

**TAX INCREMENT FINANCING**

**CONTRACT**

**BETWEEN**

**THE CITY OF LEE'S SUMMIT, MISSOURI**

**and**

**RED LEE'S SUMMIT EAST, LLC**

**for the**

**LEE'S SUMMIT EAST TAX INCREMENT FINANCING PLAN**

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**TAX INCREMENT FINANCING CONTRACT**

THIS TAX INCREMENT FINANCING CONTRACT (the "Contract") is made and entered into as of the 2<sup>nd</sup> day of APRIL, 2006 (the "Effective Date"), by and between THE CITY OF LEE'S SUMMIT, MISSOURI ("City"), and RED LEE'S SUMMIT EAST, LLC, a Missouri limited liability company, the developer selected by the City ("Developer") to implement its plan of redevelopment more fully described herein.

**Recitals.**

A. The Tax Increment Financing Commission of Lee's Summit, Missouri (the "Commission") on April 19, 2006, recommended that the City approve the Lee's Summit East Tax Increment Financing Plan (the "Redevelopment Plan") in an area described in the Redevelopment Plan determined to be a Blighted Area and as set forth in Exhibit A, attached hereto and incorporated herein by reference (the "Redevelopment Area").

B. The Redevelopment Plan provides for the construction of two (2) development projects in Lee's Summit, Missouri as follows:

(1) Redevelopment Project No. 1 ("Redevelopment Project 1") consists of the construction of approximately 550,000 gross square feet of improvements to be used for the operation of businesses conducting retail sales and other uses commonly found in first class shopping centers (the "Shopping Center"), together with the installation, repair, construction, reconstruction and relocation of certain streets and utilities in the portion of the Redevelopment Area described on Exhibit B attached hereto and incorporated herein by reference ("Redevelopment Project Area 1"); and

(2) Redevelopment Project No. 2 ("Redevelopment Project 5"), consists of the construction, reconstruction and relocation of Blue Parkway south of Chipman Road,

## Exhibits

- A Legal Description of Redevelopment Area
- B Legal Description of Redevelopment Project Area 1
- C Legal Description of Redevelopment Project Area 5
- D Project Improvements
  - D-1 Preliminary Zoning Plan
- E Private Project Improvements
- F Public Project Improvements
- G Redevelopment Schedule
- H Intentionally Omitted
- I Permitted Uses
- J Redevelopment Project Cost Budget
- K City Payment Schedule
- L Reimbursable Cost Categories
- M CID Improvements and Costs
- N Form of Assignment Agreement
- O Pre-approved Users

together with certain other street and utility work and construction, reconstruction and relocation of certain improvements in the portion of the Redevelopment Area described on Exhibit C attached hereto and incorporated herein by reference ("Redevelopment Project Area 5").

C. By Ordinance No. 6263, adopted by the City Council of City (the "City Council") on August 24, 2006, City approved the Redevelopment Plan, determined that the Redevelopment Area is a Blighted Area and that it met the other applicable requirements of the Act, selected Developer to implement the Redevelopment Plan, and authorized City to enter into a contract with Developer for the implementation of Redevelopment Project 1 and Redevelopment Project 5 (sometimes hereinafter collectively referred to as the "Redevelopment Projects") described in the Redevelopment Plan.

D. The Redevelopment Plan contemplates that in the future each of the Redevelopment Project Areas will be designated by Ordinance as development project areas in conformance with Missouri's Real Property Tax Increment Allocation Redevelopment Act Sections 99.800 to 99.865 R.S.Mo. 1994, as amended (the "Act").

**NOW, THEREFORE,** for and in consideration of the premises, and the mutual covenants herein contained, City and Developer agree as follows:

1. Rules of Interpretation. All capitalized words or terms used in this Agreement and defined in the Redevelopment Plan shall have the meaning ascribed to them in the Redevelopment Plan. In addition thereto, and in addition to words and terms defined elsewhere in this Agreement, the following words and terms shall have the meanings ascribed to them in this section unless the context in which such words and terms are used clearly requires otherwise.

Unless the context clearly indicates to the contrary or unless otherwise provided herein, the following rules of interpretation shall apply to this Contract:

A. The terms defined in this Contract 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 43 of this Contract.

B. The words "hereof", "herein" and "hereunder" and words of similar import when used in this Contract shall refer to this Contract as a whole and not to any particular provision of this Contract. Section, subsection and exhibit references are to this Contract 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.

C. 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.

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



2. Definitions All capitalized words or terms used in this Contract and defined in the Redevelopment Plan shall have the meaning ascribed to them in the Redevelopment Plan. In addition thereto and in addition to words and terms defined elsewhere in this Contract, the following words and terms shall have the meanings ascribed to them in this Section 2 unless the context in which such words and terms are used clearly requires otherwise.

A. "Affiliate," any person, entity or group of persons or entities which controls a party, which a party controls or which is under common control with a party. As used herein, the term "control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of management and policies, whether through the ownership of voting securities, by contract or otherwise.

B. "Blighted Area," an area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete platting, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals, or welfare in its present condition and use.

C. "CID Obligations," bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by the CID to carry out the Redevelopment Plan or to fund outstanding obligations.

D. "City," the City of Lee's Summit, Missouri.

E. "City Administrator," the city administrator of Lee's Summit, Missouri.

F. "City Council," the governing body of Lee's Summit, Missouri.

G. "City Engineer," the city engineer of Lee's Summit, Missouri.

H. "City Treasurer," the treasurer of Lee's Summit, Missouri.

I. "Commission," the Tax Increment Financing Commission of Lee's Summit, Missouri;

J. "County," Jackson County, Missouri.

K. "County Assessor," the assessor of Jackson County, Missouri.

L. "County Collector," the collector of Jackson County, Missouri.

M. "Debt Service," the amount required for the payment of interest and principal on the Obligations as they come due, for the payment of mandatory or optional redemption payments and for payments to reserve funds required by the terms of the Obligations to retire or secure the Obligations.

N. "Developer," RED Lee's Summit East, LLC, its successors and assigns, subject, however, to the provisions of Section 35 hereof.

O. "Economic Activity Account," the separate segregated account within the Special Allocation Fund into which Economic Activity Taxes are to be deposited.

P. "Economic Activity Taxes," fifty percent (50%) of the total additional revenue from taxes which are imposed by City or other Taxing Districts, which are generated by economic activities within Redevelopment Project Area 1 and Redevelopment Project Area 5, while tax increment financing remains in effect, excluding licenses, fees, utility taxes, or special assessments, other than payments in lieu of taxes, until the designation is terminated pursuant to Subsection 2 of Section 99.850 of the Act.

Q. "Final Zoning Plan," the Preliminary Zoning Plan as modified and approved by the City through the Land Use Approval process.

R. "Land Use Approvals," those approvals required pursuant to City's zoning and subdivision regulations and Ordinance No. 6262 which are required for the construction of Redevelopment Project 1 and Redevelopment Project 5.

S. "Legal Requirements," any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, directive, requirement or decision of or agreement with or by any and all jurisdictions, entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies or authorities of any nature whatsoever of any governmental unit (federal, state, county, district, municipality, city or otherwise), whether now or hereafter in existence and specifically including but not limited to all ordinances, rules and regulations of the City of Lee's Summit, Missouri, such as zoning ordinances, subdivision ordinances, building codes, property maintenance codes, and City's Design and Construction Manual (Ordinance No. 3719).

T. "MoDOT," the Missouri Department of Transportation.

U. "Obligations," the TIF Obligations and, if issued, the CID Obligations.

V. "Ordinance," an ordinance enacted by the City Council.

W. "Payment in Lieu of Taxes," those estimated revenues from real property in the Redevelopment Area, which revenues are to be used to retire TIF Obligations and pay other Reimbursable Project Costs, 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 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 of the Act, which shall not be later than 23 years after Redevelopment Project 1 to be developed in the Redevelopment Area is approved by an Ordinance of the City Council. Payments in lieu of taxes which are due and owing shall constitute a lien against the real estate in the Redevelopment 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 R S Mo ;

X. "Payment in Lieu of Taxes Account," the separate segregated account within the Special Allocation Fund into which Payments in Lieu of Taxes are to be deposited.

Y. "Preliminary Zoning Plan," the CP2 Zoning Preliminary Development Plan, including the Architectural Design Guidelines approved by Ordinance No. 6262 and attached hereto as Exhibit D-1 and incorporated herein by reference.

Z. "Redevelopment Project Cost Budget," the budget setting forth the Redevelopment Project Costs, and identifying those Redevelopment Project Costs to be funded or reimbursed by Payments in Lieu of Taxes, Economic Activity Taxes, or the proceeds of TIF Obligations, attached hereto as Exhibit J and incorporated herein by reference.

AA. "Redevelopment Project Costs" include the sum total of all reasonable or necessary costs incurred or estimated to be incurred, any such costs incidental to the

Redevelopment Plan and the Redevelopment Projects. Such costs include, but are not limited to the following:

- (1) Costs of studies, surveys, plans and specifications;
- (2) Professional service costs, including, but not limited to, architectural, engineering, legal, marketing, financial, planning or special services. Except the reasonable costs incurred by the City or Commission established in the Act for the administration of the Redevelopment Plan, such costs shall be allowed only as an initial expense which, to be recoverable, shall be included in the costs of the Redevelopment Plan and the Redevelopment Projects;
- (3) Property assembly costs, including but not limited to, acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, and the clearing and grading of land;
- (4) Costs of rehabilitation reconstruction, or repair or remodeling of existing buildings and fixtures;
- (5) Cost of construction of public works or improvements;
- (6) Financing costs, including, but not limited to all necessary and incidental expenses related to the issuance of TIF Obligations; and which may include payment of interest on any TIF Obligations issued hereunder accruing during the estimated period of construction of each of the Redevelopment Projects for which such TIF Obligations are issued and for not more than eighteen months thereafter, and including reasonable reserves related thereto;
- (7) All or a portion of a taxing district's capital cost resulting from Redevelopment Project 1 and Redevelopment Project 5 necessarily incurred or to

be incurred in furtherance of the objectives of the Redevelopment Plan and the Redevelopment Projects, to the extent the City, by written agreement, accepts and approves such costs;

(8) Relocation costs to the extent that a city determines that relocation costs shall be paid or are required to be paid by federal or state law; and

(9) Payments in lieu of taxes.

BB. "Reimbursable Project Costs," the portion of Redevelopment Project Costs, which pursuant to the Redevelopment Plan and this Contract are to be funded or reimbursed with Payments in Lieu of Taxes, Economic Activity Taxes or the proceeds of Obligations as are set forth in the Redevelopment Project Cost Budget. Reimbursable Project Costs include the portion of Redevelopment Project Costs incurred by City and, to the extent included in the Redevelopment Cost Project Budget as being funded or reimbursed with Payments in Lieu of Taxes, Economic Activity Taxes, or the proceeds of Obligations, Developer as a result of: preparing, reviewing and adopting the Redevelopment Plan or each of the Redevelopment Projects; designation of the Redevelopment Project Areas; planning; financing, acquiring and constructing each of the Redevelopment Projects; and any other work authorized by the Redevelopment Plan; the oversight of the construction of each of the Redevelopment Projects, the implementation of the Redevelopment Plan, and the management of the Special Allocation Fund.

CC. "School District," the Lee's Summit R-7 School District.

DD. "Special Allocation Fund," the fund established by the City into which, as required by the Act, all Payments in Lieu of Taxes and Economic Activity Taxes from

Redevelopment Project Area 1 and Redevelopment Project 5 are deposited for the purpose of paying Redevelopment Project Costs and TIF Obligations incurred in the payment thereof. The Special Allocation Fund shall be divided into two (2) separate segregated accounts: the Payments in Lieu of Taxes Account and the Economic Activity Taxes Account.

EE. "Taxing Districts," any political subdivision of this state having the power to levy taxes on sales or property in the Redevelopment Area.

FF. "TIF Obligations," bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by the City or Commission pursuant to the Act to carry out the Redevelopment Projects or to fund outstanding obligations.

GG. "Total Initial Equalized Assessed Value," that amount certified by the County Assessor which equals the most recently ascertained equalized land assessed value of each taxable lot, block, tract or parcel or real property within Redevelopment Project Area 1 and/or Redevelopment Project Area 5 immediately after the Ordinance approving each such Redevelopment Project has been approved by the City Council.

3. Redevelopment Area. The Redevelopment Area consists of the area legally described on Exhibit A attached hereto.

4. Redevelopment Project Areas.

A. The Redevelopment Area will be developed in two (2) phases: Redevelopment Project Area 1 and Redevelopment Project Area 5, in accordance with the provisions of the Redevelopment Plan. A Redevelopment Project Area may only be changed, modified or amended in accordance with the Act.

B. Designation of Redevelopment Project Areas. Tax increment financing under the Act ("Tax Increment Financing") with respect to Redevelopment Project Area 1 and Redevelopment Project Area 5 shall become effective only upon the approval thereof by an Ordinance of the Council (the "Redevelopment Project Ordinance").

5. Project Improvements. In accordance with the Act and the terms and conditions of the Redevelopment Plan and this Contract, to ameliorate or satisfy those conditions which are the basis for eligibility and designation of the Redevelopment Area as a Blighted Area and otherwise eligible as a development area under the Act, Developer shall cause the Redevelopment Project Areas to be redeveloped through the construction of those improvements set forth in Exhibit D attached hereto and incorporated herein by reference (the "Project Improvements"). The Project Improvements consist of: (A) the Phase 1 Private Project Improvements described in Exhibit E attached hereto and incorporated herein by reference, (the "Private Project Improvements"); and (B) the Public Project Improvements described in Exhibit F attached hereto and incorporated herein by reference (the "Public Project Improvements").

6. Redevelopment Schedule.

A. It is the intention of the parties that development activities for Redevelopment Project Area 1 and Redevelopment Project Area 5 be substantially commenced and completed on or before the dates set forth in Exhibit G attached hereto and incorporated herein by reference (the "Redevelopment Schedule"). Developer shall construct all Private Project Improvements and, except with respect to the MoDOT Improvements (as hereinafter defined) and subject to the provisions of Section hereof, all Public Project Improvements, and shall complete all other development-related



activities including, but not necessarily limited to design, land preparation, environmental evaluation and remediation, construction, management, maintenance and procurement of private financing in sufficient time to comply with the Redevelopment Schedule. Changes in the development program contemplated by the Redevelopment Plan that require a Redevelopment Plan amendment under the Act (as determined by City) shall be processed in accordance with the Act, and changes in the development program contemplated by the Redevelopment Plan that do not require a Redevelopment Plan amendment under the Act (as determined by City) may be made only by agreement of the parties hereto. The parties hereto recognize and agree that market and other conditions may affect the Redevelopment Schedule. Therefore, the Redevelopment Schedule is subject to change and/or modification, with the written approval of City, which shall not be unreasonably withheld, upon a showing by Developer of changed market or other conditions. Any amendment to the Redevelopment Plan that is approved by City as provided herein shall immediately operate and be deemed to be an amendment to the approved Development Schedule and the provisions of this Contract. In order to implement the Redevelopment Schedule, City will consider in a timely manner whether to approve each Redevelopment Project Ordinance referred to in Section 4(B) hereof. Developer shall render such reasonable aid and assistance as requested by City to insure favorable consideration of any such Redevelopment Project Ordinance by the City Council. City shall use reasonable efforts to expedite the approval of the Final Redevelopment Plan and the Land Use Approvals; provided, however, that nothing herein shall constitute or be deemed to be a waiver by City or the City Council of its legislative authority. If Developer does not comply with the Redevelopment Schedule as

set forth above, then, unless Developer requests an amendment of such Redevelopment Schedule prior to such violation and any amendment of the Redevelopment Schedule is so approved by City, City may require Developer to appear before the City Council to show cause why this Contract and the Redevelopment Plan shall not be terminated in accordance with Section 38 hereof. Notwithstanding anything to the contrary herein, if a Certificate of Completion and Compliance is not issued with respect to both Redevelopment Project 1 and Redevelopment Project 5 by the outside date provided in the Redevelopment Schedule attached as Exhibit G (the "Outside Completion Date"), City may require Developer to appear before the City Council to show cause why this Contract and the Redevelopment Plan shall not be terminated in accordance with Section 38 hereof. From and after the Outside Completion Date, any approval by City of any change or modification of the Redevelopment Schedule may be given or denied by City in its sole and subjective discretion, and the provisions of Section 39 hereof shall not be applicable in determining whether this Contract and the Redevelopment Plan shall not be terminated in accordance with Section 38 hereof.

7. Design and Construction of Public Project Improvements.

A. By Developer. Except as provided in Section 7(B) and Section 7(C) hereof, Developer shall cause all of the Public Project Improvements to be designed and constructed as follows:

- (1) The Public Improvements shall be constructed in accordance with all Legal Requirements and such Developer Public Project Plans, as defined in Section 7(A)(4) below, and plans and specifications as are approved by City in writing. Developer, with the assistance of City as requested, shall obtain all

approvals required by MoDOT, and any other entities or governmental departments specified by MoDOT, for the Public Project Improvements, as defined below, prior to the commencement of any construction for any Public Project Improvements requiring MoDOT approval. City agrees to cooperate in good faith to facilitate approval of the design, engineering and construction of the Public Project Improvements by MoDOT and by any other governmental entities or governmental departments.

(2) The contracts related to the construction of the Public Project Improvements shall be subject to a transparent, open and competitive public bidding process conducted by Developer which will allow for the selection of the lowest and best contractor to be selected based upon bid criteria developed by Developer and approved in writing by City (the "Public Bid Process"). The Public Bid Process shall be mutually developed and agreed to in writing by Developer and the City Engineer. The Public Bid Process shall provide for the Director of Public Works to have the right to reasonably reject any contractor selected by Developer provided written reason for the rejection is provided concurrent with the rejection. The Public Bid Process shall provide for the City Engineer (or another person or department designated by City) to be entitled to review and supervise the bidding process, to review all bids received and to conduct the public bid process, including bid opening, if it so elects.

(3) Timing of Public Project Improvements. Prior to the design, engineering, and construction of the Public Project Improvements, Developer shall submit to the City a proposed schedule for the Public Project Improvements

to be designed and constructed by Developer. The City Engineer shall approve the schedule as presented or return the schedule with comments, to be resubmitted by Developer until approved by the City Engineer. Once the schedule is approved by the City Engineer, City and Developer shall mutually approve and adopt such changes to the Redevelopment Schedule as required to take into account the schedule for the Public Project Improvements approved by the City Engineer. Such changes to the Redevelopment Schedule may, at the option of the City Administrator or his designee, be approved administratively, and if the City Administrator or his designee elects to approve such changes administratively, no action of the City Council shall be required to approve such changes to the Redevelopment Schedule. The provisions of this Section 7(A)(3) and the schedule for the Public Project Improvements are subject to the provisions of Section 9(D) hereof.

(4) Design Phase. Developer shall meet with City staff regarding preliminary design of the Public Project Improvements to be constructed by Developer pursuant to this Agreement and shall submit all preliminary design documents to City for approval before proceeding with the construction of the Public Project Improvements. On the basis of such approved preliminary design documents, Developer shall:

(a) Prepare detailed drawings, plans, design data, estimates, and technical specifications to show the character and scope of the work to be performed by contractors for all Public Project Improvements ("Developer Public Project Plans").

(b) Furnish to City for its review and approval copies of such Developer Public Project Plans and other documents and design data as may be required to secure approval of such governmental authorities as may have jurisdiction over design criteria applicable to the Public Project Improvements.

(c) Following review and approval of the Developer Public Project Plans, furnish the number of approval copies of the final Developer Public Project Plans for the Public Project Improvements as City may reasonably require.

(5) Right of Way Acquisition.

(a) Developer shall be responsible for acquiring or negotiating for the donation of all right-of-way or easements that are needed to construct the Public Project Improvements, including all necessary temporary construction easements. In addition, Developer will dedicate or cause to be dedicated all right-of-way or easements upon property owned or controlled by Developer that are needed to construct the half-diamond interchange on Interstate 470 at Blue Parkway (the "Blue Parkway Half Diamond"), and the connector roads linking the Blue Parkway Half Diamond to the Pryor Half Diamond (as hereafter defined), including all necessary temporary construction easements. All right-of-way or easements to be provided by Developer under this Section 7(A)(5)(a) shall be provided to City or MoDOTI without charge.

(b) In the event that Developer is unable, after good faith negotiations, to acquire some or all of the right-of-way or easements necessary for those Public Project Improvements over which City exercises jurisdiction (the "Necessary Right-of-Way"), Developer shall deliver to City a written request (the "Developer Request") for City to acquire any of the Necessary Right-of-Way. If City agrees, at its sole discretion, to attempt to acquire any of the Necessary Right-of-Way, City will enter into good faith negotiations and, at its option, to elect to exercise its power of eminent domain to acquire any or all of such Necessary Right-of-Way.

(c) In the event City agrees to enter into good faith negotiations or exercise its power of eminent domain to acquire the Necessary Right-of-Way, prior to beginning any work to acquire said Necessary Right-of-Way, Developer shall first deposit into escrow with City an amount equal to 150% of the estimated acquisition costs. Acquisition costs paid by City ("Acquisition Costs") shall be a Reimbursable Project Cost and shall include, but shall not be limited to: the actual price paid for all right-of-way or easements, whether determined by negotiation or eminent domain; expenses paid to third parties related to the establishment of acquisition values of right-of-way or easements, including appraisals, legal fees, other expenses paid to third parties, and expenses incurred by City related to acquisition of right-of-way or easements, whether through negotiation or eminent domain; and any other

reasonable and necessary costs or expenses related to acquisition of the right-of-way or easements. City may require that Developer enter into a separate acquisition funding agreement with City to provide for the terms and conditions under which Developer will place 150% of all estimated Acquisition Costs in escrow with City prior to commencement of condemnation for right-of-way or easements. The acquisition funding agreement shall obligate Developer to reimburse City in full for all Acquisition Costs that result from City's condemnation process for any portion of the Public Project Improvements.

(6) Utility Relocation. The parties agree that the costs associated with relocating any existing utilities from any existing public or private easement or from any existing right-of-way, as a result of construction of the Public Project Improvements, shall be paid by Developer and are not the responsibility of City; to the extent set forth in the Redevelopment Project Cost Budget, such costs shall be a Reimbursable Project Cost. The parties agree that all costs associated with relocating any existing utilities from any existing right-of-way as a result of construction of the Public Project Improvements, which are not paid by a utility company, shall be paid by Developer and are not the responsibility of City; to the extent set forth in the Redevelopment Project Cost Budget, such costs shall be a Reimbursable Project Cost.

(7) Inspections and Change Orders. City, or its designees, shall have the right to inspect, observe, and oversee the construction of all Public Project Improvements in order to ascertain and determine that the standards of City have

been met. Developer shall obtain City's approval of all change orders relating to the Public Project Improvements; provided, however, that City shall not unreasonably withhold its consent to any change order so long as the purpose of such change order is to exercise Developer's rights under Section 23(C) hereof. In no event shall Developer authorize or approve any change order that includes payment of overtime costs or other costs to accelerate the construction of the Public Project Improvements except with the prior written approval of City, which approval City may condition upon an agreement by Developer to pay all or a portion of any cost increases resulting from such change order without such cost increases being a Reimbursable Project Cost. Such change orders that include payment of overtime costs or other costs to accelerate the construction of the Public Project Improvements may, at the option of the City Administrator or his designee, be approved administratively in his or her reasonable discretion. If the City Administrator or his designee elects to approve such change orders administratively, no action of the City Council shall be required to approve such change orders.

(8) Dedication. Upon completion, inspection and approval of the Public Project Improvements by City, Developer will dedicate the Public Project Improvements to City, for its use, operation and maintenance. City shall be under no obligation to accept the dedication or conveyance of any Public Project Improvements constructed pursuant to this Agreement until it has been inspected and approved to the satisfaction of City. Upon written notice of the inspection and approval of the Director of Public Works, Developer agrees to convey all the



Public Project Improvements to City free and clear of all liens and encumbrances or other obligations. Said conveyance shall be by appropriate document, and shall be sufficient, in the opinion of the City Attorney, to convey marketable title of record, as set forth in Title Standard 4 of the Missouri Bar.

(9) Insurance.

(a) General Provisions. Prior to commencing construction of the Public Project Improvements, and at all times until the Public Project Improvements are accepted by and dedicated to City or MoDOT, as applicable, Developer shall obtain liability insurance that is consistent with the requirements of the City's Design and Construction Manual and in the amounts set forth below, and Developer shall file with City evidence acceptable to City or MoDOT, as applicable, of such liability insurance.

(b) Limits and Coverage. Bodily Injury and Property Damage, Commercial General Liability Coverage – Occurrence Form unless otherwise agreed by City:

a. Commercial General Liability: Minimum \$1,000,000 each occurrence limit for bodily injury and property damage; \$1,000,000 policy aggregate; \$1,000,000 products and completed operations aggregate.

b. Automobile Liability: Minimum \$1,000,000 combined single limit for bodily injury and property damage; applicable to owned, non-owned and hired automobiles.

c Workers' Compensation: As required by state statute; if exempt, must submit letter stating the exemption; employer's liability \$1,000,000 each occurrence.

d Umbrella/Excess Liability: An umbrella or excess liability policy in the minimum amount of \$5,000,000 each occurrence and aggregate; at least as broad as the underlying general liability, automobile liability and employer's liability.

