, 1982, and amended by Ordinance No. 911076 adopted on August 29, 1991, by Ordinance No. 100089 on January 28, 2010 and by Ordinance No. 130986 on December 19, 2013, for the purpose of holding hearings and making recommendations to the City Council of Kansas City, Missouri, with respect to proposed tax increment financing plans, and carrying out the responsibilities delegated to it by the City Council, among which, are entering into agreements with redevelopers to implement said plans when approved, and monitoring compliance therewith.

TIFC Representative - A representative designated by the TIFC, who shall make regular reports at TIFC meetings regarding Redevelopers’ compliance with this Workforce Policy.

Woman – An individual who is a citizen or lawful permanent resident not the United States and who is a female.

Workforce - Those persons employed to perform Construction Services.

All terms not otherwise defined herein shall have the meaning set forth in the Redevelopment Agreement.

## **II. CONSTRUCTION EMPLOYMENT GOALS**

The Construction Employment Goals consist of the Incentive Construction Employment Goals and the Minimum Construction Employment Goals and are expressed as a percentage of total Construction Labor Hours of a Construction Contractor on all Construction Projects within the Kansas City Metropolitan Statistical Area. The Construction Employment Goals applicable under this Workforce Policy shall be those established under the City Construction Employment Program in effect at any time. As of the effective date of this Workforce Policy, the Construction Employment Goals are as follows: (A) for Minorities, an Incentive Construction Employment Goal of 20% and a Minimum Construction Employment Goal of 10% and (B) for Women, an Incentive Construction Employment Goal of 4% and a Minimum Construction Employment Goal of 2%.

A. Minimum Construction Employment Goals, unless otherwise waived by the TIFC, upon the recommendation of the Director, shall be met on a quarterly basis during the term of a Construction Contract.

B. The Minimum Construction Employment Goals, unless otherwise waived by the TIFC, upon the recommendation of the Director, shall be applicable as follows:

- (1) As to the Construction Contractor individually, the Construction Contract.
- (2) As to the Construction Contractor individually, all construction projects performed by the Construction Contractor in the MSA during the term of the Construction Contract.
- (3) As to the subcontractors collectively, the Construction Contract.

Only the construction labor hours performed by those working sufficient hours to qualify for benefits shall be counted.

C. All Redevelopment Agreements entered into between the TIFC and a Redeveloper or the TIFC and a Construction Contractor shall require that the Construction Contractor comply with this Workforce Policy and include the requirements of this Workforce Policy in all subcontracts of any tier and that the Construction Contractor shall enforce such provision to the maximum extent permitted by law to ensure that such subcontractors comply with this Workforce Policy.

D. The TIFC may provide public recognition to a Construction Contractor that achieves the Incentive Construction Employment Goals.

E. This Workforce Policy shall not be construed as requiring or encouraging a Construction Contractor, or any subcontractor working in conjunction with the Construction Contractor, to make employment decisions or otherwise alter the terms and conditions of employment based upon race or gender.



**III. MONITORING AND COMPLIANCE WITH THE CITY CONSTRUCTION PROGRAM**

A. At the time a bid is submitted for a Construction Contract, the Redeveloper shall cause each potential Construction Contractor to submit with its response to the bid solicitation a Construction Hours Affidavit stating the Construction Contractor's intent to meet or exceed, and cause the subcontractors to collectively meet or exceed, the Minimum Construction Employment Goals while performing the Construction Contract or request a waiver. The Construction Hours Affidavit shall be in the format utilized by the City in connection with the City Construction Employment Program.

B. Within 48 hours after bid opening, or prior to contract execution for those Construction Contracts awarded pursuant to a request for proposals, the Construction Contractor shall submit an employee identification report to the Redeveloper, which, upon the request of the TIFC, shall be made available to the TIFC, and such report shall be, in a format to be determined by the Director, which report shall include:

*The name, home address, job title, gender and race/ethnicity of each person working for the Construction Contractor and which the Construction Contractor anticipates will be performing construction labor hours creditable towards the Minimum Construction Employment Goals applicable to the Construction Contractor individually.*

The Director, with the consent of the TIFC, is authorized to extend the deadline for the Construction Contractor's submission of the employee identification report.

C. Within ten (10) days prior to the date upon which any subcontractor is to commence work under a Construction Contract, the Construction Contractor shall submit an employee identification to the Redeveloper, which, upon the request of the TIFC, shall be available to the TIFC, and such identification report shall be in a format to be determined by the Director, which report shall include:

*The name, home address, job title, gender and race/ethnicity of each person working for the subcontractor and which will be performing construction labor hours creditable towards the Minimum Construction Employment Goals applicable to the subcontractor.*

The Director, with the consent of the TIFC, is authorized to extend the deadline for the subcontractor's submission of the employee identification report.

D. After the Construction Contract has been awarded, but before work under the Construction Contract begins, a Redeveloper shall cause the selected Construction Contractor to meet with the Director and the TIFC Representative for the purpose of discussing (i) the Construction Contractor's willingness to provide first opportunity for employment on Construction Projects to Residents, (ii) the Minimum Construction Employment Goals for Minority and Women workers, (iii) how the Construction Contractor will endeavor in good faith to individually meet, and require the

subcontractors to collectively meet, the Minimum Construction Employment Goals, (iv) any problems that may affect the Construction Contractor's ability to employ Residents or achieve the Minimum Construction Employment Goals, and (v) the forms and procedures required for the Construction Contractor's reporting obligations.

E. The Director shall assess compliance with the Construction Employment Program, and recommend that the TIFC impose any authorized remedy for any failure to comply on a quarterly basis, for the duration of the Construction Contract; provided, however, that the Director's failure to assess compliance during one or more quarters having expired, or recommend that the TIFC impose any remedy for any failure to comply determined to have occurred during one or more quarters having expired, shall not preclude the Director from assessing compliance as to any subsequent quarter or recommending that the TIFC impose any remedy for any failure to comply determined to have occurred during any subsequent quarter.

F. After completion of work on the Construction Contract, but before release of retainage, final acceptance and closeout, the Redeveloper shall cause the Construction Contractor to provide to the Director and the TIFC, in a format approved by the Director, a final cumulative report detailing the Construction Contractor's and the subcontractors' utilization of minorities and women.