The following endorsements shall attach to the policy:

(i) The policy shall cover personal injury as well as bodily injury.

(ii) The policy shall cover blanket contractual liability subject to the standard universal exclusions of contractual liability included in the carrier's standard endorsement as to bodily injuries, personal injuries and property damage.

(iii) Broad form property damage liability shall be afforded.

(iv) City shall be listed as an additional insured.

(v) Standard form of cross-liability shall be afforded.

(vi) The policy shall not be cancelled, or materially modified so as to be out of compliance with the requirements of this section, or not renewed without thirty (30) days advance written notice of such event being given to City.

(c) Use of Contractors and Subcontractors. Developer shall not permit any contractor or subcontractor to commence or continue work

until they shall have obtained or caused to be obtained all insurance required under this Subsection and the City's Design and Construction Manual. Said insurance shall be maintained in full force and effect until the completion of construction of the Public Project Improvements, and acceptance of such Public Project Improvements by City or MoDOT, as appropriate.

(d) Workers' Compensation. Developer shall ensure that all contractors or subcontractors performing work for Developer obtain and maintain Workers' Compensation Insurance for all employees, and in case any work is sublet, Developer shall cause any subcontractors to provide Workers' Compensation insurance for all subcontractor's employees, in compliance with State laws, and to fully protect City from any and all claims arising out of occurrences during construction of the Public Project Improvements. Developer hereby indemnifies City for any damage resulting to it from failure of either Developer or any contractor or subcontractor to obtain and maintain such insurance. Developer further waives, and shall cause all contractors or subcontractors performing work for Developer to waive, its rights to subrogation with respect to any claim against City for injury arising out of performance under this Agreement. Developer shall provide City with a certificate of insurance indicating Workers' Compensation coverage prior to commencing construction of the Public Project Improvements, and shall cause such insurance to be

maintained at all times that any work on the Public Project Improvements is being performed.

(e) Bonds. Developer shall provide, or cause to be provided, the following bonds for the Public Project Improvements and all other public infrastructure improvements that are constructed by Developer and dedicated to City.

a. Performance Bond and Payment Bond. Prior to commencement of construction and ending upon acceptance of the Public Project Improvements by, and dedication of such Public Project Improvements to, City or MoDOT, as applicable, Developer shall maintain or cause to be maintained a performance and payment bond in a form approved by the City Attorney, in an amount equal to the cost of the Public Projects Improvements covered by such bond, as determined by the City Engineer, conditioned upon the faithful performance of the provisions, terms and conditions of the construction contract. The performance and payment bond shall name City as obligee and copies of certificates of such bond shall be delivered to City. No other party shall be named as a co-obligee on any of such bonds except with the prior written consent of City.

b. Maintenance Bonds. Prior to acceptance and dedication of the Public Projects Improvements, Developer shall provide or cause to be provided a maintenance bond in a form approved by the City Attorney, in an amount equal to fifty percent (50%) of the cost of the Public Projects

Improvements as approved by the City Engineer, which shall be in effect for a term of three (3) years from the date that City issues a certificate of substantial completion for such Public Projects Improvements covered by the bond, conditioned upon the faithful performance of the provisions, terms and conditions of the construction contract. The performance and payment bond shall name City as an obligee and copies of certificates of such bond shall be delivered to City. No other party shall be named as a co-obligee on any of such bonds except with the prior written consent of City.

c. Indemnity for Failure to Provide Bonds. Developer shall indemnify City and its officers and employees for any damage resulting to City, its officers or employees from failure of Developer to provide the bonds set forth in this Section.

B. By City. City shall have the right, at its option, to elect to design and construct any or all of the Public Project Improvements. City shall exercise its option by written notice to Developer of City's election to perform the design and construction activities, and in the event City so elects to design and construct the Public Project Improvements, then the design and construction of such Public Project Improvements as City elects to design and construct (hereinafter referred to as the "City Public Project Improvements") shall be undertaken as follows:

(1) The City Public Project Improvements shall be constructed in accordance with the Redevelopment Plan, the Preliminary Zoning Plan, the Land Use Approvals, all Legal Requirements and such City Public Project Plans, as

defined in Section 7(B)(4) below, and specifications as are approved by City in writing. City, with the assistance of Developer as requested, shall obtain all approvals required by MoDOT, and any other entities or governmental departments specified by MoDOT, for the City Public Project Improvements, as defined below, prior to the commencement of any construction for any City Public Project Improvements requiring MoDOT approval. Developer agrees to cooperate in good faith to facilitate approval of the design, engineering and construction of the City Public Project Improvements by MoDOT and by any other governmental entities or governmental departments. The cost of designing and constructing the City Public Project Improvements shall be paid by Developer and are not the responsibility of City; to the extent set forth in the Redevelopment Project Cost Budget, such costs shall be a Reimbursable Project Cost.

(2) The contracts related to the construction of the City Public Project Improvements shall be let and approved by City in accordance with City procedures and policies; City shall provide Developer with copies of all bids awarded for the City Public Project Improvements. Notwithstanding the foregoing, City may in its sole discretion and upon terms acceptable to City at its sole discretion, request that Developer contract for any or all of the design services related to the City Public Project Improvements, subject to reimbursement to Developer as a Reimbursable Project Cost.

(3) Timing of City Public Project Improvements. Prior to the design, engineering and construction of the City Public Project Improvements, City and Developer shall jointly develop a schedule for the design, engineering and

construction of the City Public Project Improvements (the "City Public Improvement Schedule"). Once the City Public Improvement Schedule is developed, City and Developer shall mutually approve and adopt such changes to the Development Schedule as required to take into account the Public Improvement Schedule. Such changes to the Development Schedule may, at the option of the City Administrator or his designee, be approved administratively. If the City Administrator or his designee elects to approve such changes administratively, no action of the City Council shall be required to approve such changes to the Development Schedule.

(4) Design Phase – City Public Project Improvements. City shall make available to Developer copies of, and upon request by Developer, meet with Developer regarding, preliminary and final design of the City Public Project Improvements. On the basis of preliminary design documents, City shall:

(a) Prepare detailed drawings, plans, design data, estimates, and technical specifications to show the character and scope of the work to be performed by contractors for the Public Project Improvements ("City Public Project Plans").

(b) Make available to Developer upon request, for its review and comment, copies of such City Public Project Plans and other documents and design data as may reasonably be requested by Developer.

(5) Right of Way Acquisition.

(a) Developer shall be responsible for acquiring or negotiating for the donation of all Necessary Right-of-Way to construct the City

Public Project Improvements, including all necessary temporary construction easements. In addition, Developer will dedicate or cause to be dedicated all right-of-way or easements upon property owned or controlled by Developer needed to construction the Blue Parkway Half Diamond and the connector roads linking the Blue Parkway Half Diamond to the Pryor Half Diamond, including all necessary temporary construction easements. All right-of-way and easements to be provided by Developer under this Section 7(B)(5)(a) shall be provided to City or MoDOT without charge.

(b) In the event the Developer is unable, after good faith negotiations, to acquire some or all of the Necessary Right-of-Way for those City Public Project Improvements over which City exercises jurisdiction, City shall consider and, at its sole option, may undertake acquisition of Necessary Right of Way as provided in Section 7(A)(6) hereof.

(c) Failure of City to acquire any Necessary Right-of-Way for construction of a specific Public Project Improvement within eighteen (18) months of the Developer's Request (the "City Outside Acquisition Date") shall relieve City of the obligation to build such Public Project Improvement. After the City Outside Acquisition Date, City and Developer shall cooperate and develop alternative plans and designs which can be built within the then existing rights of way and easements, and the improvements designed and constructed pursuant to such



alternative plans and designs shall be deemed to be City Public Project Improvements under this Contract.

(6) Utility Relocation – City Public Project Improvements. The parties agree that the costs associated with relocating any existing utilities from any existing public or private easement or from any existing right-of-way, as a result of construction of the City Public Project Improvements, shall be paid by Developer; to the extent set forth in the Development Project Cost Budget, such costs shall be a Reimbursable Project Cost. The parties agree that all costs associated with relocating any existing utilities from any existing right-of-way as a result of construction of the City Public Project Improvements, which are not paid by a utility company, shall be paid by Developer and are not the responsibility of City; to the extent set forth in the Redevelopment Project Cost Budget, such costs shall be a Reimbursable Project Cost.

(7) Utility Relocation – Private Project Improvements. The parties agree that the costs associated with relocating any existing utilities from any existing public or private easement or from any existing right-of-way, as a result of construction of the Private Project Improvements, shall be paid by Developer and are not the responsibility of City; to the extent set forth in the Development Project Cost Budget, such costs shall be a Reimbursable Project Cost. The parties agree that all costs associated with relocating any existing utilities from any existing right-of-way as a result of construction of the Private Project Improvements, which are not paid by a utility company, shall be paid by Developer and are not the responsibility of City; to the extent set forth in the

Development Project Cost Budget, such costs shall be a Reimbursable Project Cost.

(8) Inspections and Change Orders. City agrees to permit Developer, or its designees, to observe the construction of all City Public Project Improvements in order to ascertain and determine that construction is being done in a manner consistent with the Redevelopment Plan, the Final Zoning Plan and the Land Use Approvals. City shall inform Developer of all major change orders in scope, configuration and alignment relating to the City Public Project Improvements.

(9) Notwithstanding anything contained in this Contract to the contrary, City's option to undertake the design and construction of any or all of the Public Project Improvements pursuant to this Section 7(B) shall expire 60 days after the full execution of this Contract.

C. Additional Improvements By MoDOT.

In addition to the Public Improvements, the Land Use Approvals relating to the Redevelopment Projects require that certain public improvements consisting generally of the construction of a bridge over Interstate 470 for Pryor Road (the "Pryor Bridge"), a half diamond interchange on Interstate 470 at Pryor Road (the "Pryor Half Diamond") must be completed prior to the issuance of a certificate of occupancy for any portion of Redevelopment Project 1 or Redevelopment Project 5.

8. Design Criteria and Review Procedures for Private Improvements.

A. If Developer shall seek to amend the Preliminary Zoning Plan in a manner not specifically authorized by the Preliminary Zoning Plan or otherwise permitted

through the Land Use Approval Process, Developer shall obtain the approval of City to such amendment. Once any necessary approvals to the amendment of the Preliminary Zoning Plan have been obtained, such amended plan shall be and constitute the Final Zoning Plan for purposes of this Contract. If Developer shall seek to amend the Redevelopment Plan, Developer shall obtain the approval of City to such amendment, and City shall have the right to grant or withhold such approval upon the same terms and conditions, and subject to the same standards of review, as were applicable to City's initial approval of the Redevelopment Plan.

B. Construction plans for the Private Project Improvements shall conform to the Final Zoning Plan. In order to insure that the Private Project Improvements and their construction will be in accordance with the provisions of this Contract, and in substantial agreement with proposals made by Developer to City, the parties agree as follows:

(1) In addition to all other rights of City under the Land Use Approvals or under this Contract, City shall have, and is hereby granted a right to reasonably approve: (a) the schematic design drawings; (b) the design development drawings; and (c) the architectural designs for the Private Project Improvements including the quality of exterior finish. City shall have twenty-one (21) days from submittal to issue its approval or in the case approval is not given, the detailed reasons in writing for not granting approval. City's review and approval shall in all regards be based upon the conformance with the Preliminary Zoning Plan and the Redevelopment Plan.

(2) No Private Project Improvements shall be commenced or made unless and until all the construction plans therefore, in the detail required by City,

or any changes thereto, shall have been submitted to and approved in writing by City or the City staff, all in accordance with the Final Zoning Plan and Section 8(B)(1) above.

(3) City shall have the absolute right, in its sole judgment and discretion at any time, to approve a variance from conformance to, or a waiver of compliance with, the Final Zoning Plan and the Land Use Approvals relating to exterior improvements, or to eliminate any one or more of such requirements in connection with the approval or disapproval of the above construction plans or changes thereto, subject to all applicable City ordinance provisions.

(4) Subsequent to commencement of the Private Project Improvements and until said Private Project Improvements have been completed, Developer shall, as part of the report required by Section 33, describe in such detail as may reasonably be required by City, the progress of Developer in construction. During such period the work of Developer shall be subject to inspection by representatives of City as described in Section 9(A) hereof.

(5) Unless otherwise provided by law, neither City, nor any officer, director, commissioner, member, employee or agent of the same, shall be liable to Developer with respect to construction plans or modifications submitted for approval, nor for any other action in connection with its or their duties hereunder. Developer agrees that it will not bring any action or suit to recover damages against City 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 Developer. Actions

brought in equity or which otherwise do not seek to recover damages are not precluded by this Section.

(6) Neither the review and approval by City of construction plans or changes, or any information submitted in connection therewith, nor, except as otherwise provided by law, the issuance of a building permit, shall be deemed or construed to be a determination that the same are in compliance with any Legal Requirements; provided, however, that City shall notify Developer if it determines that any plans are not in compliance with any Legal Requirements. Review and approval of construction plans or changes by City shall not relieve Developer of any liability or responsibility in connection with any ongoing obligation to comply with any applicable Legal Requirements.

9. Control of Project.

A. Construction. Except as otherwise provided in this Contract, Developer shall have complete and exclusive control over construction of the Project Improvements that it owns or controls (the "Developer Controlled Improvements"), subject, however, to all Legal Requirements. As to all parts of the Redevelopment Projects, Developer hereby grants to City, its agents and employees the right to enter at reasonable times for the purpose of inspecting the Redevelopment Projects:

B. Dedication of Right of Way. Developer shall dedicate all necessary right of way located within the boundaries of the Redevelopment Area to City and/or MoDOT and convey all the real property necessary for construction of the Public Project Improvements to City or MoDOT as appropriate at no cost for all portions of the Phase 1 Public Project Improvements and the Phase 2 Public Project Improvements. To the

extent that Developer does not dedicate any portion of Redevelopment Project Area 5 to MoDOT, Developer agrees that any portion not dedicated to MoDOT shall, at the option of City, be conveyed to City (or such third party as City may approve) by Special Warranty Deed free and clear of all liens and encumbrances without cost. The parties acknowledge that as a condition to Developer's obligations herein and to implement the Redevelopment Plan, MoDOT shall vacate that certain area of right-of-way running along Blue Parkway just south of Chipman Road containing approximately 2.67 acres and convey said area to City. City shall thereafter (the exact timing of which shall be reasonably agreed upon between Developer and City) convey said area to Developer or an entity selected by Tom Sight, at Developer's reasonable discretion. When acquired by Developer, Developer agrees to convey that certain area running along the proposed relocated Blue Parkway just south of Chipman Road containing approximately 2.06 acres to the City.

C. Vacation of Right of Way by City and MoDOT. Implementation of the Redevelopment Plan will require the vacation of existing rights of way and easements by City as well as by MoDOT. City agrees to reasonably assist in securing approval and timely passage of ordinances which will vacate City-owned right of way. City will also reasonably assist in securing the vacation by MoDOT of any MoDOT right of way needed for implementation of the Redevelopment Plan.

D. Certificates of Occupancy. City shall not be obligated to issue any certificates of occupancy for structures within Redevelopment Project Area 1 or Redevelopment Project Area 5 until certificates of substantial completion for the Public Project Improvements as described in Exhibit F have been issued, and the Pryor Bridge

and the Pryor Half Diamond are open to traffic. The foregoing shall not be subject to the provisions of Section 39 hereof, it being the intent of City and Developer that City shall not be obligated to issue any certificates of occupancy until certificates of substantial completion for the Public Project Improvements as described in Exhibit F have been issued, and the Pryor Bridge and the Pryor Half Diamond are open to traffic, without regard to the reason for any delay or failure to complete and open for traffic such improvements

E. Maintenance and Repair. Developer, at its sole cost and expense, at all times shall (1) maintain and operate Developer Controlled Improvements in a first class manner, (2) timely make all necessary repairs to and replacements and restorations of all parts of the Developer Controlled Improvements, (3) keep the Developer Controlled Improvements in good condition, repair and appearance, and (4) maintain casualty insurance on the Developer Controlled Improvements in an amount equal to the full replacement value thereof and provide City with evidence of such insurance upon demand.

Developer shall use its best efforts to contractually obligate any tenant, purchaser, transferee, developer, manager, contractor or subcontractor to comply with the provisions of this Section 9(E) for all portions of the Private Improvements. Developer shall enforce the provisions of this Section 9(E) to the maximum extent permitted by law. Developer hereby agrees that every lease, sales contract or other contract regarding the Redevelopment Project Area shall incorporate the provisions of this Section 9(E) and further provide that City is an intended third party beneficiary of such provisions and as such, City has a separate and independent right to enforce such provisions directly against

any such tenant or purchaser. Developer shall use its best efforts to enforce such contract rights.

F. Architects and Engineers. Developer shall not employ, engage or otherwise use the services of any engineer, architect, contractor, management agent or leasing agent with respect to the design, construction, management, leasing or operation of any portion of the Redevelopment Projects or the development of any portion of the Redevelopment Area (collectively "Project Consultants" and each a "Project Consultant") unless prior written approval of each such Project Consultant is given by City. City hereby agrees that Preston Partnership Oschner Hare and Hare, Olsson Associates, Kidwell Construction, Clackson Construction, Walton Construction, RED Development, and RED Asset Management (the "Preapproved Consultants") are all hereby approved, and Developer shall not be required to obtain any further approvals for the employment, engagement or other use of the services of any of the Preapproved Consultants. City's decision to consent or withhold its consent shall be based upon the following criteria: the capability of any Project Consultants, the reasonableness of the fees and costs of such Project Consultants (if any of the fees or costs of such Project Consultants are Reimbursable Project Costs), reputation, past experience in constructing projects similar to the Private Project Improvements and any negative past dealings with the City.

10. Permitted Uses. Developer shall take such action as is from time to time necessary to permit only such uses within the Redevelopment Area which conform to and are permitted by the Preliminary Redevelopment Plan and this Contract. Property within the Redevelopment Area may only be used for the purposes set forth in Exhibit I attached hereto.

11. Certificate of Completion and Compliance.



A. Upon the completion of construction of a Redevelopment Project, Developer shall submit a report certifying that the Project Improvements contained therein have been completed in accordance with the Final Redevelopment Plan and that it is in compliance with all other provisions of this Contract. Developer shall, as part of its report, submit its certificate setting forth (1) the total cost of completing the Project Improvements; (2) Redevelopment Project Costs incurred which are eligible for reimbursement pursuant to the Redevelopment Plan or which have been paid for or are to be reimbursed with the proceeds of the Obligations; and (3) the actual private equity and debt used to complete the Project Improvements, which may include capitalized interest to the extent actually paid to unrelated third parties during construction, but not during any "lease-up" period.

B. City may conduct an investigation, and if City determines that the Redevelopment Projects or any portion thereof have been completed in accordance with the Final Redevelopment Plan, as evidenced by a Certificate of Occupancy where appropriate and other applicable Legal Requirements, and that as of the date of the request, all of Developer's duties pursuant to this Contract have been performed, then it shall issue a Certificate of Completion and Compliance. If City determines that the Redevelopment Projects or any portion thereof which is the subject of an investigation or review under this Section 11(B) have not been completed in accordance with the Final Redevelopment Plan, or that Redevelopment Project Costs have not been incurred as certified, or that Developer is not in compliance with the terms of this Contract, then it shall not issue a Certificate of Completion and Compliance and shall specify in writing:

the reason or reasons for withholding its certification. Upon request of Developer, City shall hold a hearing at which Developer may present new and/or additional evidence.

(1) The issuance of a Certificate of Completion and Compliance by City shall be a conclusive determination of the satisfaction of the covenants in this Contract with respect to the obligations of Developer to complete the Project Improvements within the dates for the beginning and completion thereof, but shall not prevent City from future action in the event of any subsequent default by Developer in the performance of any of its other obligations under this Contract.

(2) Each such certificate issued by City shall contain a description of the real property affected thereby and shall be in such form as will enable it to be accepted for recording in the Office of the Recorder of Deeds for Jackson County, Missouri at Independence.

12. Financing Plan.

A. Within ninety (90) days after the Effective Date, Developer shall submit to City a financing plan for the financing of the Redevelopment Project Costs related to Redevelopment Project 1 and Redevelopment Project 5 as set out in the Redevelopment Project Cost Budget (the "Redevelopment Project Cost Budget") attached hereto as Exhibit J setting forth (1) the sources of funds to pay Redevelopment Project Costs related to Redevelopment Project 1 and Redevelopment Project 5 as estimated in the Redevelopment Plan, and (2) the type and term of the sources of funds to pay said Redevelopment Project Costs (the "Financing Plan") for City's review and approval, which approval will not be unreasonably withheld. Developer shall immediately notify

City of any material changes in this information for City's review and approval, which approval will not be unreasonably withheld.

B. Concurrently with delivery of the items described in Section 12(A) above, Developer will deliver to City its certificate stating that, for the relevant Redevelopment Project being implemented that: (1) to the best of its knowledge and belief, such sources of funds and financing commitments will enable Developer to timely implement the Redevelopment Project by constructing the Private Project Improvements and the Public Project Improvements contained therein; (2) the information and statements contained therein, taken as a whole, are accurate in all material respects and complete for the purposes for which used and made; (3) the information and statements contained therein 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. By delivering the items described in Section 12(A) above, Developer shall be deemed to have made such representation and warranty even if Developer fails to deliver its certificate as provided herein. Developer's warranties and representations as set forth herein shall be deemed to be ongoing until termination or expiration of this Contract.

13. Funding Sources and Uses of Funds.

A. Private Funds. Developer shall construct the Private Project Improvements with private funds (the "Private Funds"). Subject to first priority reimbursement as a Reimbursable Project Cost from the proceeds of the Obligations, Developer shall also construct the Public Project Improvements with Private Funds. Developer shall advance all Private Funds necessary to construct the Public Project

Improvements prior to the issuance of the Obligations. The Private Funds will be derived from a combination of Developer's equity or equity investment provided by third parties, and debt incurred by Developer or third parties.

B. TIF Obligations.

(1) Issuance. City, in its sole discretion, may authorize the issuance of TIF Obligations as provided for in the Act. TIF Obligations shall be issued in an amount, on terms and at an interest rate or rates determined by market conditions at the time of issuance and under terms and conditions deemed acceptable by City in its sole discretion. The underwriter(s) for any TIF Obligations shall be selected by City. City shall solicit input from Developer as it relates to all components of the issuance of the TIF Obligations in an effort to maximize the size of the issuance, but City shall have sole right, power and authority to determine the amount, terms, interest rate or rates and other terms and conditions of the TIF Obligations. The Developer shall petition the City to establish the CID as soon as possible. The City shall not lend its credit to secure the TIF Obligations.

(2) Notwithstanding anything contained in this Contract to the contrary, the underwriter(s) for any Obligations shall be selected by City from a list of qualified underwriters previously and reasonably agreed upon by Developer and City which shall contain not less than three firms and not more than six firms and shall include Stifel Nicolaus (the "Preapproved Underwriters"). City and Developer shall mutually and reasonably agree upon an underwriter discount based upon then market rates. Further, upon the earlier of (a) the full execution of leases for not less than seventy-five percent (75%) of the gross leasable area of

the Shopping Center, and the tenants under such leases have opened for business or (b) the full execution of leases with commercially reasonable contingencies that will produce, to City's reasonable satisfaction, not less than seventy-five percent (75%) of the projected PILOTS and EATs as shown on the Exhibit 5 of the Redevelopment Plan, Developer shall advise City in writing and City shall have 135 days to complete the issuance and sale of the TIF Obligations. In all instances, the purchasers of the Obligations must be a qualified institutional buyer (as that term is defined in Rule 144A promulgated under the Securities Act of 1933). If City is unable to complete the same within said 135-day period, Developer, with the cooperation of City, may select an underwriter from the Preapproved Underwriters, and City shall proceed with good faith efforts to effect the issuance and sale of the TIF Obligations with said new underwriter; provided, however, that City shall not be obligated to proceed to complete the issuance and sale of the TIF Obligations if such TIF Obligations would, in the judgment of City, based upon advice of its counsel or financial advisors: (i) (A) impose any liability upon City for the payment of such TIF Obligations, or (B) adversely affect City, its financial standing and reputation or the rating given to other debt instruments issued by the City, (ii) result in an interest rate paid upon such TIF Obligations that is more than 150 basis points above the average rate then being paid for AAA rated municipal debt instruments similar to the TIF Obligations, as set forth in the Municipal Market Data Index, or (iii) be upon terms and conditions not standard for municipal debt instruments similar to the TIF Obligations. Notwithstanding anything contained in this Contract to the contrary,

all Obligations shall be issued and funded in accordance with the waterfall attached hereto as Exhibit P (the "Waterfall").

(3) Use of Proceeds. After funding the costs of issuance, the proceeds from TIF Obligations, if issued pursuant to Section 14, will be used in the following priority to: (a) reimburse Developer for Private Funds advanced to pay costs certified by City as provided in Section 23 hereof, together with interest determined in accordance with Section 22(C)(1) hereof, to construct the Public Project Improvements pursuant to Section 13(A) hereof; (b) reimburse City or directly fund Reimbursable Project Costs certified by City as provided in Section 23 to design and construct the Public Project Improvements pursuant to Section 7 hereof; (c) if CID Revenues are pledged by the CID to the Special Allocation Account, reimburse City or directly fund Reimbursable Project Costs certified by City as provided in Section 23 for the construction of CID Improvements (as defined in Section 15(C) below); and (d) fund other Reimbursable Project Costs incurred by Developer as set out on Exhibit L and certified by City as provided in Section 23 hereof.

14. Conditions Precedent to Issuance of Bonds. No Obligations shall be issued unless the following conditions precedent are satisfied:

- A. Developer is not in default under this Contract.
- B. If required by the underwriter, a Letter of Credit has been provided by Developer in an amount not to exceed the principal amount of the bonds being issued and under terms mutually agreed to by City and Developer that will allow for sale of the Obligations (the "Letter of Credit").

C. A CID within the boundaries of the Redevelopment Area has been established, the CID Contract has been executed as specified in Section 15 hereof, and the CID Taxes have been imposed.

D. All of the conditions precedent set forth in Section 17 hereof have been satisfied or waived by City.

15. Community Improvement District.

A. Establishment of CID. The Developer shall petition City to establish a Community Improvement District ("CID") having exterior boundaries coterminous with the boundaries of Redevelopment Project Area 1. The CID petition shall provide for the construction of the improvements and costs related thereto as set out in Exhibit M (the "CID Improvements"). The Developer shall petition the City to establish the CID as soon as possible.

B. CID Contract with City. After the CID has been formed, Developer shall cause the CID board of directors to immediately enter into a contract with City ("CID Contract") in a form acceptable to City with regard to funding of the CID Improvements. The CID Contract shall include conditions precedent to the CID's issuance of CID Obligations which are substantially similar to the conditions precedent included in Section 14 hereof. The CID Contract shall also require City's written approval prior to the issuance of CID Obligations by the CID. The underwriter(s) for any CID obligations shall be selected by City. City and Developer agree that the costs incurred by the CID and certified by City as provided in Section 23 hereof are Reimbursable Project Costs that may be paid from the Special Allocation Fund. Therefore, the CID Contract will include provisions for payment to the CID from the Special Allocation Fund of the

Economic Activity Taxes collected as a result of the imposition of the CID sales tax described below. The CID Contract shall include, without limitation, provisions granting City (1) the right to review and approve all budgets (capital or operating) of the CID prior to adoption thereof by the CID, (2) the right to collect, on behalf of the CID, the CID Sales Tax, and (3) such other provisions as City shall reasonably determine to be necessary.

C. Special Assessments. Developer shall cause the CID board of directors to impose special assessments (the "CID Assessments") upon the property within the CID, including the Private Project Improvements in Redevelopment Project Area 1, at a levy rate amount of \$1.24 per square foot, and otherwise upon terms and conditions acceptable to City

D. Imposition of CID Sales Tax. Developer shall cause the CID board of directors to impose a sales tax of 1.0 percent within the boundaries of the CID, such sales tax to be applied (in accordance with the provisions of Section 13(C) hereof) to the retirement of the Obligations issued to pay for CID Improvements (the "CID Sales Tax"). The CID Contract shall provide for the establishment of the CID Sales Tax. The CID Contract shall also obligate the CID board of directors to maintain the CID Sales Tax until all of the CID Improvements have been funded and completed and all debt service obligations regarding the CID Obligations have been met. The amounts received from the CID Assessments and the CID Sales Tax are collectively referred to as the "CID Revenues."



16. Conditions Precedent to Developer's Duties. Developer's obligations hereunder, other than its obligations under Section 15 hereof, are expressly conditioned upon the occurrence of each of the following events on and/or before the dates set forth below:

A. Acquisition of all real property within the boundaries of the Redevelopment Area as provided herein, by July 1, 2008.

B. City approval of the Financing Plan by July 1, 2008.

C. The establishment of the CID and the imposition of the CID Assessments and the CID Sales Tax as provided in Section 15 hereof by July 1, 2008.

D. City approval of all zoning, subdivision and permit applications required for implementation of the Redevelopment Plan by July 1, 2008.

E. Developer obtaining the financing contemplated by the Financing Plan by December 1, 2008.

F. Missouri Department of Transportation ("MoDOT") approval of all Public Project Improvements to be owned by MoDOT, including all right-of-way and easement acquisition, by December 1, 2008.

G. MoDOT approval of all construction plans for all improvements within the MoDOT right-of-way by December 1, 2009.

H. MoDOT and City approval of all applications for vacation of right-of-way and sale/transfer to Developer by December 1, 2009.

By commencing construction, which for purposes of this clause means the pouring of footings and foundations, for any of the Private Project Improvements, Developer shall be deemed to have agreed that all of the foregoing conditions precedent in this Section 16 have been satisfied

or, to the extent not so satisfied, Developer shall be deemed to have waived all such conditions precedent.

17. Conditions Precedent to City's Duties. City's obligations hereunder are expressly conditioned upon the occurrence of each of the following events on and/or before the dates set forth below:

A. Acquisition by Developer of all real property within the boundaries of the Redevelopment Area as provided herein by July 1, 2008.

B. The establishment of the CID and the imposition of the CID Assessments and the CID Sales Tax as provided in Section 15 hereof by July 1, 2008.

C. City approval of the Financing Plan pursuant to Section 12 hereof by July 1, 2008.

D. Developer obtaining the financing contemplated by the Financing Plan by December 1, 2008.

E. Missouri Department of Transportation ("MoDOT") approval of all Public Project Improvements to be owned by MoDOT, including all right-of-way and easement acquisition, by December 1, 2008.

F. MoDOT approval of all construction plans for improvements within the MoDOT right-of-way by December 1, 2009.

G. MoDOT approval of all applications for vacation of right-of-way and sale/transfer to Developer by December 1, 2009.

H. City approval of all zoning, subdivision and permit applications required for implementation of the Redevelopment Plan by July 1, 2008.

18. Payments in Lieu of Taxes.

A. Pursuant to the provisions of the Redevelopment Plan and the Act, including, but not limited to, Section 99.845 thereof, when Tax Increment Financing is established by Ordinance for a Redevelopment Project Area, the real property located therein is subject to assessment for annual Payments in Lieu of Taxes. Payments in Lieu of Taxes shall be due November 30 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 or as otherwise determined by applicable law. The obligation to make said Payments in Lieu of Taxes shall be a covenant running with the land and shall create a lien in favor of City on each such tax parcel as constituted from time to time and shall be enforceable against Developer and its successors and assigns in ownership of property in the Redevelopment Project Area.

B. Failure to pay Payments in Lieu of Taxes as to any property in a Redevelopment Project Area shall constitute a default by the owner of such property of the provisions of Section 38 hereof, and shall entitle 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 such property 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 ensure the timely payment of all such sums or of the principal of and interest on any outstanding TIF Obligations secured by such payments; provided, however, that the failure of any property in a Redevelopment Project Area to yield sufficient payments in lieu of taxes because the increase in the current equalized

assessed value of such property is or was not as great as expected, shall not by itself constitute a breach or default. Promptly upon the designation and approval of a Redevelopment Project Ordinance, City shall use all reasonable and diligent efforts to promptly notify the County Assessor, County Collector, the City Director of Finance, the City Treasurer and all other appropriate officials and persons and seek to assess the property within the Redevelopment Project Area as described in the Act and fully collect the Payments in Lieu of Taxes and implement reimbursement of Reimbursable Project Costs as provided in this Contract and in the Redevelopment Plan. Developer shall from time to time provide to City prior to and upon the completion of each of Redevelopment Project 1 and Redevelopment Project 5, a report, certified to City by Developer, setting forth the total amount expended from time to time by Developer or any Affiliate of Developer with respect to the construction of any improvements in the Redevelopment Area. Developer shall also use its best efforts to contractually obligate any purchaser or tenant of any property in the Redevelopment Area to provide to City from time to time prior to and upon the completion of each of Redevelopment Project 1 and Redevelopment Project 5 a report, certified to City by such purchaser or tenant, setting forth the total amount expended from time to time by such purchaser or tenant or any Affiliate of such purchaser or tenant with respect to the construction of any improvements in the Redevelopment Area. It is acknowledged that any such report may be provided by City to the County Assessor or other governmental authority from time to time having responsibility for determining the assessed value of any property in the Redevelopment Area to allow such authority to more accurately determine the assessed value of any such property.

C. Notwithstanding anything to the contrary, herein, the lien on property within a Redevelopment Project Area shall be deemed (1) released as to any public street or other public way included within any plat proposed by Developer, effective upon the passage of an Ordinance by City approving the same, and (2) subordinated to the lot lines, utility easements and other similar matters established by any such plat (but not to any private access or parking rights granted or created by any such plat), effective upon the passage of Ordinance by City as aforesaid, and to any easement or like interests granted to City or any public utility for public facilities or utilities or connection(s) thereto.

19. Economic Activity Taxes. In addition to the payments in lieu of taxes described herein, and pursuant to Section 99.845.3 of the Act, Economic Activity Taxes shall be allocated to, and paid by the collecting officer to the City Treasurer or other designated financial officer of City, who shall deposit such funds in the Economic Activity Account within the Special Allocation Fund. Following the approval of each of the Redevelopment Projects, for as long as a Redevelopment Project Area is subject to Redevelopment Financing, Economic Activity Taxes shall be determined in accordance with the following procedures (subject, however, to the provisions of Section 99.835 of the Act):

A. Documentation of Economic Activity Taxes. Developer, its successors and assigns shall provide City with documentation of sales tax receipts for each business in a Redevelopment Project Area, indicating the type and amount of the Economic Activity Taxes paid by each such business located within a Redevelopment Project Area. Developer shall include the provisions as specified in Section 31 hereof in all lease documents with tenants located within a Redevelopment Project Area requiring said sales

tax information to be provided to City. A similar provision shall be included in all sales contracts with purchasers of property located in a Redevelopment Project Area requiring said sales tax information to be provided to City. Developer shall enforce said provisions to the maximum extent permitted by law, and Developer hereby agrees that each such lease or sales contract shall provide that City is an intended third party beneficiary of such provisions and has a separate and independent right to enforce such provisions directly against any such tenant or purchaser.

Notwithstanding anything contained in this Contract to the contrary, Developer's obligation to provide City with documentation of sales tax receipts for each business in a Redevelopment Project Area, include provisions as specified in Section 31 in leases and sales contracts, and enforce such provisions, all as set forth in the foregoing paragraph, shall not be applicable to Developer following any conveyance of property within the applicable Redevelopment Project Area that is (1) approved by City pursuant to Section 32 hereof, or (2) a conveyance for which City's approval is not required pursuant to Section 32 hereof. City agrees to consider performing all functions incident to the administration, collection, and enforcement of the Economic Activity Taxes payable by each Taxing District from which Economic Activity Taxes are due for an administrative fee mutually agreed upon by City and Developer and similar to that agreed upon between City, R.E.D. Capital of Lee's Summit, L.L.C., the and The I-470 & 350 Transportation Development District in that certain First Amended and Restated Cooperative Agreement dated as of July 31, 2001.

B. Certification by City. City, following reasonable research and investigation, using independent consultants, accountants and counsel when appropriate

at Developer's expense, but subject to reimbursement as a Reimbursable Project Cost, shall certify the nature and amount of Economic Activity Taxes payable by each Taxing District from which Economic Activity Taxes are due, or as otherwise required by the procedures and requirements of the Taxing District from time to time established.

C. Presentation to Taxing Districts. City shall deliver by mail or hand delivery its certification of Economic Activity Taxes payable by each Taxing District to the governing body of each such Taxing District and shall follow such procedures and requirements of the Taxing District from time to time established with respect to obtaining the deposit of the Economic Activity Taxes payable by each Taxing District into the Special Allocation Fund.

D. Net New Sales Calculation For Intra-City Relocations. Developer shall not lease or sell any portion of the Redevelopment Area to any business operation that will operate under the same trade name as any business which is currently located in City during the term of this Contract without prior approval from City Council. Should City waive this prohibition on intra-city relocations, or if an existing retail establishment within Jackson County but not in City locates to the Redevelopment Project Area, and within one year from the date of opening for business within the Redevelopment Project Area an existing facility of such retail establishment within City and/or Jackson County closes, and City determines that the retail establishment is a direct beneficiary of development financing, in accordance with the provisions of the Act, the Economic Activity Taxes generated by the retail establishment shall equal the amount by which the total additional revenues from Economic Activity Taxes which are imposed by City and other Taxing Districts exceeds the amount of Economic Activity Taxes generated by the

retail establishment in the calendar year prior to its relocation to a Project Redevelopment Area.

20. Intentionally Omitted.

21. Special Allocation Fund. The City Treasurer shall establish and maintain the Special Allocation Fund which shall contain two separate segregated accounts. Payments in Lieu of Taxes shall be deposited into the Payment in Lieu of Taxes Account within the Special Allocation Fund. Economic Activity Taxes shall be deposited into the Economic Activity Account within the Special Allocation Fund. 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, including the retirement of the Obligations and for the distribution to the Taxing Districts, in the manner set forth in the Redevelopment Plan and this Contract.

22. Disbursements from Special Allocation Fund. Disbursements from the Special Allocation Fund will be made in the following manner and order of preference:

A. Debt Service. Funds in the Special Allocation Fund shall be disbursed to pay Debt Service at the times and in the amounts provided by the terms of outstanding Obligations or, prior to issuance of Obligations, debt service for private financing, at such interest rates described in subsection C hereof, obtained by Developer and used for the construction of Public Project Improvements (e.g. Developer's bridge loan), if any, and to fund other amounts due (including without limitation payments or deposits to, if any, reserve funds, sinking funds or surplus funds) established under the bond indenture entered into with respect to any Obligations or any such private financing.

B. Educational Grants. Payment to the School District in an amount which when added to the taxes generated by the initial equalized assessed value is calculated to



average an annual amount equal to 22.5% of the real estate taxes diverted from the School District by approval of the Redevelopment Plan. The payment provided for under this Section 22(B) shall be made from the Payments in Lieu of Tax Account within the Special Allocation Fund.

C. Reimbursable Project Costs. Funds in the Special Allocation Fund shall be disbursed to pay the Reimbursable Project Costs as they come due; provided that such disbursement may only be made if: (i) after such disbursement, the funds remaining in the Special Allocation Fund are sufficient to pay Debt Service payable in the then current calendar year, if any; (ii) the Reimbursable Project Costs have been certified by Developer pursuant to Section 23; and (iii) all conditions precedent to City's duties specified in Section 17 hereof have occurred.

(1) Payment of Interest Expenses.

(a) Third Party Borrowing. In the event Developer incurs financing costs, including interest, on amounts Developer was loaned to finance and pay for Reimbursable Project Costs from a "non-Affiliate" third party in an arms-length transaction, City shall reimburse Developer as a Reimbursable Project Cost the actual financing costs incurred and certified pursuant to Section 23. Financing costs certified for reimbursement under this Section 22(C)(1)(a) shall not exceed the lesser of (i) the actual lowest cost of funds at which any Affiliate of Developer is able to borrow funds for its corporate purposes from time to time, or (ii) the Prime Rate established by Commerce Bank, N.A. (the "Prime Rate"). For purposes of calculating interest expenses, Developer shall certify its

interest expense pursuant to Section 23 as a separate line item expense, and as part of such certification Developer shall certify to City the actual lowest cost of funds at which any Affiliate of Developer is able to borrow funds for its corporate purposes as of the date such interest was incurred. For the month in which interest expense is initially incurred with respect to any advance of funds, the interest expense shall accrue from the 15<sup>th</sup> day of the month incurred for costs certified from the 1<sup>st</sup> through the 14<sup>th</sup> day of a month and from the last day of the month incurred for costs certified after the 15<sup>th</sup> day of a given month.

(b) Affiliate Borrowing. In the event Developer incurs financing costs, including interest, on amounts Developer was loaned to finance and pay for Reimbursable Project Costs from an Affiliate of Developer, City shall reimburse Developer as a Reimbursable Project Cost with the actual financing costs incurred and certified pursuant to Section 23. Financing costs under this Section 22(C)(1)(b) shall not exceed the lesser of (i) the lowest rate at which any Affiliate of Developer, loans any funds to any other first tier affiliate of Developer for any purpose, (ii) the actual lowest cost of funds at which an Affiliate of Developer is able to borrow funds for its corporate purposes from time to time, or (iii) the Prime Rate. For purposes of calculating interest expenses, Developer shall certify its interest expense pursuant to Section 23 as a separate line item expense, and as part of such certification Developer shall certify to City the actual lowest cost of funds at which any

Affiliate of Developer is able to borrow funds for its corporate purposes as of the date such interest was incurred. For the month in which interest expense is initially incurred with respect to any advance of funds, the interest expense shall accrue from the 15<sup>th</sup> day of the month incurred for costs certified from the 1<sup>st</sup> through the 14<sup>th</sup> day of a month and from the last day of the month incurred for costs certified after the 15<sup>th</sup> day of a given month.

(c) Interest on Developer Equity - Public Project Improvements. In the event Developer finances a portion of the Public Project Improvements with equity (it being anticipated that equity of at least 20% will be required to fund construction of the Public Project Improvements in order to secure debt financing for the remaining portion), Developer shall receive as a Reimbursable Project Cost, in addition to the return of its equity, 7% interest on said equity as and from the date the equity was advanced. For purposes of calculating interest expense on Developer advanced equity, Developer shall certify its interest expense pursuant to Section 23 as a separate line item expense. For the month in which equity is initially advanced, the interest expense shall accrue from the 15<sup>th</sup> day of the month for equity advanced from the 1<sup>st</sup> through the 14<sup>th</sup> day of a month and from the last day of the month for equity advanced after the 15<sup>th</sup> day of a given month.

(2) Developer Fees: Developer shall be entitled to receive a developer fee as set forth in the Redevelopment Project Cost Budget (the

"Developer Fee"). No Developer Fee shall be paid with respect to the Public Project Improvements, but Developer shall be entitled to receive, as a Reimbursable Project Cost, actual costs (a) paid to third parties that are not Affiliates of Developer with respect to the management of the development of the Public Project Improvements, and (b) actual out-of-pocket costs incurred by Developer (including actual costs of payroll and benefits for employees of Developer) with respect to the management of the development of the Public Project Improvements.

D. Distribution of Surplus to Taxing Districts. Subject to financial considerations, it is the intent of the parties that all TIF Obligations be retired as soon as possible and that all Reimbursable Project Costs be paid as soon as possible. After all amounts provided for in Section 22(A), Section 22(B) and Section 22(C) hereof have been paid, then on December 31 of each year until the Redevelopment Plan is terminated, the funds remaining in the Payment in Lieu of Taxes Account and the Economic Activity Account, if any, shall be disbursed to the Taxing Districts in accordance with the Act, which payment shall be subject to City's authority to maintain reasonable reserves and funds for payment of debt service, Reimbursable Project Costs in future years, and for future redemption of the Obligations, as City shall determine to be appropriate. Notwithstanding the foregoing, the City agrees to reasonably consider structuring the Obligations to provide for the "super-sinking" of the Obligations pursuant to which prepayment of the Obligations would occur prior to surplus amounts being distributed to the Taxing Districts.

23. Reimbursable Project Cost Certification.

A. Request for Certification. Attached to this Contract as Exhibit L and incorporated herein by reference is a schedule titled "Reimbursable Cost Categories". Only City shall have the right to submit requests for certification for the line items and within the budget amounts identified on Exhibit L in columns City Reimbursable Cost Categories (the "City Reimbursable Cost Categories"; Reimbursable Project Costs incurred within the City Reimbursable Cost Categories are herein sometimes referred to as "City Reimbursable Project Costs"); only Developer shall have the right to submit requests for certification for Reimbursable Project Costs under the line items and within the budget amounts identified on Exhibit L in columns Developer Reimbursable Cost Categories (the "Developer Reimbursable Cost Categories"; Reimbursable Project Costs incurred within the Developer Reimbursable Cost Categories are herein sometimes referred to as "Developer Reimbursable Project Costs"). Developer and City shall submit their request for certification of Reimbursable Project Costs incurred within 120 days of incurring any such costs. For all Reimbursable Project Costs incurred by City or Developer prior to the execution of this Contract, such Reimbursable Project Costs shall be submitted for certification within 120 days after the Effective Date. City shall notify Developer of its submission of each Certification Application submitted by City, and Developer shall have the right to review, upon request, any Certification Application submitted by City, and to comment upon any Certification Application submitted by City. Upon presentation to City of an application for certification of Reimbursable Project Costs which details Reimbursable Project Costs paid in accordance with this Contract and the Redevelopment Plan, together with such supporting documentation (including copies of invoices, cancelled checks, receipts, lien waivers, and such other supporting

documentation as City shall reasonably require) as City shall reasonably determine to be necessary (the "Certification Application"); City shall review, verify and confirm the information included in the Certification Application. The Certification Application shall (1) identify each item of Reimbursable Project Cost by line item category in the Redevelopment Project Cost Budget separately, (2) aggregate all costs in the Certification Application by line item category as set forth in the Redevelopment Project Cost Budget, (3) include a report setting forth the total amount, by line item category from the Redevelopment Project Cost Budget, of all Reimbursable Project Costs set forth in the then-current Certification Application and all prior Certification Applications approved by City or for which approval is pending, and (4) include a report setting forth the percentage of work, by line item category from the Redevelopment Project Cost Budget, completed as of the date of the current Certification Application. If City determines that: (i) the Certification Application accurately reflects Reimbursable Project Costs paid in accordance with this Contract and the Redevelopment Plan; (ii) the Reimbursable Project Costs for which certification is requested (considered in combination with all prior amounts certified for the same cost category or item, as applicable) are reasonable and consistent with the Financing Plan and in accordance with the Redevelopment Project Cost Budget; it shall approve the Certification Application and issue a draw certificate (the "Draw Certificate"). If City, pursuant to its review of such Certification Application and supporting documentation, determines that any portion of the request for reimbursement should not be approved, it shall promptly state the reasons for such disapproval to Developer. No Certification Application will be approved if it exceeds the applicable cost category of the Redevelopment Project Cost Budget (except as provided.

in Section 23(B) below) or if it causes the total Reimbursable Project Costs to exceed the Final Project Budget without prior City approval. Any such disapproval may be appealed by Developer to the City Council, which shall upon Developer's request hold a hearing at which Developer may present new and/or additional evidence. At the option of the City Administrator or his designee, each Certification Application for Developer Reimbursable Project Costs may be approved administratively, and if the City Administrator or his designee elects to approve such Certification Application administratively, no action of the City Council shall be required to approve such Certification Application. All Certification Applications and Draw Certificates for City Reimbursable Project Costs may be approved by the City Administrator or his designee administratively, and Developer shall not be required to approve or consent to any such Certification Application or Draw Certificate for City Reimbursable Project Costs prior to the disbursement of funds to City.

B. Application of Contingency Line Item. Within the categories set forth in the Reimbursable Project Cost Budget are certain unallocated amounts designated as contingency (the "Contingency"). The funds within the line item designated as Contingency are, except as otherwise set forth on Exhibit L, to be made available, if necessary, to fund cost overruns before such overruns become the responsibility of either City or Developer under Section 26 hereof. If, at the time Developer or City shall submit any Certification Application, the aggregate amount previously certified for reimbursement, together with the amount for which certification is sought in such Certification Application, exceeds the amount set forth in the Reimbursable Project Cost Budget under the column titled "Total Budget" for such line item, then City and

Developer shall have the right, to the extent that (1) there remains unallocated Contingency in the Reimbursable Project Cost Budget, (2) the allocation of such Contingency to the specific Reimbursable Project Costs in question does not result in the total amount expended under such line item category to exceed the line item budget for the specific Reimbursable Project Costs in question by an amount greater than the lesser of ten percent (10%) of such line item or fifty thousand dollars (\$50,000), and (3) the total amount certified for Reimbursable Project Costs previously, together with the amount of Reimbursable Project Costs for which certification is requested in the current Certification Application, does not exceed the total amount set out in the Reimbursable Project Cost Budget for Reimbursable Project Costs, then City and Developer shall have the right to allocate such amount of the Contingency in the Reimbursable Project Cost Budget and such allocation shall not be deemed to be a basis for City to refuse to approve such Certification Application. Notwithstanding the foregoing, City shall retain the right to disapprove such Certification Application if City shall determine that any Reimbursable Project Costs for which certification is requested are not reasonable, even if there remains a sufficient amount of Contingency in the Reimbursable Project Cost Budget for which certification is sought.

C. Cost Allocation Across Line Items. Developer shall, in each Certification Application, identify the specific line item within the Redevelopment Project Cost Budget as to which each Reimbursable Project Cost for which certification is requested is assigned. Any savings in the amount expended with respect to any specific line item in the Redevelopment Project Cost Budget that is listed in the column entitled "Public Subsidy" (each a "Public Subsidy Line Item" and collectively the "Public Subsidy Line



Items") may be applied to fund cost overruns in other Public Subsidy Line Items; provided, however, that (1) savings in the Public Subsidy Line Items shall not be used for additional pavers or fountains, or other similar hardscape materials or amenities associated with the landscaping at the Redevelopment Project, and (2) any such allocation of cost savings shall be subject to the provisions of Section 29(F) hereof.