G. Monthly reporting: The Redeveloper shall cause the Construction Contractor performing work under a Construction Contract to submit to the Director and the TIFC Representative workforce reports detailing the Construction Contractor's utilization individually, and the subcontractors' utilization collectively, of residents, minorities and women under the Construction Contract and on every construction project, public or private, that the Construction Contractor has in progress throughout the MSA. The reports shall be submitted to the Director and the TIFC Representative by the fifteenth of each month through the duration of the Construction Contract. The reports shall state the number of resident, minority and women construction labor hours performed on site per trade, and shall be submitted in a format determined by the Director.

H. Within sixty (60) days of the completion of work on the Construction Contract, and before the issuance of a Certificate of Completion and Compliance, the Redeveloper shall cause the Construction Contractor to provide to the TIFC Representative and the Director, in the format required by the City Construction Employment Program, the payroll records of the Construction Contractor and its subcontractors that perform services in connection with the Construction Contract, for each calendar quarter for the years spanning the duration of the Construction Contract, documenting: (i) the total number of Construction Labor Hours performed by Minorities and Women on the Construction Contract and company-wide within the MSA as compared to the total number of Construction Labor Hours performed by all workers on the Construction Contract and company-wide within the MSA; and (ii) the Construction Labor Hours worked per capita by Minorities and Women as compared to the Construction Labor Hours worked per capita by all other workers in the Construction Contractor's workforce.

I. The Redeveloper shall cause all Construction Contractors to comply with all federal laws, including those of the Immigration and Naturalization Service and the Department of Homeland Security. Only those Construction Labor Hours performed by workers in compliance with federal law shall be counted towards the meeting the Minimum Construction Employment Goals.

J. The Redeveloper shall cause the Construction Contractor to permit the TIFC Representative and/or the Director to have access, at all reasonable times, to all books, papers, records, reports or accounts in possession of or under the control of the Construction Contractor and its subcontractors as may be reasonably necessary to ascertain compliance with this Workforce Policy. The Redeveloper shall cause the Construction Contractor and its subcontractors to furnish such further information as may be required by the TIFC Representative and/or the Director within ten (10) working days of the date it is requested in writing.

K. The Redeveloper shall cause the Construction Contractor to permit TIFC Representative and/or the Director to conduct on-site audits and records inspections of the Construction Contractor and its subcontractors without prior notice as may be necessary to ascertain compliance with this Workforce Policy. The Redeveloper shall cause the Construction Contractor to require all of its subcontractors to comply with the requirements of this Section III.

L. The Redeveloper shall cause the Construction Contractor to obtain and retain documentation establishing the residence of record for any person working on a Construction Project. The documentation may be one of the following:

- (1) driver's license or identification card issued by a government or governmental agency with a photograph of the holder; or
- (2) voter registration card; or
- (3) utility bill showing the account holder's name and address; or
- (4) valid United States Passport; or
- (5) other document that sufficiently establishes residency.

M. It is the responsibility of the Redeveloper to demonstrate compliance with this Workforce Policy, including, but not limited to, its Construction Contractor's good faith efforts to achieve the Minimum Construction Employment Goals. The Director, together with the TIFC Representative, shall monitor the Redeveloper's Construction Contractor's ongoing compliance with this Workforce Policy, shall assist the Construction Contractor in its good faith efforts to meet or exceed the Minimum Construction Employment Goals and otherwise comply with this Workforce Policy, and shall make periodic reports to the TIFC relative thereto.

#### **IV. EQUAL EMPLOYMENT STANDARDS**

A. The TIFC shall include an Equal Opportunity Clause in all Redevelopment Agreements and cause Construction Contractors to incorporate the same in all Construction Contracts. The Equal Opportunity clause shall require that all Redevelopers and Construction Contractors adhere to the equal opportunity requirements in the City's Code of Ordinances, Chapter 38, Article III, Section 38-132. The Equal Opportunity Clause shall include, at a minimum, the following provisions:

(1) The Redeveloper and/or Construction Contractor will not discriminate against any employee or applicant for employment because of race, color, religion, sex, national origin or ancestry, disability, sexual orientation, gender identity or age.

(2) The Redeveloper and/or Construction Contractor will take affirmative action to ensure that employees are treated fairly during employment without regard to their race, color, religion, sex, national origin or ancestry, disability, sexual orientation, gender identity or age. Such action shall include, but not be limited to the following: employment, promotion, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship.

(3) The Redeveloper and/or Construction Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided setting forth the provisions of the Equal Opportunity Clause.

B. The Redeveloper shall cause its Construction Contractors to include, in all solicitations or advertisements for employees placed by or on behalf of the Construction Contractor, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, national origin or ancestry, disability, sexual orientation, gender identity or age.

C. In the event of the Redeveloper's noncompliance with the Equal Employment Clause of the Redevelopment Agreement or with any of the said rules, regulations or orders, the Director shall bring a complaint before the TIFC and the Redevelopment Agreement may be canceled, terminated or suspended in whole or in part and the Redeveloper may be declared ineligible for further agreements with the TIFC for a period of one (1) year should the Redeveloper fail to agree to comply with the terms of any order arising from that proceeding.

#### **V. GOOD FAITH EFFORTS TO ACHIEVE THE MINIMUM CONSTRUCTION EMPLOYMENT GOALS**

A. Redeveloper shall be presumed conclusively to be in compliance with this Workforce Policy as it relates to good faith efforts to meet the Minimum Construction

Employment Goals if the Minimum Construction Employment Goals, as set forth in Section II., are achieved for each Construction Contractor.

B. Redeveloper shall be presumed conclusively to be in compliance with this Workforce Policy as it relates to good faith efforts to meet the Minimum Construction Employment Goals if, in the event the Minimum Construction Employment Goals have not been met, the Redeveloper shall have requested and received from the TIFC a Good Faith Waiver. The TIFC shall grant a Redeveloper's request for a Good Faith Waiver if the Redeveloper can demonstrate that good-faith efforts have been made to achieve the Minimum Construction Employment Goals. In determining whether a Redeveloper made or caused the Construction Contractor to make a good faith effort to achieve the Minimum Construction Employment Goals, the TIFC shall consider, at least in part, a recommendation from the Director, that the Redeveloper undertook the following actions:

For those Redevelopers that have entered into Construction Contracts with Construction Contractors that are not signatories to a collective bargaining agreement with organized labor, the Redeveloper shall cause the Construction Contractor to:

- (1) Request in writing the assistance of the TIFC Representative with respect to efforts to promote the utilization of Minorities and Women in the workforce of the Construction Contractor and acted upon the TIFC's recommendations; and
- (2) Advertise in Minority/Women's Trade Association Newsletter and/or minority owned media at least 15 calendar days prior to the utilization of any Construction Services for each Construction Contract seeking employees, appropriately describing the work available, pay scale, the application process and anything else that one might reasonably be expected to be informed of relevant to the position being advertised; and
- (3) Maintain copies of each advertisement and a log identifying the publication and date of publication; and
- (4) Establish and maintain a current list of Resident, Minority and Women recruitment sources, providing written notifications to the recruitment sources of available employment opportunities, and maintained records of the notices submitted to the organizations and any responses thereto; and
- (5) Maintain a current file for the time period of the Construction Contract with the name, address, and telephone number of each Resident, Minority and Woman job applicant, the source of the referral, whether or not the person was hired, and in the event that the applicant was not hired, the reason therefore; and
- (6) Require by written contract all subcontractors to comply with this Section of the Workforce Policy; and

(7) Promote the retention of Minorities and Women in its Workforce, as determined by the Director and reported to the TIFC, with the goal of achieving sufficient annual hours for Minorities and Women to qualify for benefits and count toward the Employment Construction Goals.

For those Redevelopers that have entered into Construction Contracts with Construction Contractors that are signatories to collective bargaining agreements with organized labor, the Redeveloper shall cause the Construction Contractor to:

(8) Request in writing from each Labor Union representing crafts to be employed by the Construction Contractor that:

i. The Labor Union make efforts to promote the utilization of Residents, Minorities and Women in the Workforce; and

ii. The Labor Union identifies any Residents, Minorities and Women in its membership eligible for employment by the Construction Contractor.

(9) Collaborate with Labor Unions in promoting mentoring programs intended to assist Minorities and Women in increasing retention with the goals of achieving sufficient annual hours to qualify for applicable benefits.

(10) Maintain a current file with the name, address, and telephone number of each Resident, Minority and Woman worker identified by the Labor Union, whether or not the person was hired, and in the event the person was not hired, the reason therefore.

(11) To the extent that the good-faith effort requirements set forth in this section are in conflict with the procedures implemented by the Construction Contractor in order to comply with a competitive bargaining agreement, the Construction Contractor shall substitute other procedures, as may be approved by the TIFC and Director in writing, in order to accomplish the purpose and intent of this section.

## **VI. REMEDIES**

A. Prior to reimbursing a Redeveloper for any eligible Redevelopment Project Costs, the Director shall provide a written report to the TIFC that incorporates a finding as to whether such Redeveloper has complied and has caused its Construction Contractor(s) and their respective subcontractors to comply with Sections III, IV and V of this Workforce Policy. If the Director shall find, within its written report to the TIFC, that, after investigation, a Redeveloper has not caused the Construction Contractor and its subcontractors to comply with Sections III, IV and V, the TIFC shall, within ten (10) days after such finding, notify the Redeveloper in accordance with the Redevelopment Agreement.

B. After due notice is given to the Redeveloper, the TIFC shall hold a hearing and determine whether the Redeveloper has complied and has caused the Construction Contractor and its subcontractors to comply with this Workforce Policy and to determine the appropriate remedy, if the TIFC determines that the Redeveloper failed to comply and/or failed to cause the Construction Contractor and its subcontractors to comply with this Workforce Policy. Remedies for such failure may include canceling, terminating, or suspending, in whole or in part, the Redevelopment Agreement, withholding reimbursement of eligible Redevelopment Project Costs, imposing liquidated damages in the amount specified on **Exhibit A**, attached hereto, withholding the issuance of a Certificate of Completion and Compliance, requiring the Redeveloper and Construction Contractor to attend mandatory training and/or declaring the Construction Contractor ineligible for further Construction Contracts or participate as a subcontractor under any Construction Contract for a period of time up to six (6) months in furtherance of implementing tax increment financed projects. If the TIFC determines that the Redeveloper complied and has caused the Construction Contractor to comply with Sections III, IV and V of this Workforce Policy, then the TIFC shall grant a Good Faith Waiver to the Redeveloper.

## **VII. APPEALS –CONSTRUCTION WORKFORCE BOARD**

A. The Workforce Ordinance established a Construction Workforce Board to hear appeals from Construction Contractors. Following a decision by the TIFC that a Redeveloper failed to exert good faith efforts to meet the Minimum Construction Goals and failed to cause a Construction Contractor to comply with Sections III, IV and V of this Workforce Policy, a Redeveloper may appeal the TIFC's decision to the Construction Workforce Board.

B. Appeals shall be made to the Construction Workforce Board by filing with the TIFC Representative and the Director within ten (10) working days after notice of the TIFC's determination, a written request for review by the Construction Workforce Board, stating the grounds of such appeal with specificity. The TIFC Representative shall promptly forward to the chairperson and members of the Construction Workforce Board a copy of any appeal.

C Failure to file a timely appeal in accordance with Section VII.B. shall constitute a waiver of the right of a Redeveloper to appeal the TIFC's determination and such person shall be estopped to deny the validity of any order, recommendation, determination or action taken by the TIFC which could have been timely appealed and shall have been deemed to have exhausted all administrative remedies under this Workforce Policy.

D. The Construction Workforce Board shall have authority to require that a party first make a written submission of its appeal prior to permitting a hearing and may summarily dispose of those appeals that it determines to be frivolous and without merit.

E. After receiving an appeal from the Redeveloper, the Construction Workforce Board, shall set a date upon which a hearing shall be held by the Construction Workforce

Board and shall notify all parties of the date thereof. The notice of hearing shall be served upon the parties at least ten (10) calendar days prior to the date of the hearing. A copy of the TIFC's determination shall be attached to each such notice. A hearing shall be set no later than twenty-one (21) calendar days after receipt of the request for appeal to the Construction Workforce Board.

F. The hearing shall be conducted under rules adopted by the Construction Workforce Board. The Construction Workforce Board may subpoena witnesses, compel their attendance, administer oaths, take the testimony of persons under oath, and require the production for examination any books, papers or other materials relating to any matter under investigation or in question before the Construction Workforce Board.

G. The Construction Workforce Board shall cause all proceedings before it to be either audio recorded or held before a certified court reporter.

H. The Construction Workforce Board shall have authority to affirm, modify or reverse the determination of the TIFC with respect to whether good-faith efforts were made to meet the Minimum Construction Employment Goals.

The determination of the Construction Workforce Board with respect to good-faith efforts, shall be a final determination and the TIFC and the Redeveloper shall agree, pursuant to the Redevelopment Agreement, that the decision of the Construction Workforce Board shall be binding upon the TIFC and the Redeveloper; provided, however, that the TIFC shall make the final determination as to the appropriate remedy under the Redevelopment Agreement.

**The TIFC and the Redeveloper shall agree, pursuant to a Redevelopment Agreement that the decision of the Construction Workforce Board to affirm, modify or reverse the determination of the TIFC shall be binding upon the TIFC and the Redeveloper.**

#### **VIII. COMPLIANCE EXPENSE**

To the extent the Redeveloper is in compliance with this Workforce Policy, the reasonable and necessary administrative expenses associated with determining compliance may be reimbursed as Redevelopment Project Costs.

#### **IX. SEVERABILITY**

If any section, subsection, clause, or provision of this Workforce Policy is deemed to be invalid or unenforceable in whole or in part, this Workforce Policy shall be deemed amended to delete or modify, in whole or in part, if necessary, the invalid or unenforceable subsection(s), clause(s), provision(s) or portion(s) thereof, and alter the balance of those same sections in order to render the same valid and enforceable.



**X. EFFECTIVENESS; IMPLEMENTATION**

Subject to Section X.B., the Chairman, Vice-Chairman and Secretary are authorized and directed to undertake any activities, including signing any documents, certificates or other instruments, necessary to carry out and implement the Workforce Policy.

**HUMAN RELATIONS DEPARTMENT ACKNOWLEDGEMENT AND APPROVAL**

The Director of the Human Relations Department of the City of Kansas City, Missouri (the “City”), pursuant to Chapter 38, Article II, has reviewed this Workforce Policy and hereby determines that it is consistent with the City’s Workforce Ordinance and the City Construction Employment Program.

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Director, Human Relations Department

## Exhibit A to Workforce Policy

### Calculation of Liquidated Damages

Because the amount of harm caused by the Redeveloper not complying with the Workforce Policy is uncertain, if not impossible, to determine, the Redeveloper agrees to pay to the TIFC liquidated damages in an amount not to exceed the fees and expenses incurred by the TIFC in investigating and determining that the Redeveloper has not complied with the Workforce Policy; plus an amount equal to the percentage of the total amount of dollars paid by the Construction Contractor for Labor Hours worked in connection with all construction projects in the Kansas City Metropolitan Statistical Area, plus an amount equal to the percentage of the total amount of dollars paid by the Construction Contractor and by its subcontractors for Labor Hours worked in connection with the construction projects related to each Construction Contract that is subject to the Redevelopment Agreement, in each case, that would have otherwise been paid to Minorities and Women had Minimum Construction Employment Goals set forth in the Workforce Policy been attained. Notwithstanding anything to the contrary, the liquidated damages shall not be a reimbursable Redevelopment Project Cost. To illustrate the application of this liquidated damages provision, please refer the example below:

#### Example

1. Pursuant to the implementation of a tax increment financing plan, a Redeveloper enters into a Construction Contract with a Construction Contractor and the Construction Contractor, in turn, enters into a contract with a subcontractor to perform certain work contemplated by the Construction Contract and in furtherance of a Redevelopment Agreement and tax increment financing plan.

2. The Construction Contractor employs minorities at a rate of 2% for all construction projects within the Kansas City Metropolitan Statistical Area and, together with its subcontractor, employs minorities at a rate of 5% for the construction projects related to the Construction Contract.

3. The Minimum Construction Employment Goal for Minorities that is to be attained by the Construction Contractor and its subcontractors in connection with construction projects related to the Construction Contract is 10% and the Minimum Construction Employment Goal for Minorities that is to be attained by the Construction Contractor in connection with all projects performed by the Construction Contractor in the Kansas City Metropolitan Statistical Area is also 10%. The TIFC finds that the Redeveloper failed to cause the Construction Contractor and its subcontractors to comply with the Workforce Policy.

A. The payroll records of the Construction Contractor reflect that the amount paid to employees for each percentage of total Labor Hours worked on behalf of the Construction Contractor within the Kansas City Metropolitan Statistical Area during the construction period of the Construction Contract equals \$20,000. Thus, had the Construction Contractor increased the number of Labor Hours worked by Minorities on all construction projects within the Kansas City Metropolitan Statistical Area by 8%, the

Construction Contractor would have paid Minorities an additional \$160,000 for such work performed in connection with the construction projects.

B. The payroll records of the Construction Contractor and its subcontractors for construction projects that relate to the Construction Contract reflect that the amount paid to employees for each percentage of total Labor Hours worked on behalf of the Construction Contractor and its subcontractors equals \$10,000. Thus, had the Construction Contractor and its subcontractors increased the number of Labor Hours worked by Minorities on the construction projects that relate to the Construction Contract by 5%, the Construction Contractor and its subcontractors would have paid Minorities an additional \$50,000 for such work performed in connection with the Construction Contract.

4. Pursuant to the liquidated damages provision of the Workforce Policy, the Redeveloper shall be obligated to pay to the TIFC liquidated damages in an amount up to \$10,000 (the cost associated with TIFC in investigating and determining that the Redeveloper has not complied with the Workforce Policy); plus \$160,000 (the amount the Construction Contractor would have paid to Minorities for all construction projects within the Kansas City Metropolitan Statistical Area, had the Minimum Construction Employment Goal been attained); plus \$50,000 (the amount the Construction Contractor and its subcontractors would have paid to Minorities for the construction projects related to the Construction Contract, had the Minimum Construction Employment Goal been attained) for an aggregate amount of \$220,000 in liquidated damages.