D. Line Item Cost Savings. All cost savings from the City Reimbursable Project Costs and, subject to the provisions of Section 23(C) hereof, all cost savings from the Developer Reimbursable Project Costs, shall be used by City to fund any cost overruns in any of the City Reimbursable Cost Categories. Notwithstanding the foregoing, City shall have the right, in compliance with the provisions of and the requirements set forth in the Act, to amend, modify or reallocate the categories, priorities and amounts for which any such cost savings are to be applicable in such manner as City shall determine to be appropriate or desirable, without the necessity of any approval or consent of Developer, and no such amendment, modification or reallocation shall be a breach of any of the provisions of this Contract. Without limiting the foregoing, City may also apply such cost savings to early retirement of the TIF Obligations.

24. Payment of Project Costs with Bond Proceeds. At such time as proceeds from the sale of Obligations are available for the reimbursement of or direct payment of Reimbursable Project Costs for which a Draw Certificate has been issued, payment shall be made by presenting a Draw Certificate to the trustee of the Obligations (whether one or more, the "Bond Trustee") for payment which has been endorsed by both City and Developer for any Draw Certificate presented by Developer for payment, no Draw Certificate submitted by City for reimbursement of City Reimbursable Project Costs shall require execution by Developer. Once presented for

signature, Developer and City shall promptly each execute and deliver the fully endorsed Draw Request to the Bond Trustee directing the Bond Trustee to pay the amount set forth therein. The amount to be included in the initial Draw Certificate shall include all Reimbursable Project Costs that have been certified by City pursuant to all approved Certification Applications as of the date of the Draw Certificate. Once the Draw Certificate is presented to the Bond Trustee, City shall make reasonable efforts to cause the Bond Trustee to promptly make payment thereon. As to any costs that have been incurred but have not been paid by either Developer or City, City shall have the right to cause payment to be made directly to the party entitled to such payment, or to withhold approval for such payment until payment is made to the party entitled thereto, it being agreed that City shall have no obligation to execute any Certification Application or Draw Certificate with respect to any Developer Reimbursable Project Costs until paid by Developer, and any decision by City to execute any Certification Application or Draw Certificate with respect to any Developer Reimbursable Project Costs not yet paid by Developer shall be at City's sole option and election. City shall have the right to require lien releases (full or partial) and such other releases as City may reasonably require prior to authorizing any such disbursement. Disbursement to Developer of sufficient proceeds of the Obligations to pay for the Developer Reimbursable Project Costs identified in the Draw Certificate shall be made within thirty (30) days of approval. Notwithstanding anything to the contrary herein, City shall deliver a copy of any such Draw Certificate to Developer concurrently with submission of said Draw Certificate to the Bond Trustee.

25. Payment of Project Costs - "As Collected" Basis. If the Reimbursable Project Costs are to be reimbursed from the Special Allocation Fund on an "as collected" basis rather than paid with proceeds from the sale of Obligations, Developer shall present to City a Draw

Certificate for payment by City, which Draw Certificate shall seek repayment of Reimbursable Project Costs that have been previously certified by City pursuant to a Certification Application. City shall have the right to require lien releases (full or partial) and such other releases and documents as City may reasonably require prior to authorizing any such disbursement. Disbursement to Developer of sufficient proceeds from the Special Allocation Fund, to the extent such funds are available in the Special Allocation Fund, to pay on the Reimbursement Certificate shall be made within thirty (30) days following City's approval of such Draw Certificate.

26. Cost Overruns. The Public Project Improvements shall be constructed in accordance with the Redevelopment Project Cost Budget attached hereto as Exhibit J. Except as provided in Section 23(B) and Section 23 (C) hereof, no line item cost set forth on Exhibit J that is to be paid for in whole or in part from the Special Allocation Fund or from the proceeds of the Obligations (as set forth in the column of the Redevelopment Project Cost Budget titled "Public Subsidy") shall be exceeded without prior written consent of City. In no event shall the aggregate total of the Reimbursable Project Costs that is to be paid for in whole or in part from the Special Allocation Fund or from the proceeds of the Obligations (as set forth in the column of the Redevelopment Project Cost Budget titled "Public Subsidy") exceed the aggregate of the Total Reimbursable Project Costs set out on Exhibit J, and if and to the extent that the Reimbursable Project Costs, or any line item cost for any such item, exceed the Redevelopment Project Cost Budget (either in the aggregate or on a line item basis) then, except as provided in Section 23(B) and Section 23 (C) hereof, Developer shall pay and be responsible for such Reimbursable Project Costs that exceed the Redevelopment Project Cost Budget (either in the aggregate or on a line item basis).

27. Full Assessment of Redevelopment Area. After all TIF Obligations and Reimbursable Project Costs have been paid, payment of all Redevelopment Project Costs and distribution of any excess moneys pursuant to Section 99.845 and 99.850 of the Act, but not later than twenty-three (23) years from the adoption of an Ordinance approving and designating Redevelopment Project Area 1, City shall adopt an Ordinance dissolving the Special Allocation Fund and terminating the designation of the Redevelopment Area as a redevelopment area under the Act (the "Termination Ordinance"). From that date forward, all property in the Redevelopment Area shall be subject to assessments and payment of all ad valorem taxes, including, but not limited to, City, State, and County taxes, based on the full true value of the real property and the standard assessment ratio then in use for similar property by the County Assessor. After the adoption of the Termination Ordinance, the Redevelopment Area shall be owned and operated by Developer free from the conditions, restrictions and provisions of the Act, of any rules or regulations adopted pursuant thereto, of the Ordinance, of the Redevelopment Plan, and of this Contract, except as otherwise set forth herein or therein.

28. Additional City Participation.

A. Subject to the provisions of this Section 28, City agrees to include in each future years' fiscal budgets for City while the Obligations remain outstanding, for consideration by the City Council, an amount ("City Payment") with respect to each such fiscal year equal to the amount set forth on Exhibit K attached hereto and incorporated herein by reference with respect to the fiscal year in question. The City Payment shall be paid in accordance with the Waterfall and shall be subject to annual appropriation and to the following additional terms and conditions:

(1) The City Payment will only be made with respect to any fiscal year to the extent there is a shortfall in the amounts otherwise available pursuant to the terms of this Contract to pay debt service on the TIF Obligations in such fiscal year (the "Shortfall"). If the City Payment is not made with respect to any fiscal year, such amounts will not cumulate or carry over to any future fiscal year. If the amount of the City Payment is not sufficient to fund the Shortfall with respect to any fiscal year, such insufficient amount will not cumulate or carry over to any future fiscal year.

(2) In no event will the City Payment for any fiscal year exceed the lesser of (i) the amount shown for such fiscal year on Exhibit K, (ii) 20.46% of the portion of City's sales taxes that is included in the Economic Activity Taxes generated by the Redevelopment Projects but that is not deposited in the Special Allocation Fund pursuant to Section 99.845 of the Act or (iii) the Shortfall. If the City Payment is appropriated in any given year, it will be paid by City to the Bond Trustee for payment of debt service on the Obligations as provided for herein and/or replenishment of the debt service reserve fund with respect to the Obligations, as set forth in the Waterfall.

(3) In connection with the issuance of the Obligations, City and Developer will agree as to the timing of the payment of the City Payment from time to time, together with the terms and conditions of such City Payment.

B. The City Payment does not constitute a general obligation or other indebtedness of City and is limited to those City funds which are specifically budgeted

and appropriated annually by the City Council for such purposes. City is obligated only to pay the City Payment under this Contract as may lawfully be made from the funds budgeted and appropriated for that purpose during City's then current fiscal year. Developer acknowledges that City is not legally obligated to appropriate funds for the repayment of the TIF Obligations.

29. Public Participation. The purpose of affording public assistance to the Redevelopment Projects 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 Redevelopment Projects would not be undertaken but for the public assistance being provided, the parties recognize that the ongoing profitability of the Redevelopment Projects to Developer 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 Developer, the parties agree that a reasonable level of earnings for the combined Redevelopment Projects is an annual cash on costs rate of return unleveraged (the "Annual Rate of Return") upon the Private Funds invested in the Redevelopment Projects from time to time by Developer ("Private Investment") of fourteen percent (14%). The amount of Private Investment shall be reduced by the net proceeds of any sale of property in the Redevelopment Area by Developer.

A. Cash Flow. If as of the last day of each calendar year after the Effective Date and prior to the termination of the Redevelopment Area as a development area pursuant to Section 33 hereof, the Net Cash Flow (as hereinafter defined) exceeds the cash flow necessary to generate a cumulative Annual Rate of Return of fourteen percent

(14%) on the Private Investment, the City Share (as hereinafter defined) of such excess shall be contributed to City for use to expedite retirement of the TIF Obligations.

B. Developer Financial Information.

(1) Developer shall submit annually a complete written financial statement to City in a format reasonably acceptable to City showing in reasonable detail the calculation of actual earnings from the combined Redevelopment Projects, and Net Cash Flow. Such statement shall include the income inuring to Developer, its successors and assigns, and attributable to all Private Project Improvements. The financial statement shall include only those expenses which are reasonable and necessary to the operation of the Private Project Improvements and are directly attributable thereto. The financial statement shall not include any indirect general administrative expenses or charge backs.

(2) Developer shall also submit to City annually a statement setting forth in detail reasonably acceptable to City the amount of Private Investment by Developer and the month in which each item constituting a component of the Private Investment was expended (it being agreed that Developer shall be entitled to a return upon each such amount constituting a component of the Private Investment from the date the Private Investment was made), including the total amount of all net proceeds of any sale of property in the Redevelopment Area by Developer, together with a calculation of Developer's Annual Rate of Return on Private Investment in accordance with the provisions of Section 29(A) hereof.

(3) All such statements shall be certified to by Developer's Chief Financial Officer, shall be prepared in accordance with generally accepted

accounting principles consistently applied (except as otherwise specified herein) and shall be accompanied by the payment required under this Section 29. Developer shall provide such statements within one hundred twenty (120) days after the end of each calendar year following the execution of this Contract. Upon request from City, Developer shall provide such additional information or documentation as City shall reasonably require to verify or confirm the information set forth in such statements or to otherwise determine Developer's obligations hereunder and compliance with the requirements hereof.

C. Audit Right. Upon ten (10) days prior written notice, City may cause an audit, at City's sole cost and expense, of Developer's statements and calculations referred to herein by City's staff or consultant. If, as a result of any such audit, City believes that Developer owes City more money than has been remitted by Developer as heretofore described, then City shall inform Developer of its position in writing along with providing reasonable details and the material basis for City's position. Developer and City shall meet and discuss their conflicting positions (the "Audit Meeting"). If after the Audit Meeting, City and Developer are not in agreement, then Developer may request the conflict be reviewed by the City Council. If the audit indicates that Developer has under-reported its earnings by three percent (3%) or greater, Developer shall immediately remit the shortfall to City, as well as all costs of City's audit, subsequent to the Audit Meeting and review by the City Council (if requested by Developer); if the audit indicates that Developer has overstated the amount of Private Investment in the Redevelopment Projects, then Developer shall immediately remit the costs of City's audit, and shall submit its revised statement.



D. For purposes of this Section 29, the following terms shall have the meaning set forth below:

(1) **City Share:** The percentage, calculated as of the last day of each calendar year during which the provisions of this Section 29 are applicable, equal to the percentage that the total actual Reimbursable Project Costs paid by TIF Obligations or otherwise paid from the Special Allocation Fund, not including (a) costs funded by the CID Assessments (hereinafter "Public Investment") bears to the sum of Public Investment plus Private Investment. The amount of costs funded by the CID Assessments shall be as set forth in the Redevelopment Project Cost Budget.

(2) **Net Cash Flow:** The net operating income from the combined Redevelopment Projects, determined in accordance with generally accepted accounting principles consistently applied (except as otherwise specified herein), for each calendar year during which the provisions of this Section 29 are applicable. In determining the net operating income from the Redevelopment Projects there shall be no reduction for (a) debt service (principal or interest), depreciation, amortization, reserve deposits or any other non-cash charges, nor (b) any costs or expenses relating to sales of all or any part of the Projects or any real property in the Redevelopment Area.

(3) **Private Investment:** The total cost, determined as of the last day of each calendar year during which the provisions of this Section 29 are applicable, incurred by Developer in the construction, development and operation of the Private Project Improvements which are paid by Developer with Private

Funds, as determined in accordance with generally accepted accounting principles consistently applied, reduced by all net proceeds (after deduction of reasonable costs and expenses of such sale) from sales of all or any part of the Projects or any real property in the Redevelopment Area; subject, however, to the provisions of this Section 29.

E. Audited Financial Statements. Developer shall annually submit to City, within ninety (90) days after the close of Developer's fiscal year, audited financial statements of Developer, certified by a certified public accounting firm.

F. Development Cost Savings. Pursuant to the Redevelopment Project Cost Budget, the total cost of the Redevelopment Projects budgeted to be paid for with Private Funds (as set forth in the column on the Redevelopment Project Cost Budget titled "Private") totals \$94,571,370 ("Developer's Budgeted Private Cost"); and the total of the Public Subsidy Line Items is \$31,999,782 (the "Project Budgeted Public Cost"). The ratio of Developer's Budgeted Private Cost to the Project Budgeted Public Cost is 2.9554/1 (the "Approved Private/Public Ratio"). If at the time of the issuance of the Obligations, the actual ratio (the "Actual Private/Public Ratio") of (1) the total amount of Private Funds expended to pay for costs of the Redevelopment Projects under line items that are budgeted to be paid for with Private Funds, to (2) the total amount of funds expended to pay Reimbursable Project Costs under any of the Public Subsidy Line Items (whether paid from Payments in Lieu of Taxes, Economic Activity Taxes, the City Payment (as herein defined) or the proceeds of Obligations), shall be less than the Approved Private/Public Ratio, then City shall have the right to refuse to advance or disburse any portion of the funds from Payments in Lieu of Taxes, Economic Activity

Taxes, the City Payment or the proceeds of Obligations that would cause the Actual Private/Public Ratio as of the date of the issuance of the Obligations to be less than the Approved Private/Public Ratio as of such date; provided, however, that if Developer shall demonstrate, to City's reasonable satisfaction, that the Actual Private/Public Ratio shall be not less than the Approved Private/Public Ratio upon the date of completion of the Public Project Improvements and the Private Project Improvements (which date shall not be later than the True-Up Date (as hereinafter defined)), then promptly following the date of the issuance of the Obligations, in accordance with all procedures for the disbursement of proceeds of the Obligations and in accordance with all of the other terms and provisions of this Contract, City shall advance such portion of the proceeds of Obligations as Developer has demonstrated will not cause the Actual Private/Public Ratio to be less than the Approved Private/Public Ratio as provided herein. Developer shall provide to City such documentation (the "Ratio Documentation") as City shall request to assist City in determining, as of the date of the issuance of the Obligations, whether or not the disbursement of the proceeds of Obligations will cause the Actual Private/Public Ratio to be less than the Approved Private/Public Ratio upon the True-Up Date. If City, acting through its City Administrator, fails to determine, based upon the Ratio Documentation, that the Actual Private/Public Ratio will be less than the Approved Private/Public Ratio upon completion of the Public Project Improvements and the Private Project Improvements, then Developer agrees that such determination will not constitute a default or failure to perform hereunder by City, and, upon Developer's request and at Developer's sole cost and expense, the parties will submit the City Administrator's decision to an independent third party consultant (the "Independent Consultant")

mutually agreed to by the parties. The Independent Consultant will review the City Administrator's decision and render its opinion on the reasonableness of such decision. Should the Independent Consultant agree with the City Administrator's decision, Developer's sole and exclusive remedy shall be to appeal the decision of the City Administrator and Independent Consultant to the City Council, and Developer hereby agrees that the determination of the City Council shall be determinative, binding and, once made by the City Council, Developer agrees that such determination shall be conclusively determined to be reasonable. Should the Independent Consultant find the City Administrator's decision to be unreasonable, the City Administrator may adopt the opinion of the Independent Consultant or seek the decision of the City Council, and Developer hereby agrees that the determination of the City Council shall be determinative, binding and, once made by the City Council, Developer agrees that such determination shall be conclusively determined to be reasonable. A copy of the Independent Consultant's report shall be provided to the City Council upon any submission by the City Administrator to the City Council hereunder. Not later than that date (the "True-Up Date") that is six (6) months following (A) the completion for the Public Project Improvements (as determined by City), and (B) the earlier to occur of (i) the issuance of temporary certificates of occupancy for all of the Private Project Improvements, or (ii) the expiration of the building permits for the construction of the Private Project Improvements, or (iii) the date that is eighteen (18) months following the date of the issuance of the Obligations, Developer shall deliver to City such information as City may request to determine and verify that the Actual Private/Public Ratio is not less than the Approved Private/Public Ratio (the "Ratio True-Up"). If the result of the

Ratio True-Up is a determination that the Actual Private/Public Ratio is less than the Approved Private/Public Ratio, then Developer shall promptly pay to City such amounts as shall be necessary to cause the Actual Private/Public Ratio to be equal to the Approved Private/Public Ratio. If the result of the Ratio True-Up is a determination that the Actual Private/Public Ratio is greater than the Approved Private/Public Ratio, and if additional proceeds of Obligations are available for the purpose of reimbursing Developer for additional Reimbursable Project Costs that are eligible for reimbursement under this Contract and have not been released to Developer, then City shall promptly authorize the disbursement of such additional amount of the proceeds of Obligations to reimburse Developer for additional Reimbursable Project Costs not previously reimbursed to Developer that are eligible for reimbursement under this Contract.

30. Tenant Approvals. Developer shall have complete and exclusive control over the leasing of property which it owns within the Redevelopment Area including, without limitation, the fixing of rentals and the selection or rejection of tenants; provided, however, that City shall have the right to review and approve tenants for all areas within the Redevelopment Area for leases of spaces of 20,000 square feet or larger until the Redevelopment Plan is terminated. City's review and approval of said tenants shall be based on a determination by the City Council or its designee that the location of a particular tenant in the Redevelopment Area will, at a minimum, meet the following criteria:

A. The tenant will promote the economic viability, vitality and economic success of City, the Redevelopment Area and the Redevelopment Projects.

B. The tenant will promote the economic viability and growth of City as a whole by providing that a variety of quality and/or upscale (as determined by City) goods

and services are available in City to serve the needs of the residents, including those residents who may currently be meeting such needs making purchases at retail facilities located outside of City.

C. The tenant will assist City in maintaining or increasing property values in the Redevelopment Area, and will not adversely affect property values in surrounding areas or City as a whole.

D. The location of the tenant in the Redevelopment Area will not result in the relocation of an existing business in City into the Redevelopment Area, thereby reducing the tax revenues generated for the affected taxing jurisdictions by the existing business at its current location and/or reducing the revenues that would otherwise be generated within the Redevelopment Area and deposited into the Special Allocation Fund for purposes of assisting in funding the Redevelopment Project Costs.

A list of pre-approved users submitted by Developer and hereby approved by the City Council in accordance with the above criteria is attached hereto as Exhibit O, and incorporated herein by reference. Developer shall not lease or sell any space of 20,000 square feet or larger within the Redevelopment Area to any user not approved by City Council. City shall consider Developer's request to update Exhibit O from time to time and at least every five (5) years from the Effective Date.

E. Developer shall at all times during the term of this Contract take such commercially reasonable actions as are necessary to ensure that the mix of major retail, restaurant and other permitted uses are such that the Redevelopment Area will attract the optimum customer traffic.

31. Lease of Project Property.

A. Subject to Section 30 hereof, Developer, or any third party, may lease real property within the Redevelopment Area. Developer shall insert in any such lease, and shall cause any third party to insert, the following language and shall have such Developer lease signed by the lessee indicating acknowledgment and agreement to the following provision:

**Economic Activity Taxes:** Tenant acknowledges that the Leased Premises are a part of a Tax Increment Financing district ("TIF District") created by Lee's Summit, Missouri (the "City") and that certain taxes generated by Tenant's economic activities, including sales taxes, will be applied toward the costs of infrastructure improvements for the Development. Tenant shall forward to the City copies of Tenant's State of Missouri sales tax returns for its property located in the TIF District when and as they are filed with the Missouri Department of Revenue, and, upon request, shall provide such other reports and returns regarding other local taxes generated by Tenant's economic activities in the TIF District and/or the City shall require, all in the format prescribed by them.

Developer shall enforce said provision to the maximum extent permitted by law. Within fifteen (15) days subsequent to its execution, Developer shall provide a certification to City, signed by Developer and each such tenant, confirming that the lease includes the provisions satisfying Developer's obligation as set forth in this Section 31. Failure of Developer to require that such restrictions be placed in any such lease shall in no way modify, lessen or diminish the obligations and restrictions set forth herein relating to the Redevelopment Area.

32. Sale or Disposition of Project Property.

A. City Approval of Purchasing Entity. Other than to (1) an entity (a) in which Developer is a member, general partner or shareholder with more than fifty percent (50%) ownership interest, (b) that grants to Developer, an affiliate or subsidiary of Developer or another third party approved by City, the right to manage and operate such property, and (c) that agrees that any subsequent change in the party granted the right to manage and operate such property may be made only with the prior written approval of City (which approval shall not be unreasonably withheld, conditioned or delayed), or (2) an entity (a) in which Developer is a member, general partner or shareholder with at least a twenty-five percent (25%) ownership interest, (b) that obligates Developer, an affiliate or subsidiary of Developer or another third party approved by City, to unilaterally manage and operate such property, specifically including making capital improvements, determination of quality of materials used in making improvements, property management functions, frequency of cleaning and maintenance of the improvements, and determination of tenants and users, and (c) that agrees that any subsequent change in the party granted the right to manage and operate such property may be made only with the prior written approval of City (which approval shall not be unreasonably withheld, conditioned or delayed), or which approval will not be unreasonably withheld, or (3) any entities included on the pre-approved user list attached hereto as Exhibit O (or related entities under common ownership or control with such listed entities), no sale, transfer or other conveyance of any property in the Redevelopment Area may be made except with the prior written approval of City, which approval will not be unreasonably withheld. City's right of approval of any transferee shall be in force as long as there are outstanding TIF Obligations. Without limiting the generality of the foregoing, City may require that



any transferee not included in the pre-approved user list (or related entities under common ownership or control with such listed entities) demonstrate to City's reasonable satisfaction, that it has sufficient financial, management, property ownership and operation capabilities, and that it is interested in the long-term viability of the subject land use and the Redevelopment Plan as a whole. In addition, as a condition precedent to the transfer of any property interest within the boundaries of the Redevelopment Area to any transferee, Developer shall require the transferee to enter, and shall deliver to City, an agreement between City and such transferee in a form as specified by City, or upon other terms requested by such transferee and acceptable to City, obligating the transferee to comply with the requirements of the Redevelopment Plan and the obligations in this Contract relating to the transferred property. Upon execution of such agreement between City and transferee, Developer shall be released from its obligations in this Contract relating to said transferred property. City shall exercise its right to approve or deny any proposed sale or transfer within sixty (60) days from the date of receipt of written notice from Developer. In the event City fails to act within said sixty (60) days, the proposed sale or other transfer shall be deemed approved.

B. Continuation of Payments in Lieu of Taxes. In the event of the sale or other voluntary or involuntary disposition of any or all of the real property of Developer or any third party in the Redevelopment Area, Payments in Lieu of Taxes 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 Developer and its successors and assigns in ownership of said property as if they were in every case specifically named 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 Contract.

C. Obligation to Ameliorate Existing Conditions. Developer's obligations pursuant to Section 5 hereof, unless earlier satisfied and certified pursuant to Section 11 hereof, 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 enforceable against purchasers or other transferees as if such purchaser or transferee were originally a party to and bound by this Contract.

D. Incorporation. The restrictions set forth above in Section 32(A) and Section 32(B) hereof, as well as those set forth in Section 9(E), Section 18(B) and Section 19 hereof, shall be incorporated into any deed or other instrument conveying an interest in real property, other than a lease agreement, within the Redevelopment Area and shall provide that said obligations or restrictions shall constitute a benefit held by both Developer and City and that City is an intended third party beneficiary of said obligations and restrictions. Failure of Developer to require that such restrictions be placed in any such deed or other instrument shall in no way modify, lessen or diminish the obligations and restrictions set forth herein relating to the Redevelopment Area.

E. Notification to City of Transfer. Developer shall notify City in writing of any proposed sale or other transfer of any or all of the real property in the Redevelopment Area or any interest therein. Such notice shall be provided not less than sixty (60) days prior to the proposed effective date of the sale or other transfer in a manner as described in Section 42 hereof and shall include a copy of the instrument effecting such sale or

other disposition to enable City to confirm that the requirements set forth above in this Section 32 hereof have been fulfilled.

33. Progress Reports:

A. At the first regularly-scheduled meeting of the City Council following the first anniversary of the execution of this Contract and each anniversary of said execution thereafter until all Project Improvements are completed, Developer shall report to the City Council the progress of its implementation of the Redevelopment Projects. At the first regularly-scheduled meeting of the City Council following the fifth anniversary of said execution and on each five-year anniversary thereafter so long as the Redevelopment Plan shall remain in effect, Developer shall prepare and present to the City Council a detailed report on the progress of implementation of the Redevelopment Projects. Such reports shall include such information as is required under the reporting requirements of the Act, such additional information as City may reasonably require, and such additional information as Developer wishes to present, including, without limitation:

- (1) Project Improvements completed;
- (2) status of Project Improvements in progress but not yet completed;
- (3) actual assessed value of the Redevelopment Area before and after completion of the Project Improvements as compared to Redevelopment Plan estimates;
- (4) actual Payments in Lieu of Taxes as compared to Redevelopment Plan estimates;
- (5) actual Redevelopment Project Costs in the Redevelopment Area compared to Redevelopment Plan estimates;

(6) actual start and completion dates of Project Improvements in the Redevelopment Area compared to Redevelopment Plan estimates; and

(7) estimated start date of Project Improvements not yet commenced at date of report.