**EXHIBIT N**

**Procedures for Payment of Prevailing Wages**

## Payment of Prevailing Wages Procedure

The Redeveloper shall comply with the following procedures:

1. Determine the prevailing wages applicable to all construction work to be performed in connection with the Redevelopment Projects before awarding any contracts or disbursing any funds;
2. Abstain from contracting with contractors or subcontractors on the Missouri Secretary of State's list of Prevailing Wage Act violators;
3. Keep full and accurate records clearly indicating the names, occupations and crafts of every workman employed in connection with the Redevelopment Projects;
4. Post a clearly legible statement of Prevailing Wage Rates at all sites of construction within the Redevelopment Project Areas;
5. Prepare a copy of all payrolls made on a weekly basis for all construction work related to the Redevelopment Projects;
6. Cause the general contractor and all subcontractors to maintain a daily record of all Redevelopment Projects activities;
7. Maintain and verify Daily Labor Force Records submitted by the general contractors and subcontractors for all construction work related to the Redevelopment Projects;
8. Conduct weekly interviews with construction workers on the Redevelopment Project sites to verify prevailing wage compliance;
9. Require that contractors and subcontractors certify that the payrolls are in compliance with the Annual Wage Order;
10. Review contractor/subcontractor payrolls for all construction work relating to the Redevelopment Projects;
11. Cause all contractors and subcontractors to file with the TIF Commission an affidavit stating that it has complied with RSMO §290-210 through §290-340 (the "Prevailing Wage Law");
12. Prior to commencing construction in connection with the Redevelopment Project, notify the Commission and the Missouri Department of Labor, on a form attached hereto as Schedule I, of the scope of the work to be done, the various types of craftsmen who will be needed and the date work will commence.

**SCHEDULE I**



MISSOURI DEPARTMENT OF LABOR AND INDUSTRIAL RELATIONS  
**PREVAILING WAGE  
PROJECT NOTIFICATION – CONTRACTOR INFORMATION**

The information below is requested pursuant to Sections 290.210 through 290.340 and 290.550 through 290.580, RSMo. During a time of excessive unemployment, only Missouri laborers and laborers from non-restrictive states shall be employed on public works projects. See 290.550 through 290.580, RSMo.

1. Date of Notification		2. Annual Wage Order Number Included in Bid Specifications	
3. Popular or Descriptive Name of Project			
4. Estimated Project Cost of Completion <i>(total construction contracts to be awarded)</i>		5. \$	
5. Exact Location of Project			
County		City	Township
6. Official Name of Public Body or Agency			
7. Name of Contact Person		8. Phone Number <i>(include area code)</i>	
9. Address			
10. E-mail Address		Website	
11. Anticipated Date for Soliciting or Advertising for Bids		12. Contract Award Date	
13. Estimated Start Date of Work	14. Estimated Date of Project Completion	15. Will There Be Any Federal Funds Used in this Contract? <input type="checkbox"/> Yes <input type="checkbox"/> No	
16. Contractor Information Notification			
General Contractor:			
Name	_____		
Address	_____		
City	State	ZIP	
Phone Number	E-mail Address	_____	
Type of Craftsmen Needed by Project _____			
Scope of Work _____			
List all Subcontractors:			
Name	_____		
Address	_____		
City	State	ZIP	
Phone Number	E-mail Address	_____	
Type of Craftsmen Needed by Project _____			
Scope of Work _____			
Name	_____		
Address	_____		
City	State	ZIP	
Phone Number	E-mail Address	_____	
Type of Craftsmen Needed by Project _____			
Scope of Work _____			

The state of Missouri requires workers on public works projects be paid the prevailing wage. Public bodies have duties as required under this law (Section 290.210 - 290.340, RSMo).

Mail, Fax or E-mail completed form to: **DIVISION OF LABOR STANDARDS**  
Attn: Prevailing Wage Section

P.O. Box 449 Jefferson City, MO 65102-0449

Phone: 573-751-3403

Fax: 573-751-3721

E-mail: [prevailingwage@labor.mo.gov](mailto:prevailingwage@labor.mo.gov)

Website: [www.labor.mo.gov/DLS](http://www.labor.mo.gov/DLS)

**EXHIBIT O**

**Environmental Policy**

**Policy Name:**            **Environmental Policy**

**Date Approved:**        **February 11, 2004 and February 13, 2008**

**Resolution Numbers:** ***2-1-04 and 2-21-08***

**Policy Statement:** The purpose of this Environmental Policy is to require redevelopers of Redevelopment Plans (“Redevelopers”) to disclose to the Tax Increment Financing Commission (the “TIF Commission”) any environmental hazardous conditions on any property owned or operated by the Redeveloper that is located within any Redevelopment Area which the Redeveloper intends to develop in connection with a Redevelopment Plan. (All capitalized terms not defined herein shall have the respective meaning ascribed to them in the Real Property Tax Increment Financing Allocation Act, Sections 99.800 to 99.865, inclusive, of the Revised Statutes of Missouri as amended, the “Act”).

1. As a condition to the approval of any Redevelopment Agreement to implement a Redevelopment Plan, the Redeveloper shall represent and warrant to the Commission that (a) he/she/it has complied at all times with all applicable Environmental Laws<sup>1</sup> with respect to the real estate currently owned or operated by the Redeveloper which is located within the Redevelopment Project Area (the “Real Estate”) (including soils, groundwater, surface water, buildings or other structures) and; (b) to the knowledge of the Redeveloper, the Real Estate has not been contaminated with any Hazardous Substances at levels above applicable cleanup standards; (c) the Redeveloper has not received notice that he/she/it is subject to liability for any Hazardous Substance disposal or contamination on the Real Estate; and (d) the Redeveloper has not received notice that he/she/it is subject to liability for any release or threat of release of any Hazardous Substance.
  
2. As a condition to the consummation of any Redevelopment Agreement to implement a Redevelopment Plan, the Redeveloper shall agree to submit to the Commission any notice, demand, letter, claim or request for information the Redeveloper receives

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<sup>1</sup> As used herein, the term “Environmental Law” means any applicable federal, state or local law, regulation, order, decree, permit, authorization, opinion, common law relating to: (A) the protection, investigation or restoration of the environment, health, safety, or natural resources, (B) the handling, use, presence, disposal, release or threatened release of any Hazardous Substance, (C) noise, odor, wetlands, pollution, or contamination or (D) standards of conduct concerning protection of human health (including, without limitation, employee health and safety), in each case as amended and as now or hereafter in effect, and the term “Hazardous Substance” means any substance that is: (i) oil or other petroleum products, (ii) “hazardous wastes,” as defined by the Resource Conservation and Recovery Act, as amended, (RCRA), 42 U.S.C. § 6901 *et seq.*, or similar state or local law, ordinance, regulation or order, (iii) “hazardous substances,” as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, (CERCLA), 42 U.S.C. § 9601 *et seq.*, or similar state or local law, ordinance, regulation or order, (iv) “hazardous materials,” as defined by the Hazardous Materials Transportation Act, as amended, (HMTA), 49 U.S.C. § 1802, or similar state or local law, ordinance, regulation or order, (v) radioactive materials subject to the Atomic Energy Act, as amended, (AEA), 42 U.S.C. § 2014 *et seq.*, or similar state or local law, ordinance, regulation or order, and (vi) any other pollutant, contaminant, chemical, or substance whose presence creates or could create a hazard to health or the environment or a violation of any federal, state or local law.



indicating that it may be in violation of or liable under any Environmental Law with respect to the Real Estate.