B. Developer shall from time to time furnish such other reports on specific matters not addressed by the foregoing as City may reasonably require.

34. Compliance with Laws. Subject to Developer's rights to contest the same in any manner permitted by law, Developer, its officers, directors and principals, at its sole cost and expense, shall comply in every respect with all Legal Requirements, 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 ownership, occupancy, use and operation of the Redevelopment Projects and the Redevelopment Area.

35. Assignment of Developer's Obligations. The Developer represents that its undertakings pursuant to this Contract are for the purpose of redevelopment. Without limiting the rights of Developer or any third party under Section 32 hereof, Developer agrees that this Contract and the rights, duties and obligations hereunder may not and shall not be assigned by Developer except upon terms and conditions agreeable to City. Any proposed transferee shall have all of the qualifications and financial responsibility, as determined by City in its sole discretion, necessary and adequate to fulfill the obligations of Developer, and, if the proposed transfer relates to a portion of the Redevelopment Area on which Project Improvements are under way, such obligations to the extent that they relate to such property. Any proposed transferee shall, utilizing the form attached hereto as Exhibit N (the "Assignment Agreement"),

expressly for the benefit of City, assume all of the obligations of Developer under this Contract and agree to be subject to all the conditions and restrictions to which Developer 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). Upon approval of the Assignment Agreement by City as set forth herein, Developer shall be released from such obligations accruing after the date of such assignment.

A. Assignment of Payments. Notwithstanding the provisions of this Section 35, Developer may assign or pledge its right to receive reimbursement for Reimbursable Project Costs incurred by providing City with notice of any such assignment or pledge. Such assignment or pledge shall remain subject to the terms, provisions and conditions of this Contract.

B. Collateral Assignment of Contract. Notwithstanding the provisions of this Section 35, Developer may assign or pledge its right to receive reimbursement for Reimbursable Project Costs incurred by providing City with notice of any such assignment or pledge. Such assignment or pledge shall remain subject to the terms, provisions and conditions of this Contract.

36. Transfer of Interests in Developer – City Approval. Developer shall, prior to the sale, conveyance, merger or other transfer of any interest in Developer (including without limitation any stock if Developer is a corporation or membership interests if Developer is a limited liability company and any transfers by operation of law), deliver to City a request for approval of such transfer, and no such transfer shall be permitted except with the prior approval of City; provided, however, that the members, partners or shareholders of Developer as of the Effective Date, shall have the right to transfer, in one or more transactions, up to a cumulative:

total of seventy-five percent (75%) of the ownership interest in Developer, without City's consent, to any entity or entities to which Developer is permitted, without City's consent, to transfer property in the Redevelopment Area pursuant to Section 32 hereof. Upon submission by Developer of any request for transfer to City, City shall have the right to request such documentation and information as City shall determine to be necessary or desirable to determine whether such transfer is acceptable to City. Any purported transfer by Developer or any party owning any interest in Developer of any interest without the consent of City shall be null and void. In addition, City may require Developer, as a condition precedent to the transfer of any interests in Developer, to require the transferee to enter into an agreement with City, upon terms acceptable to City, obligating the transferee to comply with the requirements of the Redevelopment Plan and the obligations in this Contract relating to the property. Notwithstanding the foregoing, Developer or Developer's members, or any one of them, may, without notice to or approval of City, transfer interests in Developer to any Affiliate of such member, if such transfer does not result in a material change in the controlling interests of Developer.

37. Indemnification.

A. Developer shall indemnify, protect, defend and hold City and its officers, directors, members, commissioners, employees and agents (collectively, the "Indemnified Parties" or, individually, an "Indemnified Party") harmless from and against any and all 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), to persons or property occurring or allegedly occurring as a result of any acts or omissions of Developer, its

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 Contract and/or in connection with the ownership, use or occupancy and development or redevelopment of the Redevelopment Area or a portion thereof and the Project Improvements.

B. In the event any suit, action, investigation, claim or proceeding (collectively, an "Action") is begun or made as a result of which Developer may become obligated to one or more of the Indemnified Parties hereunder, the Indemnified Party shall give prompt notice to Developer of the occurrence of such event, but the failure to notify Developer will not relieve Developer of any liability that it may have to an Indemnified Party. After receipt of such notice, Developer may elect to defend, contest or otherwise protect the Indemnified Party against any such Action, at the cost and expense of Developer, utilizing counsel of Developer's choice. The Indemnified Party shall have the right, but not the obligation, to participate, at the Indemnified Party's own cost and expense, in the defense thereof by counsel of the Indemnified Party's choice. In the event that Developer shall fail timely to defend, contest or otherwise protect an Indemnified Party against such Action, the Indemnified Party shall have the right to do so, and (if such defense is undertaken by the Indemnified Party after notice to Developer asserting Developer's failure to timely defend, contest or otherwise protect against such Action), the Indemnified Party may submit any bills for fees and costs received from its counsel to Developer for payment and, within thirty (30) business days after such submission, Developer shall transfer to the Indemnified Party sufficient funds to pay such

bills. Developer acknowledges that such bills may be redacted to delete any information which would constitute attorney-client communication or attorney work product.

C. An Indemnified Party shall submit to Developer any settlement proposal that the Indemnified Party shall receive. Developer shall be liable for the payment of any amounts paid in settlement of any Action to the extent that Developer consents to such settlement. Neither Developer nor the Indemnified Party will unreasonably withhold its consent to a proposed settlement.

D. Developer expressly confirms and agrees that it has provided this indemnification and assumes the obligations under this Contract imposed upon Developer in order to induce City to enter into this Contract. To the fullest extent permitted by law, an 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 Contract. If such court action is successful, the Indemnified Party shall be reimbursed by Developer for all fees and expenses (including attorneys' fees) actually and reasonably incurred in connection with such action (including, without limitation, the investigation, defense, settlement or appeal of such action).

E. The right to indemnification set forth in this Contract shall survive the termination of this Contract and the Redevelopment Area as a development area.

### 38. Breach-Compliance

A. If Developer or City does not comply with provisions of this Contract, including provisions of the Redevelopment Plan, within the time limits and in the manner for the completion of the Redevelopment Projects as therein stated, except for any



extensions or waivers described herein and Excusable Delays (as defined in Section 39 hereof), in that Developer or City 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 Contract or the Act, and if, within thirty (30) days after notice of such default by the nondefaulting party to the defaulting party, the defaulting party shall not have cured such default or commenced such cure and be diligently pursuing the same if such cure would reasonably take longer than said thirty (30) day period (but in any event if the defaulting party shall not have cured such default within one hundred twenty (120) days), then the nondefaulting party 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 party in default of its obligations and, in the case of default by Developer, City is granted the right to terminate this Contract, the right to apply any deposit or other funds submitted by Developer to City in payment of the damages suffered by it, the right to withhold or apply funds from the Special Allocation Fund to such extent as is necessary to protect City from loss or to ensure that the Redevelopment Plan and the Redevelopment Projects are fully and successfully implemented in a timely fashion, and the right to withhold issuance of a Certificate of Completion and Compliance.

B. If any action is instituted by either party hereunder, the nonprevailing party in such action shall pay any and all costs, fees and expenses, including attorneys' fees incurred by the prevailing party in enforcing this Contract.

C. The rights and remedies of the parties to this Contract, whether provided by law or by this Contract, 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 default or breach. No waiver made by either party shall apply to obligations beyond those expressly waived.

D. Developer (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 Contract), 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.

E. Any delay by either party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this paragraph shall not operate as a waiver of such rights or limit them in any way. No waiver in fact made by either party of any specific default by the other party shall be considered or treated as a waiver of the rights with respect to any other defaults, or with respect, to the particular default except to the extent specifically waived.

F. In no event shall City be obligated to certify any Reimbursable Project Costs, approve any Certification Application or Draw Certificate or reimburse Developer for any Reimbursable Project Costs incurred or paid by Developer at any time while any default by Developer has occurred, or any event that, with the passage of time or the giving of notice or both, will ripen into or constitute a default hereunder. If City shall at any time elect to rely upon the provisions of this Section 38(E) as the basis for an action by City, City shall, at the time of such election, notify Developer in writing of such

decision and the specific facts or events relied upon by City as the basis for such action by City.

G. Notwithstanding anything to the contrary herein, Developer agrees that in the event of any default by City under this Contract, it will not bring any action or suit to recover damages against City or any officer, director, commissioner, member, employee, or agent of any of them, except that this Section 38(G) shall not prevent the award of attorneys' fees under Section 38(B) hereof in the event of a default by City under this Contract. Actions brought in equity or which otherwise do not seek to recover damages are not precluded by this Section.

39. Excusable Delays. The parties understand and agree that Developer shall not be deemed to be in default of this Contract because of delays or temporary inability to commence, complete or proceed in accordance with the Redevelopment Schedule, due in whole or in part to causes beyond the reasonable control or without the material fault of Developer which are caused by the action or failure to act of any governmental body, department or agency or failure of MoDOT to complete Pryor Road and open said road to the public, or failure of the City to complete any public improvement or timely approve any approval item, acts of war or civil insurrection, breach of this Contract by City or any natural occurrence, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, labor disputes, governmental restrictions or priorities, embargoes, litigation, tornadoes, or unusually severe weather (collectively "Excusable Delays"). With the approval of City, the time of performance hereunder shall be extended for the period of any delay or delays caused or resulting from any of the foregoing causes, which approval shall not be arbitrarily or unreasonably withheld. Developer shall be granted such extensions upon presentation of reasonable evidence and/or documentation of the periods of such

Excusable Delays. Nothing herein shall excuse Developer from any obligation to pay money hereunder, nor shall this Section excuse Developer from performance of its obligations because of a lack of funds or inability to obtain financing, except as provided in Section 16 hereof and except if financing commitments obtained by Developer and approved by City as provided in this Contract are not fulfilled by the party issuing such commitment through no fault of Developer, in which case Developer shall be entitled to additional time not to exceed one hundred eighty (180) days to obtain new financing commitments to be approved by City in the same manner as provided herein for the initial financing commitments. Notwithstanding the foregoing, in no event shall such Excusable Delays entitle Developer to a certificate of occupancy for any structure located within the Redevelopment Area until a certificate of substantial completion for the Public Project Improvements has been issued by City pursuant to the provisions of the Design and Construction Manual (Ordinance No. 3719) and until the Pryor Bridge and the Pryor Half Diamond are completed in accordance with Section 7(C) hereof. In addition, in no event shall such Excusable Delays entitle Developer to reimbursement for any Reimbursable Project Costs from the Special Allocation Fund until the CID is established and the CID Assessments and CID Sales Tax are imposed as provided for in Section 15 herein.

40. Intentionally Omitted.

41. Intentionally Omitted.

42. Notice. Any notice required by this Contract shall be deemed to be given if it is mailed by United States registered mail, postage prepaid, and addressed as hereinafter specified.

Any notice to City shall be addressed to:

Robert Handley

City Attorney

CityHall  
207 SW Market Street  
Lee's Summit, Missouri 64063

With a copy to:

David Frantzé  
Stinson Morrison Hecker LLP  
1201 Walnut, Suite 2900  
Kansas City, Missouri 64106-2150

Any notice to Developer shall be addressed to:

Dan Lowe  
RED Development, LLC  
4717 Central  
Kansas City, Missouri 64112

With a copy to:

Richard B. Katz  
The Katz Law Firm  
435 Nichols Road, 2<sup>nd</sup> Floor  
Kansas City, MO 64112

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.

43. Modification. The terms, conditions, and provisions of this Contract and of the Redevelopment Plan can be neither modified nor eliminated except in writing and by mutual agreement between City and Developer. Any modification to this Contract as approved shall be attached hereto and incorporated herein by reference.

44. Effective Date. This Contract shall become effective on the Effective Date and shall remain in full force and effect until the completion of all Project Improvements, as described herein, and so long as any TIF Obligations or Redevelopment Project Costs remain outstanding and unpaid; subject, however, to the provisions of Section 38 hereof.

45. Recording. Upon full execution by City and Developer, this Contract shall be recorded by City, at Developer's expense, in the Office of the Recorder of Deeds for Jackson County, in Independence, Missouri.

46. Applicable Law. This Contract shall be governed by and construed in accordance with the laws of the State of Missouri.

47. Covenant Running With the Land. The provisions of this Contract shall be covenants running with the land and shall remain in effect for the duration of the Redevelopment Plan and any renewal period or periods of the Redevelopment Plan at the end of which time they shall cease. They shall be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and be enforceable by, City, its successors and assigns, against Developer, its 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 36 hereof, that any such covenants shall be binding on Developer 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).

48. Relocation Costs. Except as otherwise provided in the Redevelopment Project Cost, City shall not be responsible for any relocation activity or the costs thereof that may be required by law to be paid with respect to any part of the Redevelopment Plan. Developer shall provide the relocation services and benefits as provided for under the Redevelopment Plan and shall hold City harmless from any claim, cost or expense for said services and benefits made by individuals and entities arising from implementation of this Redevelopment Plan, except that such costs may be deemed by City to be Redevelopment Project Costs. City acknowledges that the amounts paid by Developer to purchase real property from third parties within the Redevelopment Area are Reimbursable Project Costs up to the reimbursable amounts shown for the Land and Relocation line items on Exhibit J, as these amounts include relocation costs. Notwithstanding the foregoing, City may assist in administering relocation activity if requested by Developer and approved by City, or if directed by the City Council of City.

49. Administrative Costs and Expenses.

A. In order to reimburse City for its administrative costs and expenses (including staff time and contracted services) in connection with the preparation, development and implementation of the Redevelopment Plan and Redevelopment Projects, the issuance of Obligations and the performance of its obligations under, this Contract or any agreement or instrument entered into pursuant to this Contract or in connection with the Redevelopment Projects, the Redevelopment Plan, or the Obligations, City and Developer have entered into the Funding Agreement dated November 13, 2005 ("the "Funding Agreement"). Any of City's actual and reasonable

administrative costs and expenses that are provided for in this Section 49(A) and which are not covered by the Funding Agreement shall be paid by Developer within thirty (30) days of having been billed for same and may be claimed by Developer as Reimbursable Project Costs. If payment of said expenses has not been made in full within thirty (30) days of having been billed, a two percent (2%) fee will be applied to the unpaid balance as a late penalty. A two percent (2%) 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 penalties are paid in full.

B. Additional documented professional service costs and other expenses incurred by City (other than those described in Section 49(A) hereof) that are found by City to be reasonable and necessary for it in connection with the Redevelopment Plan, this Contract or otherwise relating to the Redevelopment Projects shall be reimbursed from the Special Allocation Fund; provided, however, that in no event shall such reimbursements exceed Fifty Thousand Dollars (\$50,000) in any year.

C. Upon the request of Developer, and at the sole cost of Developer, City shall furnish appropriate documentation of the administrative costs and expenses as referred to in this Section 49 which are in its possession, and shall allow Developer or its representatives an opportunity to review the accounts and records of City with regard to such administrative costs and expenses, such review to be at the sole cost and expense of Developer and conducted at such time as is mutually agreeable to the parties, but in no event more frequently than monthly.

50. Validity and Severability. It is the intention of the parties hereto that the provisions of this Contract shall be enforced to the fullest extent permissible under the laws and



public policies of State of Missouri, and that the unenforceability (or modification to conform with such laws or public policies) of any provision hereof shall not render unenforceable, or impair, the remainder of this Contract. Accordingly, if any provision of this Contract shall be deemed invalid or unenforceable in whole or in part, this Contract 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 Contract in order to render the same valid and enforceable. All exhibits attached hereto are hereby incorporated into this Contract by reference.

51. Time and Performance are of the Essence. Time and exact performance are of the essence of this Contract.


52. City's Legislative Powers. Notwithstanding any other provisions in this Contract, nothing herein shall be deemed to usurp the governmental authority or police powers of City or to limit the legislative discretion of the City Council, and no action by the City Council in exercising its legislative authority shall be a default under this Contract.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the parties hereto have executed this Contract the day and  
year first above written.

**CITY:**


THE CITY OF LEE'S SUMMIT, MISSOURI, a  
municipal corporation

By:   
Print Name: Karen R. Messerli  
Title: Mayor

**DEVELOPER:**

RED LEE'S SUMMIT EAST, LLC, a Missouri  
limited liability company

By: Venture West II, LC, Manager

By:   
Dan Lowe, Manager

STATE OF Missouri )  
COUNTY OF Jackson ) ss.

On this 19<sup>th</sup> day of December, 2006, before me personally appeared Karen R Messerli, to me known, who being by me duly sworn, did say that he/she is the Mayor of The City of Lee's Summit, Missouri, a Missouri municipal corporation, that said corporation has no corporate seal, that said instrument was signed on behalf of said corporation by authority of its Board of Directors, and acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Julie C. Pryor  
Print Name: Julie C. Pryor  
Notary Public in and for said County and State

My Commission Expires:

4/9/08

"NOTARY SEAL"  
Julie C. Pryor, Notary Public  
Jackson County, State of Missouri  
My Commission Expires 4/9/2008

STATE OF Missouri )  
COUNTY OF Jackson ) ss.

On this 17 day of November, 2006, before me personally appeared Dan Lowe, to me known to be the person described in and who executed the foregoing instrument, who being by me duly sworn, did say he is the Manager of Venture West II, LC, the Manager of RED Lee's Summit East, LLC, a Missouri limited liability company, and acknowledged said instrument to be his free act and deed and the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Ellie Walker  
Print Name: \_\_\_\_\_  
Notary Public in and for said County and State

My Commission Expires



**EXHIBIT A**

**Legal Description of Redevelopment Area**

**The legal description of the Redevelopment Area is the combined legal descriptions contained in Exhibits B and C.**

**EXHIBIT B**

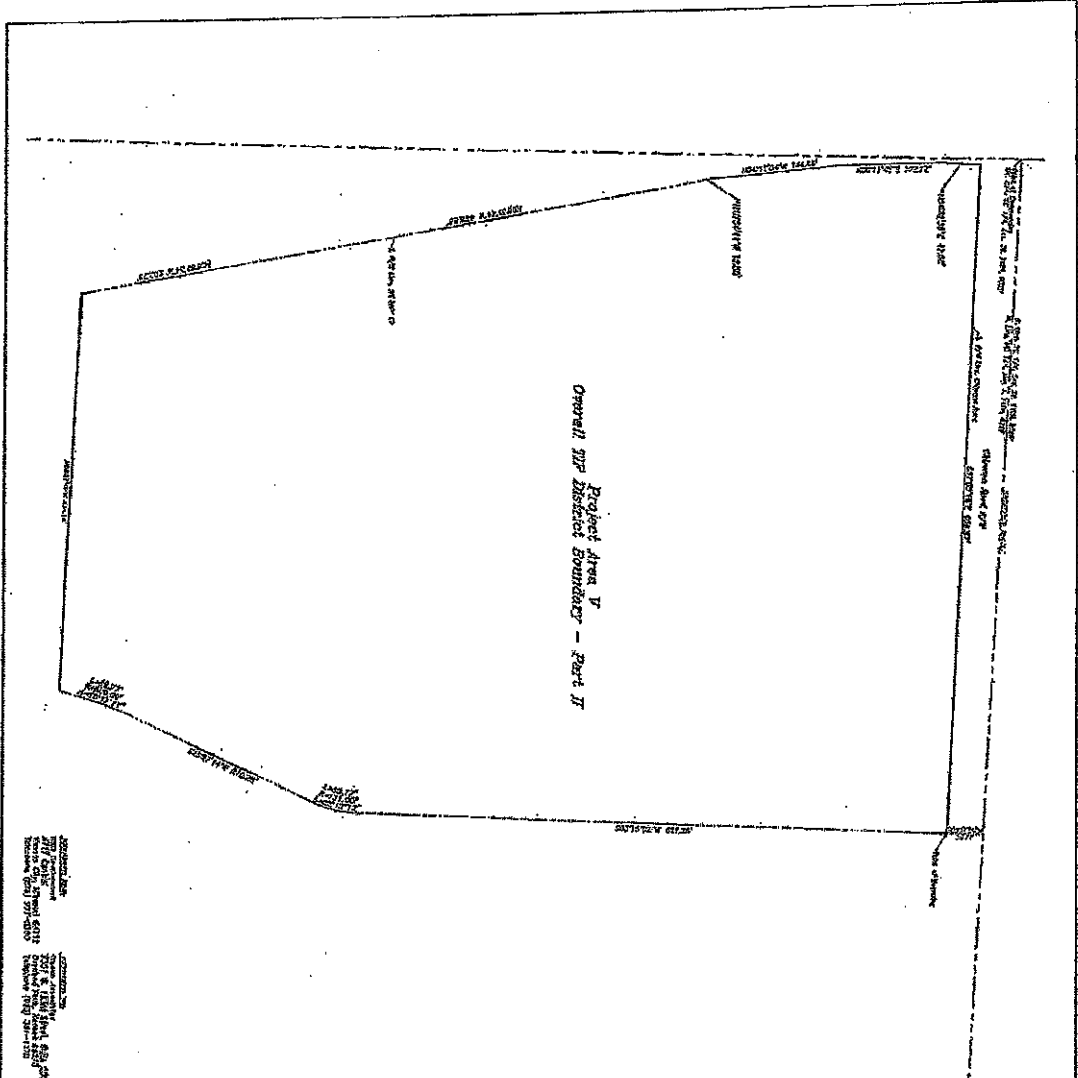
**Legal Description of Redevelopment Project Area 1**



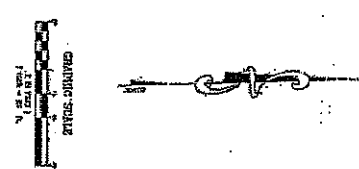
**EXHIBIT C**

**Legal Description of Redevelopment Project Area 5**

# Property Exhibit for RFD Development



APPROVED FOR  
 THE BOARD OF SUPERVISORS  
 COUNTY OF SAN JOAQUIN  
 MAYNARD AVENUE  
 MAYNARD DRIVE  
 MAYNARD ROAD  
 MAYNARD AVENUE



The map of the subject lands is hereby published for public review and comment. The map is available for review at the Planning Department, 1000 North First Street, San Joaquin County, California. The map is also available for review at the Planning Department, 1000 North First Street, San Joaquin County, California. The map is also available for review at the Planning Department, 1000 North First Street, San Joaquin County, California.

Parcel No.	Area (Acres)	Use
001	1.00	Residential
002	1.00	Residential
003	1.00	Residential
004	1.00	Residential
005	1.00	Residential
006	1.00	Residential
007	1.00	Residential
008	1.00	Residential
009	1.00	Residential
010	1.00	Residential

**AV**  
 ADVISORY BOARD  
 COUNTY OF SAN JOAQUIN  
 1000 NORTH FIRST STREET  
 SAN JOAQUIN, CALIFORNIA 95329  
 (209) 938-1234



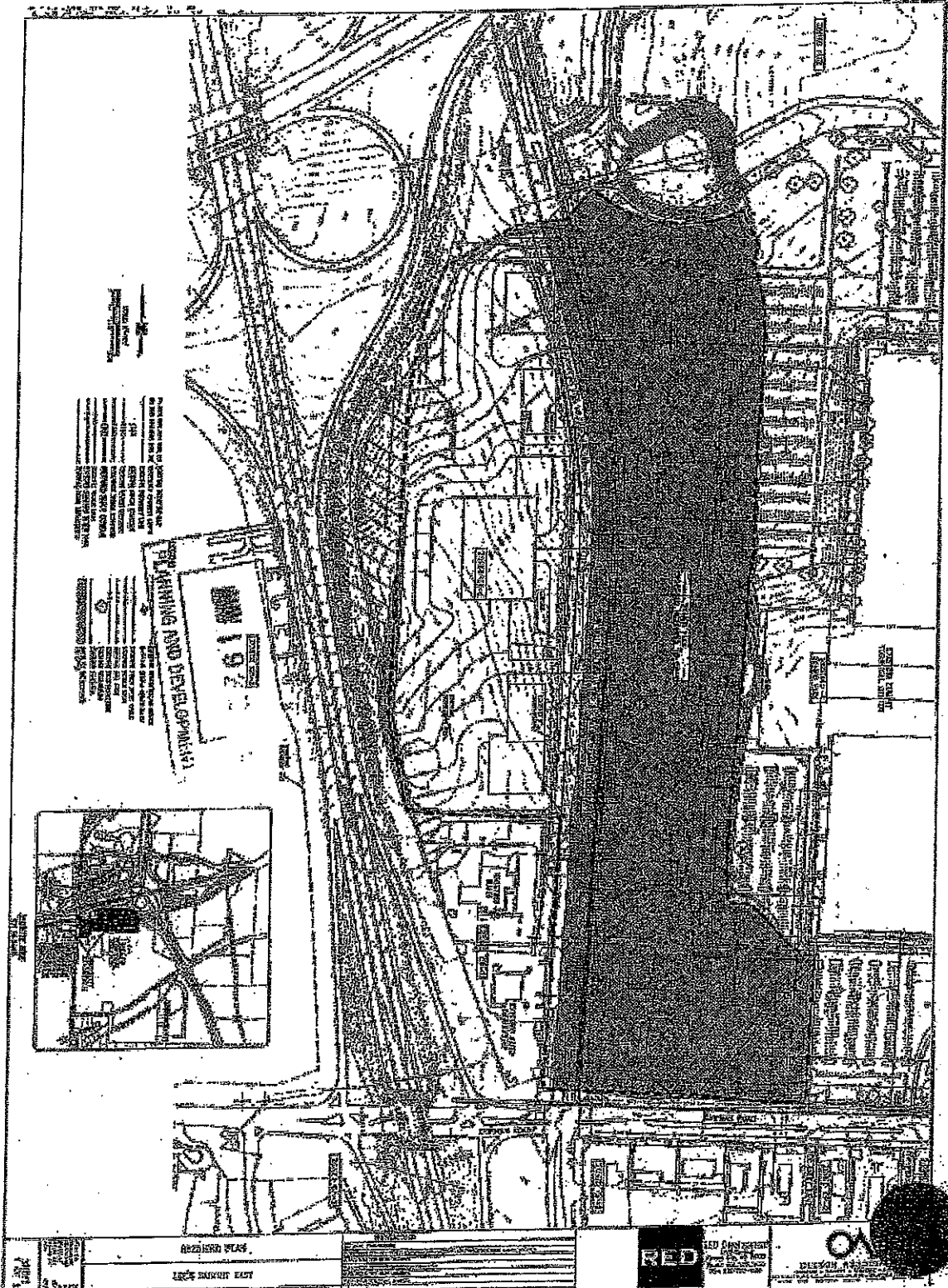
**EXHIBIT D**

**Project Improvements**

The Private Project Improvements described on Exhibit E and the Public Project Improvements described on Exhibit F.

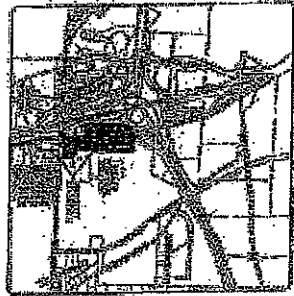
**EXHIBIT D-1**

**Preliminary Zoning Plan**



1. ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE SPECIFIED.  
 2. THE DRAWING IS TO BE USED FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT.  
 3. THE DRAWING IS TO BE USED FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT.  
 4. THE DRAWING IS TO BE USED FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT.  
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 9. THE DRAWING IS TO BE USED FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT.  
 10. THE DRAWING IS TO BE USED FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT.

**PLANNING AND DEVELOPMENT**  
 1972



1. ALL DIMENSIONS ARE IN METERS UNLESS OTHERWISE SPECIFIED.  
 2. THE DRAWING IS TO BE USED FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT.  
 3. THE DRAWING IS TO BE USED FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT.  
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 8. THE DRAWING IS TO BE USED FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT.  
 9. THE DRAWING IS TO BE USED FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT.  
 10. THE DRAWING IS TO BE USED FOR THE DESIGN AND CONSTRUCTION OF THE PROJECT.

**RED**

**CA**

## **EXHIBIT E**

### **Private Project Improvements**

The Private Project Improvements will generally consist of approximately 550,000 square feet of retail space, which is proposed to include a combination of retailers and restaurants with approximately 5 pad sites.

## EXHIBIT F

### Public Project Improvements

1. Realign Blue Parkway approximately 420 east of the current location. Both the north and south legs of this roadway must be constructed to the applicable City or MoDOT standards. A portion of the existing Blue Parkway must remain open during construction of the relocated Blue Parkway.
2. Construct the following improvements at the Chipman Road/East U S. 50 Ramps: two northbound right-turn lanes (approximately 300 feet plus taper); and modify the traffic signal as needed.
3. Construct the following improvements at the relocated Chipman Road/Blue Parkway intersection: a traffic signal; two eastbound left-turn lanes (approximately 500 feet in length plus taper); an eastbound right-turn lane (approximately 300 feet plus taper); two northbound left-turn lanes (approximately 250 feet in length plus taper); a northbound right-turn lane (approximately 200 feet in length plus taper); two westbound left-turn lanes (approximately 150 feet in length plus taper); a westbound right-turn lane (approximately 300 feet in length plus taper); two southbound left-turn lanes (approximately 230 feet in length plus taper); and a southbound right-turn lane (approximately 300 feet in length plus taper).
4. Construct the following improvements at the Chipman Road/Penny Lane intersection: extend the southbound left-turn lane to provide a minimum of 75 feet of storage.
5. Concurrent with the construction of the new Ward Road north of Chipman Road, remove the existing driveway on the north side of Chipman Road immediately west of Ward Road.
6. Construct the following improvements at the Chipman Road/Ward Road intersection: a traffic signal; two eastbound left-turn lanes (approximately 300 feet of storage plus taper); a northbound left-turn lane (approximately 250 feet of storage plus taper); a westbound left-turn lane (approximately 300 feet of storage plus taper); a westbound right-turn lane (approximately 300 feet of storage plus taper); a southbound left-turn lane (approximately 250 feet of storage plus taper); a southbound through lane; and a southbound right-turn lane (approximately 300 feet of storage plus taper).
7. Construct the following improvements at the Blue Parkway intersection with the southern main driveway for the proposed development: a traffic signal; two northbound left-turn lanes (approximately 300 feet of storage plus taper); a northbound right-turn lane (approximately 300 feet of storage plus taper); a westbound left-turn lane (approximately 200 feet of storage plus taper); a shared westbound through/right-turn lane; a southbound left-turn lane (approximately 300 feet of storage plus taper); a southbound right-turn lane (approximately 300 feet of storage plus taper); and three eastbound lanes (approximately 230 of storage).
8. Construct the following improvements at the Blue Parkway intersection with the center main driveway for the proposed development: a traffic signal; two northbound left-turn lanes

(approximately 315 feet of storage plus taper); a southbound right-turn lane (approximately 300 feet of storage plus taper); an eastbound left-turn lane (approximately 190 feet in length); an eastbound through/right-turn lane (approximately 190 feet in length).

9. Construct the following improvements at the Blue Parkway intersection with the northern main driveway for the proposed development: a traffic signal; a northbound left-turn lane (approximately 250 feet of storage plus taper); a northbound right-turn lane (approximately 250 feet of storage plus taper); a westbound left-turn lane (approximately 150 feet of storage); a shared westbound through/right-turn lane; a southbound left-turn lane (approximately 300 feet of storage plus taper); a southbound right-turn lane (approximately 300 feet of storage plus taper); and three eastbound lanes (approximately 230 feet of storage).

10. Construct the following improvements at the new intersection of Blue Parkway and Ward Road: a traffic signal; two westbound left-turn lanes (approximately 300 feet of storage plus taper); two eastbound right-turn lanes (approximately 300 feet of storage plus taper); two northbound left-turn lanes (approximately 250 feet of storage plus taper); and a northbound right-turn lane.

11. Construct Ward Road, from Chipman Road to Blue Parkway, with a minimum of one lane in each direction.

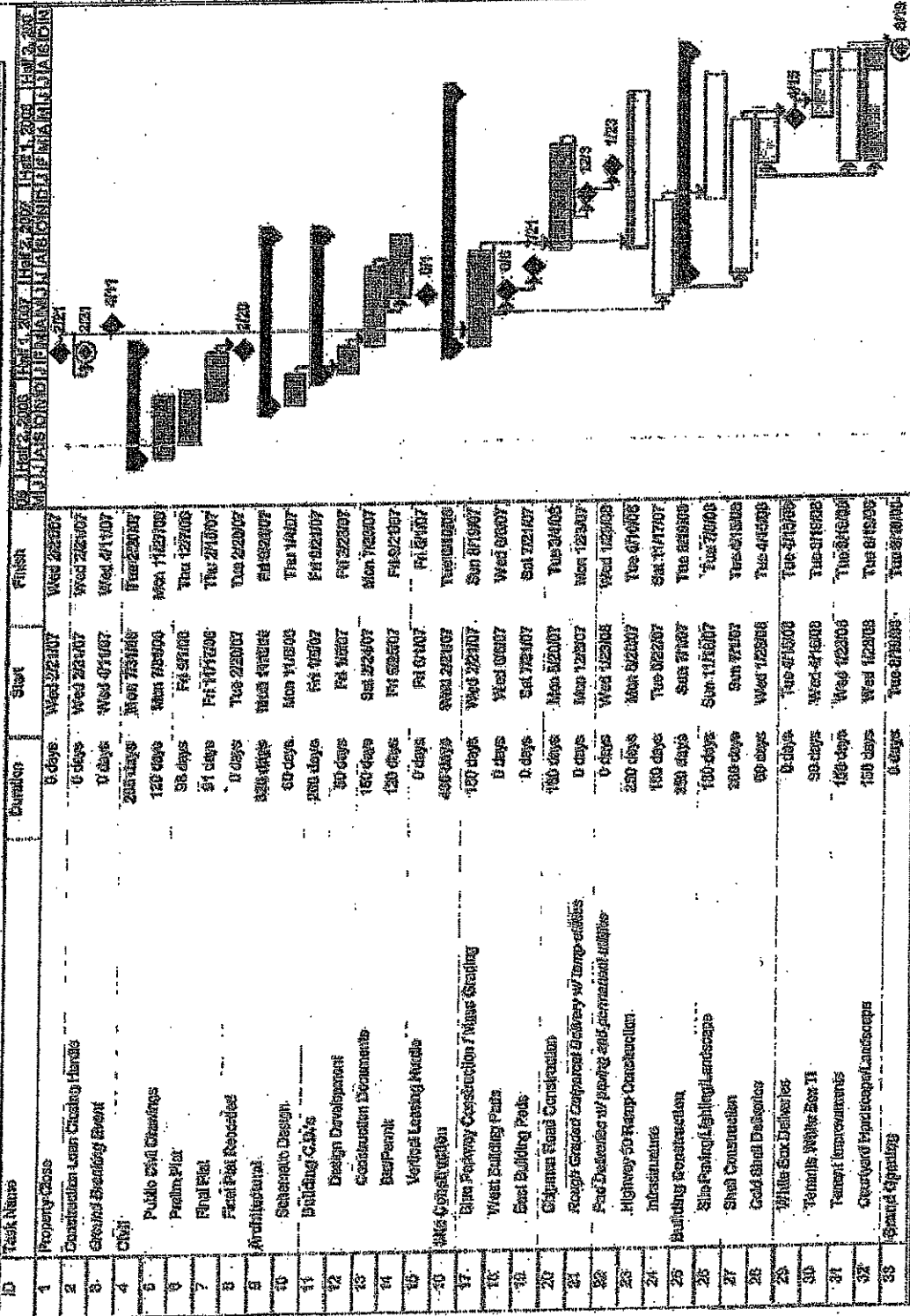
12. Construct a westbound right-turn lane, approximately 150 feet in length (plus taper), at the proposed driveway located between Blue Parkway and the US 50 interchange. This driveway must be restricted to one-way northbound only.

**EXHIBIT G**

**Redevelopment Schedule**

### Summit Fair Project Schedule

Lee's Summit, Missouri





**EXHIBIT H**

**[INTENTIONALLY OMITTED]**

## EXHIBIT I

### Permitted Uses

All uses permitted as a principal use, or as an accessory use, whether permitted as of right, as of right with conditions or as a special use in district CP 2 shall be permitted by right or as of right with the conditions set out in the Unified Development Ordinance. Notwithstanding the foregoing, the following uses shall not be permitted except by separate action of the City Council:

- A. Convalescent, Nursing or Retirement Home
- B. Group Home for Person with Disabilities, Hospice or Special Care
- C. Halfway House
- D. Manufactured Home Park
- E. Adult Business
- F. Adult Entertainment Business
- G. Adult Personal Services
- H. Automotive Parts Sales
- I. Crematories
- J. Mini Warehouse
- K. Railroad Lines, Yards or Station
- L. Automotive Repair Services – Major Repairs
- M. Automotive Repair Shop – Minor Repair
- N. Automotive Sales or Lease
- O. Automotive Service Station
- P. Automotive Upholstery Shop
- Q. Boat Dealers
- R. Boats, Recreational vehicles and maintenance equipment storage
- S. Equipment Rental-includes all motorized equipment not listed elsewhere
- T. Equipment Sales and Service (Heavy)
- U. Heavy Equipment Sales and Rental
- V. Hospital
- W. LP Gas or Fuel Oil Sales
- X. Truck Sales and Lease
- Y. Construction Contractor – With Machinery, Equipment and Storage
- Z. Mini-Warehouse Facility
- AA. Office/Warehouse
- BB. Trucking and Courier Service
- CC. Warehousing and Distribution
- DD. Reservoir, Water Supply or Storage Facility other than provided by the owner for domestic service to the project
- EE. Quick lube or oil change operations or tire retailers
- FF. Pawn shops
- GG. Check cashing or pay-day loan operations
- HH. Furniture or appliance rental stores
- II. Second-hand stores
- JJ. Thrift stores

KK. Tattoo parlors

LL. No portion of the square footage in the Redevelopment Areas shall be occupied by any user (whether or not such user is listed on Exhibit O to this Redevelopment Agreement) (1) whose primary business operation does not result in taxable retail sales for which (i) the retail sales tax is paid at the time such sale is consummated, and (ii) the retail sales tax is paid at the business operation within the Redevelopment Areas; provided, however, that:

- a. Up to five percent (5%) of the square footage of space constructed in Redevelopment Project Area 1 may be used by a user whose primary business operation does not result in taxable retail sales for which (i) the retail sales tax is paid at the time such sale is consummated, and (ii) the retail sales tax is paid at the business operation within the Redevelopment Areas; and

Nothing here in shall eliminate any requirements in this Redevelopment Agreement relating to approval of tenants or users not listed on Exhibit O to this Redevelopment Agreement.

MM. Notwithstanding the foregoing, the uses listed in items N. and X. above will be allowed uses on the two (2) pad sites within Project Area I identified as Pad 2 and Pad 3 on the site plan attached as Exhibit 2 to the Redevelopment Plan, but only if operated in connection with the existing car dealership located directly south and west of Project Area I by the current owner of such dealership or its successors and assigns in the operation of the existing new car dealership. The use described in item X will only include the sale of light trucks and will not include semi tractor-trailers.



**EXHIBIT K**

**City Payment Schedule  
Exhibit K - City Payments**

Year		City Payment (Per Section 28)
1	2006	\$0
2	2007	\$0
3	2008	\$397,478
4	2009	\$405,428
5	2010	\$413,536
6	2011	\$421,807
7	2012	\$430,243
8	2013	\$438,848
9	2014	\$447,625
10	2015	\$456,577
11	2016	\$465,709
12	2017	\$475,023
13	2018	\$484,523
14	2019	\$494,214
15	2020	\$504,098
16	2021	\$514,180
17	2022	\$524,464
18	2023	\$534,953
19	2024	\$545,652
20	2025	\$556,565
21	2026	\$567,696
22	2027	\$579,050
23	2028	\$590,631
Totals		\$10,248,301



Total Project Development Costs	\$31,999,782	\$0
City's Administrative Fee for Documentation of E.A.I.S., per Section 19(A)	\$0	\$659,072
City's Administrative Costs and Expenses, per Section 49	\$250,000	\$1,000,000
Estimated Bond Interest Expenses Over Bond Term	\$29,908,196	\$0
Estimated Bond Issuance Expenses	\$6,095,197	\$0
Total Reimbursement	\$68,253,175	\$1,659,072
Notes:		
(1) Amounts listed in the Developer Reimbursable Cost Categories column may be adjusted in accordance with Section 23(C).		

## EXHIBIT M

### CID Improvements and Costs

Development Costs	1% Sales Tax	Special Assessment	Total
1. Site / Landscape (See Note 1)	\$12,609,665	\$5,256,086	\$17,865,751
2. Bond Issuance Expenses, Reserve Funds, etc.	\$2,401,841	\$1,001,159	\$3,403,000
3. Interest	\$11,163,924	\$4,653,458	\$15,817,382
4. Cleaning and Maintenance Services	\$500,000	\$500,000	\$1,000,000
5. Security Personnel, Equipment and Facilities	\$500,000	\$500,000	\$1,000,000
6. Other District Personnel	\$500,000	\$500,000	\$1,000,000
<b>Total</b>	<b>\$27,675,430</b>	<b>\$12,410,704</b>	<b>\$40,086,134</b>

Notes:

(1) The Site / Landscape CID reimbursements are anticipated to fund streetscape, landscape, drainage, water, storm and sewer systems, sidewalks, streets, traffic signals, parking lots, earthwork and other site improvement costs.

(2) Items 4, 5 and 6 represent annually recurring costs and include the total amount for the first five years.



## EXHIBIT N

### Form of Assignment Agreement

THIS ASSIGNMENT AND ASSUMPTION AGREEMENT (this "Assignment") is dated as of the \_\_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_ and is made by and among RED LEE'S SUMMIT EAST, LLC ("Assignor"), \_\_\_\_\_, a \_\_\_\_\_ ("Assignee"), and the CITY OF LEE'S SUMMIT, MISSOURI, a municipal corporation (the "City").

### RECITALS

A. On \_\_\_\_\_, the City Council of Lee's Summit, Missouri (the "City Council") adopted Ordinance No. \_\_\_\_\_ approving the Lee's Summit East Tax Increment Financing Plan (the "Plan").

B. On \_\_\_\_\_, 200\_\_\_\_, the City and Assignor entered into a Tax Increment Financing Contract that set forth the respective obligations and duties of the City and Assignor with respect to the implementation of the Plan (the "Redevelopment Agreement").

C. Pursuant to Section 35 of the Redevelopment Agreement, Assignor now desires to enter into this Assignment to convey to Assignee its rights, interests, duties and obligations under the Redevelopment Agreement, and Assignee has agreed to assume and perform all of Assignor's rights, duties, interest and obligations under the Redevelopment Agreement.

NOW, THEREFORE, in consideration of the foregoing and the covenants and obligations contained in this Assignment and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, it is agreed by and among Assignor, Assignee and the City as follows:

1. Recitals Incorporated. The above Recitals are hereby incorporated into this Assignment in full and form an integral part hereof.

2. Definitions. All capitalized terms not otherwise defined herein shall have the meaning assigned to them in the Plan and the Redevelopment Agreement.

3. Assignment by Assignor. The Assignor hereby assigns to the Assignee all of the Assignor's rights, duties, interests and obligations under the Plan and the Redevelopment Agreement.

4. Assumption by Assignee. Assignee hereby accepts such assignment from Assignor and expressly covenants to the City and Assignor that it assumes and agrees to perform those rights, duties, interests and obligations of the Assignor assigned to it pursuant to Section 3 above.

5. City's Consent and Release. Upon the execution of this Assignment, the assignment and assumption provided for in Section 3 and 4 above shall be deemed to have been

approved and consented to by the City, and Assignor shall be deemed to have been released from all of Assignor's rights, duties, interest and obligations under the Redevelopment Agreement.

6. Representations and Warranties of Assignor and City. Each of Assignor and City, to the best of its actual and present knowledge, hereby respectively represents and warrants to Assignee that it is not in default of its respective obligations under the Plan and Redevelopment Agreement.

7. Representations and Warranties of Assignee. Assignee is a \_\_\_\_\_ qualified to conduct its business in the State of Missouri and has all requisite power and authority to enter into, execute this Assignment and to perform its obligations hereunder. This Assignment, assuming the due execution and delivery hereof by Assignor and City, constitutes legal valid and binding obligations of Assignee, enforceable against Assignee in accordance with the terms and conditions herein.

8. Obligation of Assignor. The Assignor will promptly remit and send to Assignee any and all payments, funds, assets, notices, reports and other documents and information received by the Assignor or its agents or representatives pertaining to or affecting the Plan or Redevelopment Agreement.

9. Notices. All notices, requests and other communications hereunder shall be deemed to be duly given if delivered by hand or if mailed by certified or registered mail with postage prepaid as follows:

If to Assignee:

\_\_\_\_\_  
\_\_\_\_\_

With a copy to:

\_\_\_\_\_  
\_\_\_\_\_

If to Assignor:

\_\_\_\_\_  
\_\_\_\_\_

With a copy to:

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---

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If to City:

City Attorney  
City Hall  
207 SW Market Street  
Lee's Summit, Missouri 64063

With a copy to:

David Frantze  
Stinson Morrison Hecker LLP  
1201 Walnut, Suite 2900  
Kansas City, Missouri 64106-2150

10. Successors and Assigns. All rights, benefits and obligations of Assignor and Assignee hereunder shall inure to and bind Assignor and Assignee, respectively, and this Assignment shall be binding upon and inure to the benefit of the parties' respective successors and assigns.

11. Governing Law. This Assignment shall be governed by the laws of the State of Missouri.

12. Counterparts. This Assignment may be executed in one or more counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one agreement.

13. Expenses. Except as otherwise provided herein, each of the parties hereto will pay its own costs and expenses, including attorney's fees, incurred by such party or on its behalf in connection with this Assignment and the transactions contemplated herein, except that Assignee shall pay for all expenses incurred by the City.

[Remainder of this page intentionally left blank]

IN WITNESS WHEREOF, the parties have executed this Assignment as of the  
day and year first above written.

**ASSIGNOR:**

RED LEE'S SUMMIT EAST, LLC

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

STATE OF MISSOURI     )  
                                  ) ss.  
COUNTY OF JACKSON    )

On this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_ before me, a Notary Public in and for said  
state, personally appeared \_\_\_\_\_, the \_\_\_\_\_ of RED LEE'S SUMMIT  
EAST, LLC, personally known by me to be the person who executed the within instrument on  
behalf of said company and acknowledged to me that he executed the same for the purposes  
therein stated.

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

[SEAL]

My Commission Expires:

\_\_\_\_\_

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

Printed Name: \_\_\_\_\_

**ASSIGNEE:**

\_\_\_\_\_

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

Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )

) ss.

COUNTY OF \_\_\_\_\_ )

On this \_\_\_\_\_ day of \_\_\_\_\_, 200\_\_ before me, a Notary Public in and for said state, personally appeared \_\_\_\_\_, the \_\_\_\_\_ of \_\_\_\_\_, a \_\_\_\_\_, personally known by me to be the person who executed the within instrument on behalf of said \_\_\_\_\_ and acknowledged to me that he executed the same for the purposes therein stated.

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

[SEAL]

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

My Commission Expires:

Printed Name: \_\_\_\_\_

\_\_\_\_\_

CITY:

THE CITY OF LEE'S SUMMIT, MISSOURI

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

Print Name: \_\_\_\_\_

Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )

COUNTY OF \_\_\_\_\_ )

ss.

On this \_\_\_\_ day of \_\_\_\_\_, 200\_\_, before me personally appeared \_\_\_\_\_, to me known, who being by me duly sworn, did say that he/she is the \_\_\_\_\_ of The City of Lee's Summit, Missouri, a Missouri municipal corporation, that said instrument was signed on behalf of said corporation by authority of its City Council, and acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

[SEAL]

\_\_\_\_\_  
Print Name: \_\_\_\_\_  
Notary Public in and for said County and State

My Commission Expires:

\_\_\_\_\_

**EXHIBIT O**

**Pre-approved Users**

A.J's		Fado Irish Pub	Norwalk Furniture
AMC		Federated	Off Broadway
American Apparel		Filene's	O'Neil Theatres
American Girl Place		Firebirds Rocky Mountain Grill	Orvis
American Home Furnishings		Flemings	Panera Bread
Amini's Galleria		Forever 21	Papadeaux Seafood Kitchen
Andres Wines		Fortunoff Fine Jewelry	Paradise Bakery
Arhaus Furniture		Fresh Market	Pei Wei
Atlantic seafood Co.		GameWorks	PF Chang's
Au bon Pain		Gander Mountain	Pottery Barn
B&B Theatres		Gap	Rack Room
Bahama Breeze		Genghiss Grill	Rainforest Café
Barnes & Noble		Gordon Biersch	Regal Theaters
Barrow Furniture		Grand Home Furnishings	REI
Bassett Furniture		Granite City	Restoration Hardware
Baur's Furniture		H&M	Rock Bottom Brewery
BD's Mongolian Grill		Hagen Daz	Rubio's
Beall's		Halls	Ruth's Chris
Belgravia Collection		Hard Rock Café	Saddle Ranch Chop House
Belk		Harkins Theaters	Smith & Hawkins
Ben & Jerry's		Haverty's Furniture	Smith & Wolensky
Benihana		Home Economist	Smokey Bones BBQ
Bennigan's		Houston's	Staples
Berbiglia		Hoyts Cinema	Starbucks Coffee
Biaggi's		Hudson Bay Company	Steve & Barry's
Blake Furniture		Intercontinental Interiors	Stix
Bonefish		Islands Burgers	Stoney River Steakhouse
Bon-Ton		it'z	Sullivan's
Book-a-Million		J. Alexanders	Tandy Leather Factory
Boscov's		Jared Jewelers	Ted's Montana Grill
Bravo		Jared Jewelers	Texas Roadhouse
Brio		Johnny Rockets	Trader Joe's
Bristol		Johny Carino's	T-Rex

Broyhill Furniture		Kirkland's		Tweeter
Buca Di Beppo		Kona Grill		Ulta
California Pizza Kitchen		Krikorian Theaters		Virgin Records
Cantina Laredo		Landmark Cinemas		Von Maur
Caribou Coffee		Landry's		Wehrenberg Theaters
Carraba's		Leath Furniture		Whole Foods
Cavender's		Linen's N Things		Wick's Furniture
Chailleston's		LL Bean		Wild Oats
Cheeseburger in Paradise		Loew's Theater		Wildfire
Cheesecake Bistro		Logan's Roadhouse		William-Sonoma
Cheesecake Factory		LTD Home Furnishings		Woodley's Fine Furniture
Cinemark		Macaroni Grill		Yardhouse
Circuit City		Macy's		Z Gallerie
Claddagh Irish Pub		Maggiano's		Zio's Kitchen
Claim Jumper		Marcus Theaters		Z-Tejas
Coldstone Creamery		Mark Shale		
Cost Plus/World Market		Marmaxx Group		
Crate & Barrel		Matco Theaters		
Dave & Buster's		McCormick & Schmick's		
Dean & DeLuca		Mi Cocina		
Dillard's		Mimi's Café		
Drexel Heritage		Morton's Steakhouse		
Elephant Bar		Muvico Theatres		Under 20,000 sf or pad user
Ennis Fine Furniture		Muvio Studio Grill		
Eno Vino		NASCAR Café		
Ethan Allen		Nieman Marcus		



**EXHIBIT P  
WATERFALL**



**FIRST AMENDMENT TO  
AMENDED AND RESTATED TAX  
INCREMENT FINANCING CONTRACT**

This First Amendment to Amended and Restated Tax Increment Financing Contract (the "Amendment") is entered into and made effective as of the 20<sup>th</sup> day of October, 2008 (the "Effective Date") by and between THE CITY OF LEE'S SUMMIT, MISSOURI ("City") and RED LEE'S SUMMIT EAST, LLC, a Missouri limited liability company ("Developer").