3. As a condition to the consummation of any Redevelopment Agreement to implement a Redevelopment Plan, the Redeveloper shall agree and certify that he/she/it shall fully protect, defend, indemnify, and hold harmless in full the Commission and its officers, directors, agents, representatives and employees (collectively, the "Commission's Indemnified Parties"), from and against, and shall reimburse the Commission's Indemnified Parties for, any and all losses, claims, actions instigated by a governmental agency, liabilities, damages, injunctive relief, injuries to persons, property or natural resources, fines, penalties, costs, expenses (including, without limitation, attorneys' fees, consultants' fees, expenditures, expenses and court costs), causes of action and sums paid in settlement of litigation arising directly or indirectly, in whole or in part, from any violation of any Environmental Law with respect to the Real Estate, as well as any Release<sup>2</sup>, threatened Release, presence, Clean-up<sup>3</sup>, treatment, transport, handling or disposal, of any Hazardous Materials at, on, under, in or from the Real Estate or in the air, land surface, subsurface strata, soil, surface water, groundwater or soil vapor on, under, in or from all or any part of the Real Estate, or resulting from the migration or the alleged or potential migration of Hazardous Materials from the Real Estate (collectively, "Environmental Costs"). Without limiting the foregoing, Environmental Costs shall include (i) all costs of Clean-up, including remediation, testing, monitoring and restoration of any kind, and any disposal of Hazardous Materials, (ii) all costs and liabilities associated with claims for, damages to, and remedial action related to Hazardous Materials on, at, in or from the Real Estate, or impacting natural resources wherever located, (iii) all fines and other penalties associated with claims of noncompliance with any Environmental Laws which are related to Hazardous Materials at the Real Estate.
4. Prior to the reimbursement of any redevelopment project costs, the Redeveloper shall (i) effectuate Remediation of Hazardous Substances in, on, or under real property owned or controlled by the Redeveloper and located within the Redevelopment Area, which the Redeveloper has actual knowledge, to the extent required by Environmental Law, (ii) comply in all material respects with any Environmental Law or Permit, (iii) comply with any directive from any government authority, and (iv) if requested by the Commission, share all reports, results and correspondence related to such Remediation or compliance with the TIF Commission. The Redeveloper agrees to have any written reports prepared so as to allow the TIF Commission (and any other party designated by the Commission) to rely on such reports and results.

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<sup>2</sup> "Release" shall mean the spilling, leaking, disposing, discharging, emitting, depositing, injecting, leaching, escaping, or any other release or threatened release, however defined, and whether intentional or unintentional, of any Hazardous Material.

<sup>3</sup> "Clean-up" shall mean removal and/or remediation of, or other response to (including, without limitation, testing, monitoring, sampling or investigating of any kind) any Release of Hazardous Materials or contamination, to the satisfaction of all applicable governmental agencies, in compliance with Environmental Laws and in compliance with good commercial practice.

5. In the event a Redeveloper requests that the Commission condemn any property located within a Redevelopment Area, the Redeveloper, prior to the Commission initiating condemnation proceedings, shall conduct all such environmental audits and testing to the satisfaction of the TIF Commission. The redeveloper shall furnish to the Commission a copy of all such environmental reports, audits and tests.

## **EXHIBIT P**

### **Environmental Disclosures**

To the best of Redeveloper's actual knowledge, during the period of its ownership of the Real Estate, the Real Estate has not become contaminated with any Hazardous Substances at levels above applicable cleanup standards.

In the performance of the Improvements, the Redeveloper shall remediate such conditions as are required by Environmental Law to be remediated. For example, non-friable asbestos not being removed or released, which do not violate any Environmental Law, shall not be required to be removed or remediated merely by reason of its existence on the Real Estate.

**EXHIBIT Q**

**Policy on Disputed Charges**

**Policy Name: Policy on Disputed Charges**

**Date Approved: January 14, 2004**

**Resolution Number: 1-1-04**

**Policy Statement:** In the event a redeveloper of a Redevelopment Plan disputes any bill, charge or expense of the Tax Increment Financing Commission (the “TIF Commission”), the redeveloper, within sixty (60) days after the disputed bill, charge or expense was mailed to the address, on public record, of the redeveloper, shall submit a statement, which has been signed by an authorized representative of the redeveloper, to the Assistant Treasurer of the TIF Commission, which shall state: (a) the nature and reason of the dispute and (b) the amount that is in dispute.

Upon the Commission’s receipt of the written statement, together with a check from the redeveloper for the amount in dispute, the Assistant Treasurer of the TIF Commission shall (a) notify the TIF Commission at its next regularly scheduled meeting of such disputed amount and (b) deposit the check in a non-interest bearing escrow account until such time that the dispute is resolved between the TIF Commission and the redeveloper.

**EXHIBIT R**

**Public Participation Worksheet**

**EXHIBIT S**

**Bond Disbursement Policy**

**Policy Name:**                                **Bond Issuance and Disbursements Policy**

**Date Approved:**                            **February 11, 2004; Revised May 12, 2004, and September 8, 2004**

**Resolution Number:**                    **2-1-04, 5-6-04, and 9-1-04**

**Policy Statement:**    The purpose of this Bond Issuance and Disbursements Policy is to outline the procedure and establish internal controls for the payment of costs and expenses related to the issuance of bonds, which are to be financed from Payments in Lieu of Taxes (PILOTS) and Economic Activity Taxes (EATS) (the “Bonds”) and the reimbursement of Redevelopment Costs from the proceeds from the sale of Bonds. (All Capitalized terms used, but not defined herein, shall have the respective meaning associated to them in the Real Property Tax Increment Financing Allocation Act, Sections 99.800 to 99.865, inclusive, of the Revised Statutes of Missouri as amended, the “Act”).