**RECITALS**

A. Developer and City are parties to that certain Amended and Restated Tax Increment Financing Contract, dated as of May 27, 2008 (the "Amended and Restated Contract").

B. Developer has requested that the City agree to amend the Amended and Restated Contract to permit tax increment financing Obligations to be issued prior to the time that such Obligations may be issued as provided in the Amended and Restated Contract.

C. City is willing to enter into this Amendment, upon the terms and conditions set forth herein, to enable tax increment financing Obligations to be issued prior to the time that such Obligations may be issued as provided in the Amended and Restated Contract.

**AGREEMENT**

NOW, THEREFORE, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Developer hereby agree as follows:

1. Subject to the terms set forth herein, City hereby agrees that it will proceed with actions necessary to authorize the issuance of up to \$23,000,000 in TIF Obligations (the "Early Issuance TIF Obligations"), in accordance with Section 13B. of the Amended and Restated Contract, and City agrees that it will proceed with such authorization despite the failure of Developer to meet certain of the conditions precedent to the issuance of Obligations contained in the Amended and Restated Contract. Notwithstanding the foregoing, Developer agrees and acknowledges that the authorization of the issuance of the Early Issuance TIF Obligations is a discretionary legislative decision of the City Council, and nothing herein or in the Amended and Restated Contract shall be deemed to obligate City to issue the Early Issuance TIF Obligations. To the extent that City hereby or subsequently waives any of the conditions precedent to the issuance of Obligations contained in the Amended and Restated Contract and proceed with the issuance of the Early Issuance TIF Obligations, such waiver shall

not be applicable with respect to any issuance of Obligations other than the Early Issuance TIF Obligations. Specifically, (i) notwithstanding paragraph A of Section 13, City acknowledges that the proceeds from Early Issuance TIF Obligations may be used for the payment of Reimbursable Project Costs as set forth on Exhibit J, and (ii) Section 13(B)(2) shall not apply to the issuance and sale of the Early Issuance TIF Obligations except (a) for the provisions regarding selection of an underwriter, (b) those provisions set forth in Section 13(B)(2) that are also set forth in Section 8 of this Amendment, and (c) as otherwise set forth herein.

2. City and Developer agree and understand that the Early Issuance TIF Obligations will be marketed and issued based upon the existing leasing of the Private Project Improvements, and City will proceed with good faith efforts to effect the issuance and sale of the Early Issuance TIF Obligations. The Early Issuance TIF Obligations shall be issued upon terms and conditions acceptable to City in its reasonable discretion, as evidenced by the adoption by the City Council of an ordinance authorizing the issuance of the Early Issuance TIF Obligations. Without limiting the generality of the foregoing, City shall not be obligated to proceed with or complete the issuance or sale of the Early Issuance TIF Obligations if the terms and conditions of such Early Issuance TIF Obligations would, in the judgment of City, based upon advice of its counsel or financial advisors:

- (i) (A) impose any liability upon City for the payment of such Early Issuance TIF Obligations, or (B) adversely affect City, its financial standing and reputation or the rating given to other debt instruments issued by City;
- (ii) result in an interest rate paid upon such Early Issuance TIF Obligations that is not reasonably acceptable to City; or
- (iii) be upon terms and conditions not standard for municipal debt instruments similar to the Early Issuance TIF Obligations.

3. Each purchaser of the Early Issuance TIF Obligations must be a qualified institutional buyer (as that term is defined in Rule 144A promulgated under the Securities Act of 1933); provided, however, this provision will not be applicable if the Early Issuance TIF Obligations are issued pursuant to a structure in which the payment of principal and interest is secured by a letter of credit upon terms mutually agreed to by City and Developer, and the issuer of such letter of credit is acceptable to City in its sole and subjective discretion.

4. Developer will impose the CID Sales Tax prior to the Early Issuance TIF Obligations, and the proceeds of the CID Sales Tax shall be available and pledged as collateral for, or used as a source of payment of, principal and interest on the Early Issuance TIF Obligations.

5. Except as provided in Section 8 of this Amendment, Developer hereby

agrees that the City Payment, as described in Section 28 of the Amended and Restated Contract, will not be available for the payment of debt service on, or the principal of, the Early Issuance TIF Obligations, and that the City shall have no obligation to appropriate any amounts under Section 28 of the Amended and Restated Contract with respect to the Early Issuance TIF Obligations.

6. Up to an aggregate amount of \$6,939,193 (the "Issuance Cap") of the following (collectively referred to as "Issuance Payments") shall be deemed Reimbursable Project Costs: (A) all costs of issuance for the Obligations and the Early Issuance TIF Obligations (including any amounts paid to refinance, refund or defease the Early Issuance TIF Obligations), (B) any other costs associated with the Early Issuance TIF Obligations that are paid or incurred by the City, and (C) any interest or capitalized interest on the Early Issuance TIF Obligations incurred prior to the issuance of the Obligations.

7. Developer and City acknowledge that the Amended and Restated Contract imposes a cap in Reimbursable Project Costs that Developer is entitled to receive or have paid of \$31,999,782 (the "Cap"). To the extent the Issuance Payments exceed the Issuance Cap and are reimbursed or paid as Reimbursable Project Costs, all amounts of such Issuance Payments in excess of the Issuance Cap paid shall reduce the total amount of Reimbursable Project Costs that Developer is entitled to have paid or reimbursed pursuant to the Cap.

8. It is contemplated by the parties that the Early Issuance TIF Obligations will be refinanced, refunded or defeased as a result of the issuance of the Obligations as described in the Amended and Restated Contract; however, if the Early Issuance TIF Obligations remain outstanding after the issuance of the Obligations, the City Payment available for the payment of debt service and principal on the Obligations shall also be available for the payment of debt service and principal on the Early Issuance TIF Obligations from the time the Obligations are issued. Notwithstanding the foregoing, the City Payment will not be available at any time (even if Early Issuance TIF Obligations remain outstanding after the issuance of the Obligations) for payment of debt service on, or the principal of, the Early Issuance TIF Obligations if the Early Issuance TIF Obligations are not issued with a fixed interest rate.

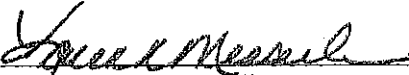
9. Except as expressly amended and modified herein, the Amended and Restated Contract shall remain unmodified and shall be in full force and effect, including, but not limited to, those terms and provisions and exhibits defining the amount of Reimbursable Project Costs. Except as expressly set forth herein, nothing herein shall constitute or be deemed to be a waiver by City of (i) any of the covenants, agreements, terms and conditions of the Amended and Restated Contract, nor (ii) the strict performance by Developer of any of the obligations of Developer under the Amended and Restated Contract within the times specified therein, nor (iii) the benefits of any warranties and representations of Developer under the Amended and Restated Contract; provided, however, to the extent any of the covenants, agreements, terms or

conditions relating to the Obligations have not been met, satisfied or performed with respect to the Early Issuance TIF Obligations at the time of the issuance and funding of the Early Issuance TIF Obligations, and City has approved the issuance of the Early Issuance TIF Obligations, they shall be deemed to be waived. Words used as defined terms and not defined herein shall have the meaning established in the Amended and Restated Contract. References herein or in the Amended and Restated Contract to the "Contract" shall mean and refer to the Amended and Restated Contract as amended by this Amendment.

IN WITNESS WHEREOF, City and Developer have executed this Amendment on the day and year first above written.

CITY:


THE CITY OF LEE'S SUMMIT, MISSOURI, a municipal corporation

By:   
Karen R. Messerli, Mayor

DEVELOPER:

RED LEE'S SUMMIT EAST, LLC,  
a Missouri limited liability company

By: Venture West II, LC, Manager

By:   
Dan Lowe, President

STATE OF Missouri )  
COUNTY OF Jackson )

ss.

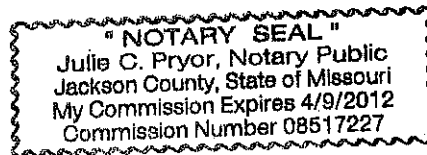
On this 20<sup>th</sup> day of October, 2008, before me personally appeared Karen R. Messerli, to me known, who being by me duly sworn, did say that she is the Mayor of The City of Lee's Summit, Missouri, a Missouri municipal corporation, that said corporation has no corporate seal, that said instrument was signed on behalf of said corporation by authority of its Council, and acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Julie C. Pryor  
Print Name: Julie C. Pryor  
Notary Public in and for said County and State

My Commission Expires:

4/9/12



STATE OF Missouri )  
COUNTY OF Jackson )

ss.

On this 16 day of October, 2008, before me personally appeared Dan Lowe, to me known to be the person described in and who executed the foregoing instrument, who being by me duly sworn, did say he is the Manager of Venture West II, LC, the Manager of RED Lee's Summit East, LLC, a Missouri limited liability company, and acknowledged said instrument to be his free act and deed and the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Doreen C. Hansen  
Print Name: Doreen C. Hansen  
Notary Public in and for said County and State

My Commission Expires:

10/28/2011

DOREEN C. HANSEN  
Notary Public-Notary Seal  
STATE OF MISSOURI  
Jackson County  
My Commission Expires: Oct 28, 2011  
Commission # 07384893

**SECOND AMENDMENT TO  
AMENDED AND RESTATED TAX  
INCREMENT FINANCING CONTRACT**

This Second Amendment to Amended and Restated Tax Increment Financing Contract (the "Second Amendment") is entered into and made effective as of the 23<sup>rd</sup> day of July, 2009 (the "Effective Date") by and between **THE CITY OF LEE'S SUMMIT, MISSOURI** ("City") and **RED LEE'S SUMMIT EAST, LLC**, a Missouri limited liability company ("Developer").

**RECITALS:**

A. Developer and City are parties to that certain Amended and Restated Tax Increment Financing Contract, dated as of May 27, 2008 (the "Amended and Restated Contract") and that certain First Amendment to Amended and Restated Tax Increment Financing Contract, dated as of October 20, 2008 (the "First Amendment") (collectively, the Amended and Restated Contract and the First Amendment are referred to in this Second Amendment as the "Existing Contract").

B. Developer has requested that the City agree to amend the Existing Contract to provide for financing alternatives in addition to the issuance of Obligations.

C. City is willing to enter into this Second Amendment, upon the terms and conditions set forth herein, to enable Developer to proceed with completing the Shopping Center prior to the time that Obligations may be issued as provided in the Existing Contract.

**AGREEMENT**

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Developer hereby agree as follows:

1. Subject to the terms set forth herein, City agrees that it will loan to Developer the sum of \$8,775,742, or such portion thereof as City shall advance pursuant to the terms hereof (the "City Loan"), to be used by Developer to repay a portion of the private financing ("Developer's TIF Bridge Loan") obtained by Developer from KeyBank, N.A. ("Developer's Lender") to fund certain costs of construction of the Project that are Reimbursable Project Costs and/or CID Improvements. The City Loan shall be repayable to City solely from (a) funds in the Special Allocation Fund, (b) the revenues produced by the CID Sales Tax, and (c) proceeds of Obligations issued to be repaid from funds in the Special Allocation Fund and/or revenues produced by the CID Sales Tax. Developer may only use the proceeds of the City Loan to pay the principal of Developer's TIF Bridge Loan, it being agreed that all such advances of the City Loan shall be applied to pay for costs paid with proceeds of Developer's TIF Bridge Loan that are costs of Public Project Improvements, specifically for the construction of Ward Road and Blue Parkway.



2. Of even date herewith, City, Developer and Developer's Lender have entered into an Intercreditor Agreement (the "Intercreditor Agreement"). The Intercreditor Agreement provides Developer's Lender's consent to the First Amendment, this Second Amendment, and the consummation of all transactions contemplated in the Existing Contract, as amended by this Second Amendment; provided, however, that nothing in the Intercreditor Agreement or herein shall be deemed to be an agreement or acknowledgement of City that any such consent is required, except as expressly set forth in the Intercreditor Agreement.

3. Terms of City Loan.

A. Amount. The principal amount of the City Loan shall be a maximum amount of \$8,775,742; provided, however, any advance by City of the City Loan shall be conditioned upon Developer's Lender advancing funds under its construction loan to Developer to fund the construction of the Private Project Improvements, all as more fully set forth in the Intercreditor Agreement. Following the full execution of this Second Amendment by City and Developer, and City's receipt of two (2) such fully executed original copies of this Second Amendment, the entire amount of the City Loan shall be advanced by City on or before the fifth business day after all of the conditions in Section 4 of this Second Amendment are satisfied in full. If, in accordance with this Second Amendment, the entire amount is not so advanced by City, then whenever Developer desires to receive an advance of additional funds under the City Loan (but in no event to exceed the maximum amount set forth above), Developer shall give City at least five (5) business days' notice by delivering to City a request for an advance on the City Loan; provided, however, that until all conditions in Section 4 of this Second Amendment are satisfied, no advances under the City Loan will be made. Such request shall specify the aggregate principal amount of the City Loan to be made pursuant to such borrowing and the date of borrowing, with such additional documentation as City shall reasonably require. Further, Developer consents and agrees that any advance by City of amounts under the City Loan shall be directly paid to Developer's Lender to be applied to payment of the principal of Developer's TIF Bridge Loan.

B. Interest rate. Interest will accrue on the outstanding principal amount of the City Loan at a rate equal to the rate set forth for a five year maturity in the A scale number "92" as quoted in the Municipal Market Digest of interest rates ("MMD") scale in the Wall Street Journal. The rate will be adjusted annually on May 1 at the then current five year rate.

C. Annual Debt Service. The City Loan will be payable, as set forth below (the "Debt Service").

i. Payable the first of each May and November, beginning November 1, 2009 through November 1, 2013, Debt Service on the City Loan shall be \$357,361.

ii. Payable the first of each May and November, beginning May 1, 2014 through November 1, 2018, Debt Service on the City Loan shall be \$478,391.

iii. Payable the first of each May and November, beginning May 1, 2019 through November 1, 2023, Debt Service on the City Loan shall be \$461,565.

iv. Payable the first of each May and November, beginning May 1, 2024 through November 1, 2029, Debt Service on the City Loan shall be \$550,680.

Notwithstanding anything to the contrary herein, the Debt Service shall be payable only from revenues available in the Special Allocation Fund and from the proceeds of the CID Sales Tax, and if and to the extent that the revenues available in the Special Allocation Fund and from the CID Sales Tax are inadequate to pay such Debt Service, then such Debt Service shall be paid to the extent revenue is available and credited to interest first, and any remaining unpaid Debt Service shall be accrued for payment as provided in Section 5 below.

D. Maturity Date. The City Loan shall mature on April 26, 2030. The City Loan may be prepaid at any time in whole or in part without penalty.

4. Conditions. City will have no obligation to either make the City Loan, or provide any future advances under the City Loan, unless the following have occurred:

A. The City Loan, and any future advance thereunder, will not be made unless and until City has received assurances satisfactory to City in its sole and subjective discretion that all private funding sources, other than the City Loan, are (i) committed, and any events, circumstances or other conditions (including without limitation any requirements or conditions precedent to the funding of any loan that is part of the private funding sources) that could result in such funds being unavailable have been approved by City in its sole and subjective discretion, (ii) available to fund costs of the Project Improvements, and (iii) sufficient (as determined by City in its sole and subjective discretion) to complete the construction of the Project Improvements. If such information and assurances with respect to any private funding sources or the availability of such funding sources are not provided to City or are not acceptable to City in its sole and subjective discretion, City has no obligation to proceed with the City Loan or any funding (including any future advance) thereof;

B. There has been no material adverse change in the financial condition of Developer since the date of this Second Amendment;

C. The Intercreditor Agreement has been signed by City and Developer's Lender and there are no defaults by Developer or Developer's Lender existing thereunder,

nor any events or occurrences which, with the passage of time or the giving of notice or both, will ripen into or constitute a default thereunder;

D. The CID has adopted the CID Sales Tax;

E. There are no defaults by Developer existing (i) under the Contract, or (ii) under any other documents or agreements between Developer and Developer's Lender, nor (iii) any events or occurrences which, with the passage of time or the giving of notice or both, will ripen into or constitute a default thereunder;

F. An escrow agreement between City and Developer (the "Escrow Agreement"), in form and content acceptable to City in its sole and subjective discretion, has been fully and properly executed by both parties that provides for \$3,100,913 (the "Escrow Amount") to be placed in escrow (the "Escrow Account") by or on behalf of Developer to be disbursed to pay for costs to complete the Macy's and JC Penney buildings and all necessary common areas, drives, utilities, parking lots, lighting, signage, and other improvements in the Redevelopment Area such that Macy's and JC Penney can obtain a certificate of occupancy and commence operations (the "Remaining Construction");

G. The Escrow Amount has been deposited with the escrow agent (to be UMB Bank, N.A. or such other escrow agent as agreed to by Developer and City) in the Escrow Account; and

H. The City has determined in its sole and subjective discretion that the Escrow Amount so deposited is sufficient to complete the Remaining Construction. Developer shall provide to City any and all information required by City to determine the appropriate amount for the Escrow Amount, including, but not limited to, access to the site by City staff or third party consultants, copies of construction contracts, and affidavits from Developer and contractors as to the amounts due and remaining under any contracts. City agrees to proceed with due diligence to review the information and determine if the Escrow Amount is the appropriate amount. The parties understand and agree that the Remaining Construction is on-going and that the amount necessary to complete the Remaining Construction may decrease between the Effective Date and the date the Escrow Agreement is executed and the Escrow Amount funded. Therefore, should Developer request that the Escrow Amount be less than the amount stated in F. above, City shall determine, in its sole discretion, the appropriate amount. Developer shall provide all information required by City to determine the appropriate amount for the Escrow Amount, and City agrees to proceed with due diligence to review the information and determine the appropriate amount.

5. Repayment Waterfall. Notwithstanding anything to the contrary set forth in the Existing Contract, all funds deposited in the Special Allocation Fund, and all revenues from the CID Sales Tax while the City Loan is outstanding, shall be paid as follows:

A. First, to the payment of any Debt Service from any prior period that was not paid because of the lack of adequate revenues available in the Special Allocation Fund and from the CID Sales Tax to fully fund such prior Debt Service;

B. Second, to the payment of Debt Service on the City Loan in the amounts set forth above in Section 3C;

C. Third, any amounts remaining in the Special Allocation Fund in excess of the amounts expended pursuant to subsection A. and B. above may be disbursed to pay debt service for Developer's TIF Bridge Loan; and

D. Fourth, any amounts remaining in the Special Allocation Fund in excess of the amounts expended pursuant to subsections A., B. and C. above shall be applied in accordance with Sections 22 B, C and D of the Existing Contract.

6. As security for the payment of the City Loan, Developer pledges to City, and grants a security interest in, its right to receive reimbursement of Reimbursable Project Costs from the Special Allocation Fund and from CID Sales Tax pursuant to the Existing Contract, which pledge will be a first priority lien upon Developer's right to receive any such reimbursement. Additionally, also as security for the payment of the City Loan, Developer pledges to City, and grants a security interest in, the Escrow Amount remaining on deposit with the escrow agent. Developer agrees to execute any financing statement or other document necessary to perfect City's interest in the proceeds in the Special Allocation Fund, the CID Sales Tax proceeds and the Escrow Amount. Notwithstanding anything to the contrary contained herein or in the Existing Contract, should any default or failure described in Section 4.E(i) or (ii) above occur, all revenues available in the Special Allocation Fund, from the CID Sales Tax and the remaining Escrow Amount shall be paid to City to repay the City in full for the amount outstanding under the City Loan until either the City Loan is fully repaid or the default has been cured. Should any default or failure described in Section 4.E(iii) above occur, all revenues available in the Special Allocation Fund and from the CID Sales Tax shall thereafter be paid to City to repay the City in full for the amount outstanding under the City Loan until either the City Loan is fully repaid or the default has been cured. Additionally, should any default or failure as described in Section 4.E(iii) above occur, no amounts shall be disbursed from the Escrow Account except as provided herein (or as otherwise provided in the Escrow Agreement). Should the failure described in Section 4.E(iii) above ripen into a default under either Section 4.E(i) or (ii), the remaining Escrow Amount will immediately thereafter be paid to City to repay such portion of the City Loan; however, should the failure described in Section 4.E(iii) above be cured prior to it ripening to a default under the appropriate agreement, the remaining Escrow Amount will again become available for distribution to Developer under the terms of the Escrow Agreement. Upon a default or failure as described in Section 4.E(i), (ii) or (iii), if no other notice of violation is required under the documents referenced, City shall provide notice to Developer of the default and Developer shall have five (5) days to cure such violation prior to City exercising its rights set forth in this paragraph.

7. Developer will impose or will cause the CID to impose the CID Sales Tax prior to the date of the City Loan, and will cause the proceeds of the CID Sales Tax to be available and pledged as collateral for, or used as a source of payment of, Debt Service on the City Loan.

8. Developer hereby agrees that the City Payment, as described in Section 28 of the Existing Contract, will not be available for the payment of Debt Service on, or the principal of, the City Loan, and that City shall have no obligation to appropriate any amounts under Section 28 of the Existing Contract with respect to the City Loan.

9. City and Developer acknowledge that, in addition to the City Loan, up to \$6,000,000 of bonds to which the CID Assessments will be pledged (the "CID Assessment Bonds") shall be issued by, at City's election, either City or the Lee's Summit Industrial Development Authority. Notwithstanding the foregoing, because the City's decision to issue the CID Assessment Bonds is a separate legislative decision by the City Council, the City reserves all rights to review and approve, in its sole discretion, the terms and conditions of any bond issuance, and the Developer releases City from any liability or claims against City for the timing of issuance or the failure to issue the CID Assessment Bonds. City agrees to proceed expeditiously in the issuance of the CID Assessment Bonds, and shall direct its staff to work with Developer to proceed with all steps necessary to structure and issue the CID Assessment Bonds (subject to the final decision of the City Council, as referenced above, to proceed with such issuance), but there is no requirement that the issuance of the CID Assessment Bonds and advance(s) of the City Loan proceeds be simultaneous or within a certain amount of time of each other. The CID Sales Tax shall not be available or pledged as collateral for, or used as a payment of, principal or interest on the CID Assessment Bonds. Each purchaser of the CID Assessment Bonds must meet the standards in Section 3 of the First Amendment or be an "accredited investor" (as the term is defined in Rule 501(A) promulgated under the Securities Act of 1933) unless City otherwise waives these requirements.

10. At Developer's request, City will consider proceeding with actions to issue the Obligations, or the Early Issuance TIF Obligations in accordance with the First Amendment; provided, however, Developer agrees and acknowledges that, without limiting City's rights to approve the Obligations or Early Issuance TIF Obligations and terms, that City may disapprove, in its sole and subjective discretion, the issuance of any Obligations or Early Issuance TIF Obligations unless the proceeds of any such Obligations or Early Issuance TIF Obligations are sufficient to repay the City Loan, and such proceeds are applied to repay the City Loan in full.

11. Except as expressly amended and modified herein, the Existing Contract shall remain unmodified and shall be in full force and effect, including, but not limited to, those terms and provisions and exhibits defining the amount of Reimbursable Project Costs. Except as expressly set forth herein, nothing herein shall constitute or be deemed to be a waiver by City of (i) any of the covenants, agreements, terms and conditions of the Existing Contract, nor (ii) the strict performance by Developer of any of the obligations of Developer under the Existing Contract within the times specified therein, nor (iii) the benefits of any warranties and representations of Developer under the Existing Contract. Words used as defined terms and not defined herein shall have the meaning established in the Existing Contract. References herein or

in the Existing Contract to the "Contract" shall mean and refer to the Existing Contract as amended by this Second Amendment.