**1.     Procedure for Payment of fees incurred by professional service providers in connection with the issuance of Bonds.**

- a. In connection with the issuance of Bonds not enhanced or guaranteed by the City of Kansas City, Missouri (the City), the Tax Increment Financing Commission (the “TIF Commission”), in consultation with representatives from financing and accounting department (“TIFC Staff”) of the Economic Development Corporation (“EDC”), shall utilize professional service providers.

In connection with the issuance of Bonds enhanced or guaranteed by the City of Kansas City, Missouri, the TIF Commission shall utilize professional service providers, which have been selected pursuant to the TIF Commission’s Policy and Procedure for Selection of Professional Service Providers, as adopted by Resolution No. 1-1-04, with the exception of bond counsel which is to be selected by the City Attorney.

- b. Upon receipt of a fee schedule, in a form acceptable to the Commission, from professional service providers selected pursuant to Section 1.a., the TIFC Staff shall submit to the TIF Commission a line item budget, which shall reflect the aggregate amount of estimated fees and expenses of professional service providers (the “Budget”) to be utilized in connection with the issuance of Bonds. The Budget to be established shall be based upon a competitive bid price submitted by the Professional Service Provider or City selection. The Budget for any issuance utilizing the annual appropriation guarantee of the City shall comport with City policy, currently expressed in Resolution 020238 of the City Council.
- c. Prior to or simultaneously with the TIF Commission’s adoption of a resolution approving the issuance of Bonds by the TIF Commission, the TIF Commission shall approve the Budget. Cost of issuance line items approved in the Budget may be paid at Closing of the Bond issue without the requirement of any additional cost certification, TIFC Staff or TIF Commission review, so long as each invoice



submitted for a cost to be paid does not exceed the corresponding line item in the approved Budget. Costs of issuance not included in the approved Budget or in excess of the corresponding line item in an approved Budget shall not be paid from Bond Proceeds until such costs have been approved by the TIF Commission (or are costs associated with the procurement of credit enhancement purchased from Bond Proceeds).

**2. Procedure for Reimbursement of Redevelopment Costs incurred and certified prior to the issuance of Bonds.**

- a. Prior to the reimbursement of Redevelopment Costs incurred prior to the issuance of Bonds through a disbursement of Bond Proceeds, there shall be provided to TIFC Staff:
  - (i) A copy of the executed Trust Indenture (or similar trust instrument) (“Trust Indenture”) in form and substance acceptable to TIF Commission Staff, which must provide that Bond Proceeds shall not be expended for Redevelopment Costs unless the provisions of this policy are included, in substance, and in the judgment of Counsel to the TIF Commission, in such Trust Indenture; and
  - (ii) A statement or reconciliation from the Redeveloper that provides in reasonable detail a summary of:
    - (A) All Redevelopment Costs previously incurred and sought to be reimbursed from Bond Proceeds; and
    - (B) Detail regarding the Cost Certifications of such Redevelopment Costs prepared by the TIF Commission’s independent Cost Certifier (“Cost Certifier”) and approved by resolution by the TIF Commission; and
    - (C) A schedule of remaining budgeted Redevelopment Costs to be paid or reimbursed from Bond Proceeds or from advances by the Redeveloper.
- b. The TIF Commission shall not pledge any PILOTS or EATS to service the debt on Bonds unless and until a copy of the executed Trust Indenture (or similar agreement) has been executed by and among the agency issuing the Bonds and the trustee selected to administer the payment of Bond Proceeds (the “Trustee”) and delivered to TIFC Staff, which provides:
  - (i) That the TIF Commission shall receive, upon request, but no less frequently than monthly (until all Bond Proceeds are expended), a report or statement that details all Bond Proceeds paid to or on behalf of the Redeveloper; and

- (ii) A covenant that provides that no Bond Proceeds shall be paid to the Redeveloper in excess of Redevelopment Costs previously certified by the TIF Commission's Cost Certifier and approved by resolution of the TIF Commission.

**3. Procedure for Payment or Reimbursement of Redevelopment Costs that have not been incurred or certified prior to the issuance of Bonds issued by an entity other than the TIF Commission and for which PILOTs and EATs are pledged to service debt.**

- a. Prior to the expenditure of Bond Proceeds for the payment or reimbursement of Redevelopment Costs which have not been certified prior to the issuance of the Bonds, the Cost Certifier and TIF Commission must certify all such Redevelopment Costs to be paid or reimbursed from Bond Proceeds pursuant to and in accordance with the TIF Commission's Certification of Costs and Reimbursement Policy, as adopted by Resolution No. 1-1-04.
- b. The TIF Commission shall not pledge any PILOTs or EATs to service the debt on the Bonds unless and until a copy of the executed Trust Indenture (or similar agreement) has been executed by and among the agency issuing the Bonds and the Trustee and delivered to TIFC Staff which provides:
  - (i) That Bond Proceeds shall not be paid or disbursed pursuant to the Indenture to the Redeveloper or for Redevelopment Costs unless and until the Trustee receives prior to the time of each disbursement documentation evidencing approval of each draw by the TIF Commission and TIF Staff, as follows:
    - (A) a copy of a resolution duly adopted by the TIF Commission (the "TIF Resolution"), which sets forth:
      - (I) the amount of Redevelopment Costs previously certified by the TIF Commission; and
      - (II) the amount of Redevelopment Costs certified by the TIF Commission which may be then reimbursed or paid from Bond Proceeds; and
    - (B) a written acknowledgment approving the disbursement request executed by the TIF Manager, EDC Controller and an EDC Financial Administrative officer; and
  - (ii) That the Trustee shall not disburse any Bond Proceeds in excess of the amount specified in the TIF Resolution; and
  - (iii) That the TIF Commission shall receive, upon request, but no less frequently than monthly (until all Bond Proceeds are expended), a

report or statement that details all Bond Proceeds paid to or on behalf of the Redeveloper; and

- (iv) A covenant that provides that no Bond Proceeds shall be paid to the Redeveloper in excess of Redevelopment Costs previously certified by the TIF Commission's Cost Certifier and approved by resolution of the TIF Commission.
- c. Alternatively, the bond documentation can follow 4 below, at the election of all transaction participants.

**4. Procedure for Payment or Reimbursement of Redevelopment Costs that have not been incurred or certified prior to the issuance of Bonds issued by the TIF Commission.**

- a. On or before the tenth (10<sup>th</sup>) day of each month or the following business day in the event such day is a Saturday, Sunday or holiday, the Developer shall submit to the Trustee, the City Representative (for City credit-enhanced issues) or the TIF Representative (for issues not credit enhanced by the City) and the individual or entity responsible for the certification of costs for the TIF Commission (the "**Cost Certifier**") a copy of each such Requisition.
- b. On or before the twenty-first (21<sup>st</sup>) day of such month or the following business day in the event such day is a Saturday, Sunday or holiday, the City (for City credit-enhanced issues) and the TIF Commission shall cause the Cost Certifier to submit a written report to the City (for City credit-enhanced issues), the TIF Commission and the Developer stating whether the draw request or any portion thereof is recommended to be certified for reimbursement by the Cost Certifier and, to the extent any portion thereof is not recommended for certification for reimbursement, the Cost Certifier shall include in such written report a detailed explanation of the reasons for the lack of recommendation and such additional documentation required to certify such costs for reimbursement. If the Cost Certifier does not submit its written report on or before such twenty-first (21<sup>st</sup>) day of the month or the following business day in the event such day is a Saturday, Sunday or holiday, then the Requisition shall be deemed approved, and the City Representative (for City credit-enhanced issues) or the TIF Representative (for issues not credit enhanced by the City) shall countersign the Requisition and cause the same to be submitted to the Trustee such that the Trustee can disburse such funds on or before the twenty-eighth (28<sup>th</sup>) day of such month or the following business day in the event such day is a Saturday, Sunday or holiday, but the cost certification review will be deferred until the Cost Certifier submits his report.
- c. If the Cost Certifier shall request any additional documentation in accordance with the procedures and time periods provided in (b) above, then on or before the twenty-eighth (28<sup>th</sup>) day of such month or the following business day in the event such day is a Saturday, Sunday or holiday, the Developer shall provide to the Cost

Certifier any such additional documentation required that is identified by the Cost Certifier in such written report;

- d. If the Requisition is recommended to be certified for reimbursement by the Cost Certifier, then the City Representative (for City credit-enhanced issues) or the TIF Representative (for issues not credit enhanced by the City) shall countersign the Requisition and cause the same to be submitted to the Trustee such that the Trustee can disburse such funds on or before the twenty-eighth (28<sup>th</sup>) day of such month or the following business day in the event such day is a Saturday, Sunday or holiday. If only a portion of the Requisition is recommended to be certified for reimbursement by the Cost Certifier, then the City Representative (for City credit-enhanced issues) or the TIF Representative (for issues not credit enhanced by the City) shall revise such Requisition to delete any non-certified costs, shall countersign the Requisition and cause the same to be submitted to the Trustee such that the Trustee can disburse such funds on or before the twenty-eighth (28<sup>th</sup>) day of such month or the following business day in the event such day is a Saturday, Sunday or holiday. If the Cost Certifier does not make a recommendation within thirty (30) days following submission of a Requisition, then Requisition shall be placed upon the agenda of the Commission for its review at the next Commission meeting following the passage of such 30-day period;
- e. As to any costs included in a Requisition for which the Cost Certifier has requested additional documentation in accordance with the procedures and time periods provided in (b) above, then on or before the seventh (7<sup>th</sup>) day of the following month or the following business day in the event such day is a Saturday, Sunday or holiday, the Cost Certifier shall provide to the City (for City credit-enhanced issues), the TIF Commission and the Developer a written report as to whether such reimbursable project costs supported by such additional documentation are recommended to be certified for reimbursement;
- f. The TIF Commission shall at its meeting consider a resolution for certification of such reimbursable project costs funded pursuant to (b) or (d) above, or recommended but not yet funded pursuant to (d) or (e) above, which approval shall not be unreasonably withheld;
- g. Following adoption by the TIF Commission of a resolution certifying any reimbursable project costs which have not previously been disbursed pursuant to (d) or (e) above, the City Representative (for City credit-enhanced issues) or the TIF Representative (for issues not credit enhanced by the City) shall countersign the Requisition and cause the same to be submitted to the Trustee such that the Trustee can make the approved disbursements of City Funds within five (5) days of the approval of the resolution by the TIF Commission.
- h. Notwithstanding anything to the contrary herein, in the event that the TIF Commission fails to meet or to certify reimbursable projects costs, the City Representative (for City credit-enhanced issues) or the TIF Representative (for

issues not credit enhanced by the City) shall nonetheless countersign the Requisition and cause the same to be submitted to the Trustee such that the Trustee can disburse such funds within five (5) days after the second Wednesday of the following month, in which event,

- (i) If the TIF Commission has failed to meet, the certification shall be delayed until the TIF Commission's next regularly scheduled meeting; or
  - (ii) If the TIF Commission meets but fails to certify reimbursable projects costs, the TIF Commission and Developer hereby agree to submit the dispute to binding arbitration administered by the American Arbitration Association in accordance with its Construction Industry Arbitration Rules (Regular Track Procedures, but without application of the optional mediation procedures provided therein) by a single arbitrator (the "Arbitrator") selected by the American Arbitration Association as provided in the Construction Industry Arbitration Rules. Judgment on the award entered by the Arbitrator may be entered by any court having jurisdiction. The Arbitrator's fees and any expenses of the Arbitrator shall be shared equally by the TIF Commission and Developer. The Arbitrator shall have no authority to award costs or expenses, and the Arbitrator shall have no authority to award attorneys' fees.
- i. If and to the extent that any costs included in a Requisition have been incurred by Developer but not paid to the vendor, Developer shall identify such costs and the City shall have the right to direct the Trustee to pay such costs directly to the vendor.

Requisitions shall be submitted, and the certification of costs shall be completed, based on actual costs incurred in lieu of a percentage of work completed.

## **5. Pledge and Payments of PILOTS and EATS.**

Payments of PILOTS and EATS from a Special Allocation Account pledged by the TIF Commission pursuant to a Trust Indenture, Co-Operative Agreement, Financing Agreement or other contract to service debt on any Bonds (or notes or other obligations) issued by the Commission, the City or another political subdivision or agency of the City or State pursuant to a resolution adopted by the TIF Commission shall be made as set forth in such Trust Indenture, Co-Operative Agreement, Financing Agreement or contract without any requirement of cost certification or TIF Commission review; provided, that, such Trust Indenture, Co-Operative Agreement or contract includes requirements satisfying this Bond Issuance and Disbursements Policy with respect to the disbursement of Bond Proceeds.