12. The City Loan is not an Early Issuance TIF Obligation as such term is used and defined in the First Amendment.

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
IN WITNESS WHEREOF, City and Developer have executed this Second Amendment on the day and year first above written.

**CITY:** THE CITY OF LEE'S SUMMIT, MISSOURI, a municipal corporation

By:   
Karen R. Messerli, Mayor

**DEVELOPER:** RED LEE'S SUMMIT EAST, LLC, a Missouri limited liability company

By: Venture West II, LC, Manager

By:   
Dan Lowe, President

STATE OF Missouri )  
 ) ss.  
COUNTY OF Jackson )

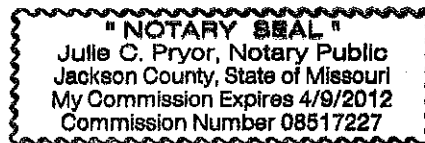
On this 20<sup>th</sup> day of July, 2009, before me personally appeared KAREN R. MESSERLI, to me known who being by me duly sworn, did say that she is the Mayor of **THE CITY OF LEE'S SUMMIT, MISSOURI**, a Missouri municipal corporation, that said corporation has no corporate seal, that said instrument was signed on behalf of said corporation by authority of its Council, and acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Julie C. Pryor  
Printed Name: Julie C. Pryor  
Notary Public in and for said County and State

My Commission Expires:

4/9/2012



STATE OF Missouri )  
 ) ss.  
COUNTY OF Jackson )

On this 23 day of July, 2009, before me personally appeared DAN LOWE, to me known to be the person described in and who executed the foregoing instrument, who being by me duly sworn, did say he is the Manager of Venture West II, LC, the Manager of RED LEE'S SUMMIT EAST, LLC, a Missouri limited liability company, and acknowledged said instrument to be his free act and deed and the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Doreen C. Hansen  
Printed Name: Doreen C. Hansen  
Notary Public in and for ~~Executive Assistant~~ said County and State

My Commission Expires:

DOREEN C. HANSEN  
Notary Public-Notary Seal  
STATE OF MISSOURI 10/28/2011  
Jackson County

My Commission Expires: Oct 2011  
Commission # 07384893



11/11/11

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11/11/11

**THIRD AMENDMENT TO  
AMENDED AND RESTATED TAX  
INCREMENT FINANCING CONTRACT**

This Third Amendment to Amended and Restated Tax Increment Financing Contract (the "Third Amendment") is entered into and made effective as of the 17th day of March, 2011 (the "Effective Date") by and between **THE CITY OF LEE'S SUMMIT, MISSOURI** ("City") and **RED LEE'S SUMMIT EAST, LLC**, a Missouri limited liability company ("Developer").

**RECITALS:**

A. Developer and City are parties to that certain Amended and Restated Tax Increment Financing Contract, dated as of May 27, 2008 (the "Amended and Restated Contract"), as amended by that certain First Amendment to Amended and Restated Tax Increment Financing Contract, dated as of October 20, 2008 (the "First Amendment"), and by that certain Second Amendment to Amended and Restated Tax Increment Financing Contract, dated as of July 23, 2009 (the "Second Amendment") (the Amended and Restated Contract, as amended by the First Amendment and the Second Amendment are referred to in this Third Amendment as the "Existing Contract").

B. The Existing Contract affects the real property described on Exhibit A hereto.

C. In the First Amendment, City agreed to proceed with the actions necessary to authorize the issuance of the Early Issuance TIF Obligations (as defined in the First Amendment). Developer has requested that the City agree to further amend the Existing Contract in order to facilitate the issuance of the Early Issuance TIF Obligations.

D. City is willing to enter into this Third Amendment upon the terms and conditions set forth herein.

**AGREEMENT**

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Developer hereby agree as follows:

1. Except as modified or amended herein, all terms and provisions in the First Amendment with regard to the Early Issuance TIF Obligations are incorporated herein and applicable to any Early Issuance TIF Obligations. Developer agrees and acknowledges that the authorization of the issuance of the Early Issuance TIF Obligations is a discretionary legislative decision of the City Council, and nothing herein or in the Existing Contract shall be deemed to obligate City to issue the Early Issuance TIF Obligations.

2. Paragraph 1 of the First Amendment is hereby amended by deleting the first sentence of said Paragraph 1 in its entirety and replacing it with the following in lieu thereof:

Subject to the terms set forth herein, City hereby agrees that it will proceed with actions necessary to authorize the issuance of up to \$24,500,000 in TIF Obligations (the "Early Issuance TIF Obligations"), in accordance with Section 13B. of the Amended and Restated Contract, and City agrees that it will proceed with such authorization despite the failure of Developer to meet certain of the conditions precedent to the issuance of Obligations contained in the Amended and Restated Contract.

3. Paragraph 3 of the First Amendment is hereby deleted in its entirety and replaced with the following in lieu thereof:

"Each purchaser of the Early Issuance TIF Obligations must be a qualified institutional buyer (as that term is defined in Rule 144A promulgated under the Securities Act of 1933); provided, however, City agrees that the Early Issuance TIF Obligations known as the Series 2011 City of Lee's Summit, Missouri Tax Increment Revenue Bonds (Summit Fair Project) with the earliest stated maturity date, referred to in the Official Statement for the Series 2011 City of Lee's Summit, Missouri Tax Increment Revenue Bonds (Summit Fair Project) as the "first term bonds", may be sold to either qualified institutional buyers or accredited investors (as that term is defined in Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, as amended from time to time).

4. Paragraph 4 of the First Amendment is hereby deleted in its entirety. City agrees that the proceeds of the CID Sales Tax will not be pledged as collateral for, nor used as a source of payment of, principal and interest on the Early Issuance TIF Obligations.

5. In consideration of the agreements contained herein, Developer and City agree that the Second Amendment, and all of the terms and provisions thereof, are hereby terminated, null and void and of no further force and effect. All of Developer's rights granted pursuant to the Second Amendment, including without limitation any right to receive the City Loan (as defined in the Second Amendment), are hereby terminated.

6. Except as expressly amended and modified herein, the Existing Contract shall remain unmodified and shall be in full force and effect. Except as expressly set forth herein, nothing herein shall constitute or be deemed to be a waiver by City of (i) any of the covenants, agreements, terms and conditions of the Existing Contract, nor (ii) the strict performance by Developer of any of the obligations of Developer under the Existing Contract within the times specified therein, nor (iii) the benefits of any warranties and representations of Developer under the Existing Contract. Words used as defined terms and not defined herein shall have the meaning established in the Existing Contract. References herein or in the Existing Contract to the "Contract" shall mean and refer to the Existing Contract as amended by this Third Amendment.

IN WITNESS WHEREOF, City and Developer have executed this Third Amendment on the day and year first above written.

**CITY:**

**THE CITY OF LEE'S SUMMIT, MISSOURI**, a municipal corporation

By: *Randall L. Rhoads*  
Randall L. Rhoads, Mayor

**DEVELOPER:**

**RED LEE'S SUMMIT EAST, LLC**, a Missouri limited liability company

By: Summit Fair Development, Inc., Manager

By: *D*  
Dan Lowe, President

STATE OF Missouri )  
 )  
COUNTY OF Jackson ) ss.

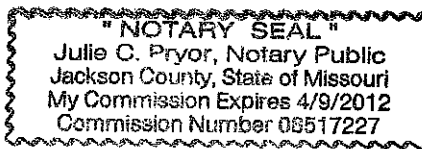
On this 6<sup>th</sup> day of July, 2011, before me personally appeared Randall L. Rhoads, to me known who being by me duly sworn, did say that he is the Mayor of **THE CITY OF LEE'S SUMMIT, MISSOURI**, a Missouri municipal corporation, that said corporation has no corporate seal, that said instrument was signed on behalf of said corporation by authority of its Council, and acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Julie C. Pryor  
Printed Name: Julie C. Pryor  
Notary Public in and for said County and State

My Commission Expires:

4/9/12



STATE OF Missouri )  
 )  
COUNTY OF Jackson ) ss.

On this 20<sup>th</sup> day of June, 2011, before me personally appeared DAN LOWE, to me known to be the person described in and who executed the foregoing instrument, who being by me duly sworn, did say he is the President of Summit Fair Development, Inc., the Manager of RED LEE'S SUMMIT EAST, LLC, a Missouri limited liability company, and acknowledged said instrument to be his free act and deed and the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Doreen C. Hansen  
Printed Name: Doreen C. Hansen  
Executive Assistant  
Notary Public in and for said County and State

My Commission Expires: 10/28/2011

DOREEN C. HANSEN  
Notary Public-Notary Seal  
STATE OF MISSOURI  
Jackson County

My Commission Expires: Oct 28, 2011  
Commission # 07384893

**OWNER APPROVAL AND CONSENT:**

In accordance with that certain Declaration Regarding Summit Fair Tax Increment Financing Contract, by **CBL LEE'S SUMMIT EAST, LLC**, a Missouri limited liability company ("Owner"), dated March 12, 2011, and recorded on March 16, 2011 as Instrument No. 2011E0025421 in the office of the Jackson County, Missouri Recorder of Deeds, Owner hereby approves this Third Amendment to Amended and Restated Tax Increment Financing Contract and reaffirms that its interests in the Property (as defined in the Declaration) is subject to the terms and provisions of the Existing Contract as amended by this Third Amendment. Owner agrees that it must comply or cause compliance, and obligate any successor owner to comply or cause compliance, with Sections 9E, 18B, 19, 32A and 32B of the Contract; provided, however, the parties acknowledge that while the Property is subject to the existing ground lease between Owner and Developer, City will look to the Developer to cause compliance with (i) Section 9E, (ii) Section 19, and (ii) for purposes of a transfer of the Contract or the tenant's interest in the ground lease, Sections 32A and 32B. The Property shall be held and transferred subject to the terms and provisions of the Contract. Owner further agrees and acknowledges that, in the event from time to time of any future amendments to the Contract, Owner's interests in and to the Property shall be subject to the Contract as so amended only upon Owner's approval of the amendment.



CBL LEE'S SUMMIT EAST, LLC,  
a Missouri limited liability company

By: *John N. Foy*  
Name: \_\_\_\_\_  
Title: John N. Foy  
Vice Chairman of the Board  
Chief Financial Officer

STATE OF TENNESSEE    )  
  ) ss:  
COUNTY OF HAMILTON    )

On this 6<sup>th</sup> day of June, 2011, before me, a Notary Public in and for said County and State, personally appeared John N. Foy, to me known to be the VC-CFO of CBL LEE'S SUMMIT EAST, LLC, a Missouri limited liability company, and who executed as such officer the foregoing instrument on behalf of said limited liability company, and such person duly acknowledged the execution of the same to be the act and deed of said limited liability company.

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

*Sue N. Roman*  
Notary Public

My Commission Expires:  
My Commission Expires November 5, 2013

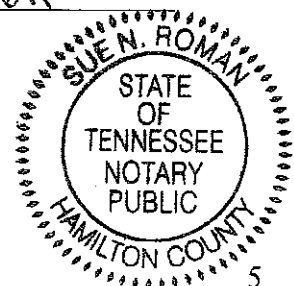


Exhibit A  
Legal Description

All of the following described real estate situated in the County of Jackson, State of Missouri:

All that part of Lots 12 and 13, Desendorf Acres, together with a portion of unplatted land, all lying in Section 36, Township 48 North, Range 32 West, in the City of Lee's Summit, Jackson County, Missouri, described as follows:

COMMENCING at the Southeast corner of the Southeast Quarter of Section 36, Township 48 North, Range 32 West; thence North 2 degrees 13 minutes 20 seconds East along the East line of the Southeast Quarter of said Section 36 a distance of 95.01 feet to a point on the North right of way line of Chipman Road; thence North 86 degrees 50 minutes 12 seconds West along the North right of way line of Chipman Road a distance of 1828.41 feet to the POINT OF BEGINNING; thence continuing North 86 degrees 50 minutes 12 seconds West along the North right of way line of Chipman Road a distance of 817.46 feet to a point; thence North 3 degrees 24 minutes 34 seconds East a distance of 1661.31 feet to a point; thence in a Northwesterly direction along a curve to the left, having a radius of 2010.08 feet, through a central angle of 17 degrees 06 minutes 00 seconds, an arc distance of 599.91 feet to a point; thence North 13 degrees 41 minutes 26 seconds West a distance of 689.27 feet to a point on the South right of way line of Interstate Highway I-470; thence North 76 degrees 18 minutes 18 seconds East along the South right of way line of Interstate Highway I-470 a distance of 4.65 feet to a point; thence in a Southeasterly direction along a curve to the left whose initial tangent bears South 30 degrees 23 minutes 30 seconds East, having a radius of 464.00 feet, through a central angle of 37 degrees 55 minutes 39 seconds, an arc distance of 307.15 feet to a point; thence South 68 degrees 19 minutes 08 seconds East a distance of 61.06 feet to a point; thence in a Southeasterly direction along a curve to the left whose initial tangent bears South 75 degrees 48 minutes 56 seconds East, having a radius of 468.00 feet, through a central angle of 25 degrees 19 minutes 21 seconds, an arc distance of 206.84 feet to a point; thence North 78 degrees 51 minutes 43 seconds East a distance of 99.48 feet to a point; thence in a Northeasterly direction along a curve to the left, having a radius of 668.00 feet, through a central angle of 18 degrees 44 minutes 44 seconds, an arc distance of 218.55 feet to a point; thence North 60 degrees 06 minutes 59 seconds East a distance of 100.00 feet to a point; thence South 29 degrees 53 minutes 01 seconds East a distance of 120.00 feet to a point; thence South 60 degrees 06 minutes 59 seconds West a distance of 100.00 feet to a point; thence in a Southwesterly direction along a curve to the right, having a radius of 788.00 feet, through a central angle of 17 degrees 45 minutes 22 seconds, an arc distance of 244.20 feet to a point; thence South 28 degrees 38 minutes 05 seconds West a distance of 40.17 feet to a point; thence South 17 degrees 16 minutes 49 seconds East a distance of 21.94 feet to a point; thence in a Southeasterly direction along a curve to the right, having a radius of 754.50 feet, through a central angle of 12 degrees 45 minutes 54 seconds, an arc distance of 168.09 feet to a point; thence South 4 degrees 52 minutes 05 seconds West a distance of 138.37 feet to a point; thence South 2 degrees 59 minutes 20 seconds West a distance of 179.69 feet to a point; thence South 2 degrees 32 minutes 21 seconds East a distance of 114.18 feet to a point; thence South 2 degrees 59 minutes 20 seconds West a distance of 227.97 feet to a

point; thence South 7 degrees 33 minutes 46 seconds West a distance of 137.94 feet to a point; thence South 2 degrees 59 minutes 20 seconds West a distance of 257.57 feet to a point; thence South 2 degrees 57 minutes 26 seconds East a distance of 100.11 feet to a point; thence in a Southwesterly direction along a curve to the right whose initial tangent bears South 3 degrees 53 minutes 34 seconds West, having a radius of 5060.00 feet, through a central angle of 2 degrees 04 minutes 56 seconds, an arc distance of 183.88 feet to a point; thence South 10 degrees 19 minutes 20 seconds West a distance of 137.77 feet to a point; thence in a Southwesterly direction along a curve to the left whose initial tangent bears South 4 degrees 45 minutes 45 seconds West, having a radius of 2451.00 feet, through a central angle of 6 degrees 39 minutes 08 seconds, an arc distance of 284.56 feet to a point; thence South 4 degrees 44 minutes 05 seconds East a distance of 25.46 feet to a point; thence South 11 degrees 49 minutes 00 seconds East a distance of 19.32 feet to a point; thence South 87 degrees 00 minutes 45 seconds East a distance of 39.45 feet to a point; thence in a Southeasterly direction along a curve to the right, having a radius of 75.00 feet, through a central angle of 44 degrees 53 minutes 24 seconds, an arc distance of 58.76 feet to a point; thence South 42 degrees 07 minutes 21 seconds East a distance of 163.74 feet to a point; thence in a Southeasterly direction along a curve to the left, having a radius of 39.00 feet, through a central angle of 44 degrees 54 minutes 14 seconds, an arc distance of 30.57 feet to a point; thence South 87 degrees 01 minutes 35 seconds East a distance of 38.08 feet to a point; thence South 3 degrees 11 minutes 02 seconds West a distance of 449.13 feet to a point; thence South 86 degrees 50 minutes 12 seconds East a distance of 141.56 feet to a point; thence South 3 degrees 09 minutes 48 seconds West a distance of 9.00 feet to the POINT OF BEGINNING and containing 1,351,342 Square Feet or 31.023 Acres, more or less.

And,

A tract of land in the Southwest Quarter of Section 36, Township 48, Range 32 in the City of Lee's Summit, Jackson County, Missouri being described as follows: Commencing at the Northeast corner of the Southwest Quarter of said Section 36; thence North 86 Degrees 30 Minutes 55 Seconds West, (Deed-North 89 Degrees 19 Minutes 41 Seconds West) along the North line of the Southwest Quarter of said Section 36, 310.41 feet (Deed-310.15 feet) to a point on the Westerly right of way line of existing Missouri Route 50, as now established, said point being the true Point of Beginning of the tract to be herein described; thence South 13 Degrees 41 Minutes 23 Seconds East (Deed-South 16 Degrees 28 Minutes 19 Seconds East) along said Westerly right of way line, 7.38 (Deed-6.21 feet) to a point 70.00 feet right of existing Missouri Route Southbound centerline Station 544+40; thence South 23 Degrees 59 Minutes 40 Seconds East (Deed-South 23 Degrees 50 Minutes 28 Seconds East) along said Westerly right of way line, 111.80 feet to a point 50.00 feet right of said Southbound Centerline Station 545+50; thence South 13 Degrees 41 Minutes 23 Seconds East (Deed-South 13 Degrees 32 Minutes 11 Seconds East) along said Westerly right of way line, parallel with the centerline of said Southbound lane, 253.20 feet; thence Southerly along said Westerly Right of Way line, on a curve to the right, tangent to the last described course having a radius of 1860.08 feet (Deed-1859.86 feet) a central angle of 17 Degrees 06 Minutes 00 Seconds, an arc distance of 555.14 feet (Deed-555.66 feet); thence South 03 Degrees 24 Minutes 37 Seconds West (Deed-South 3 Degrees 34 Minutes 54 Seconds West), along said Westerly right of way line, 810.73 feet (Deed-810.21 feet) thence North 86 Degrees 35 Minutes 23 Seconds West (Deed-North 86 Degrees 26 Minutes 11 Seconds West), 469.87 feet (Deed-469.53 feet) to a point on the Easterly right of way line of relocated Route 50, as now established; thence North 11 Degrees 26 Minutes 03 Seconds West (Deed-



North 11 Degrees 16 minutes 48 Seconds West) along said Easterly right of way line, 282.11 feet (Deed-228.28 feet) to a point 180.00 feet left of relocated Route 50 Survey Centerline Station 557+47.6 feet; thence North 11 Degrees 39 Minutes 09 Seconds West (Deed-North 11 Degrees 29 Minutes 57 Seconds West) along said Easterly right of way line, 558.10 feet to a point 180.00 feet (Deed-150.00 feet) left of said Centerline Station 551+89.5, said point being 124.00 feet right of Ramp No. 8 survey Baseline Station 0+00; thence Northeasterly, along said Easterly right of way line, on a curve to the right, tangent to the last described course, having a radius of 639.94 feet, a central angle of 41 Degrees 22 Minutes 41 Seconds, an arc distance of 462.16 feet to a point 124.00 feet right of said Ramp No. 8 Centerline Station 5+51.7 feet; thence North 36 Degrees 55 minutes 33 Seconds East (Deed-North 37 Degrees 04 Minutes 45 Seconds East) along said Easterly right of way line, 207.44 feet to a point 150.00 feet right of said Ramp No. 8 Centerline Station 7+57.5; thence Northeasterly, along said Easterly Right of Way line, on a curve to the left, having an initial tangent bearing of North 29 Degrees 43 Minutes 32 Seconds East, a radius of 1104.93 feet, a central angle of 14 Degrees 55 Minutes 49 Seconds, an arc distance of 287.92 feet (Deed-286.66 feet) to its intersection with the North line of the Southwest Quarter of said Section 26; thence South 86 Degrees 30 Minutes 55 Seconds East (Deed-South 86 Degrees 19 Minutes 41 Seconds East) along said North line, 225.24 feet (Deed-225.49 feet) to the true Point of Beginning.

And,

A tract of land in the Northwest Quarter of Section 36, Township 48, Range 32 in the City of Lee's Summit, Jackson County, Missouri, more particularly described as follows: Beginning at the Southeast corner of the Northwest Quarter of said Section 36; thence North 86 degrees 19 minutes 41 seconds West, along the South line of said Northwest Quarter of said Section 36, 310.15 to a point on the Westerly Right-of-Way line of Old Missouri Highway 50, said point being the true Point of Beginning; thence continuing along a prolongation of the last described course, 225.49 feet to a point on the Easterly Right-of-Way line of relocated Missouri Highway 50; thence Northeasterly along a curve to the left, along said Easterly Right-of-Way line, having a radial bearing of North 74 degrees 59 minutes 09 seconds West and a radius of 1104.93 feet an arc distance of 140.47 feet, said point being 150.00 feet Easterly from Sta. 11+26.6 on Ramp 8 on said relocated Missouri Highway 50, as measured perpendicular thereto; thence North 7 degrees 43 minutes 49 seconds East, parallel with said Ramp 8 and along said Easterly Right-of-Way line 180.60 feet to a point 150.00 feet right of Sta. 13+07.20 on said Ramp 8, as measured perpendicular thereto; thence Northeasterly along a curve to the right, along said Easterly Right-of-Way line having a radial bearing of South 82 degrees 16 minutes 11 seconds East and a radius of 613.94 feet, an arc distance of 23.99 feet to a point 150.00 feet right of Sta. 13+37.05 on said Ramp 8, as measured perpendicular thereto; thence North 77 degrees 07 minutes 26 seconds East along the Southerly Right-of-Way line of Interstate Route 470, 61.96 feet (60.9 feet record) to a point on the Westerly Right-of-Way line of Old Missouri Highway 50, said point being 90.00 feet right of Sta. 540+50.00 as measured perpendicular thereto; thence South 16 degrees 28 minutes 19 seconds East along said Westerly Right-of-Way line, 384.30 feet to the true Point of Beginning.

And,

Lot 3, EDMONDSON CREST, a subdivision in Lee's Summit, Jackson County, Missouri.

**FOURTH AMENDMENT TO  
AMENDED AND RESTATED TAX  
INCREMENT FINANCING CONTRACT**

This Fourth Amendment to Amended and Restated Tax Increment Financing Contract (the "Fourth Amendment") is entered into and made effective as of the 29th day of February, 2012 (the "Effective Date") by and between **THE CITY OF LEE'S SUMMIT, MISSOURI** ("City") and **RED LEE'S SUMMIT EAST, LLC**, a Missouri limited liability company ("Developer").

**RECITALS:**

A. Developer and City are parties to that certain Amended and Restated Tax Increment Financing Contract, dated as of May 27, 2008 (the "Amended and Restated Contract"), as amended by that certain First Amendment to Amended and Restated Tax Increment Financing Contract, dated as of October 20, 2008 (the "First Amendment"), by that certain Second Amendment to Amended and Restated Tax Increment Financing Contract, dated as of July 23, 2009 (the "Second Amendment") and by that Third Amendment to Amended and Restated Tax Increment Financing Contract (the "Third Amendment") (the Amended and Restated Contract, as amended by the First Amendment, the Second Amendment and the Third Amendment are referred to in this Fourth Amendment as the "Existing Contract").

B. The Existing Contract affects the real property described on Exhibit A hereto.

C. In order to reallocate the source of reimbursement to Developer of some Reimbursable Project Costs, Developer has requested that the City agree to amend Exhibit J – Redevelopment Project Cost Budget, Exhibit L – Reimbursable Cost Categories, and Exhibit M – CID Improvements and Costs of the Existing Contract.

D. City is willing to enter into this Fourth Amendment upon the terms and conditions set forth herein.

**AGREEMENT**

**NOW, THEREFORE**, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, City and Developer hereby agree as follows:

1. Exhibit J, Exhibit L and Exhibit M of the Amended and Restated Contract are hereby deleted in their entirety and replaced with Exhibit J, Exhibit L and Exhibit M attached to this Fourth Amendment. All references to Exhibit J, Exhibit L and/or Exhibit M of the Amended and Restated Contract shall be deemed to be references to Exhibit J, Exhibit L and/or Exhibit M of this Fourth Amendment.

2. Paragraph 4 of the Third Amendment is hereby deleted in its entirety and replaced with the following in lieu thereof:

"Paragraph 4 of the First Amendment is hereby deleted in its entirety. City agrees that the proceeds of the CID Sales Tax will not be pledged as collateral for, nor used as a source of payment of, principal and interest on the Early Issuance TIF Obligations except to the extent any of the CID Sales Tax is included in Economic Activity Taxes pursuant to the Act."

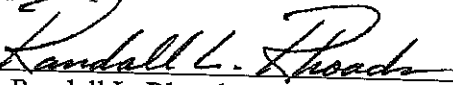
3. Except as expressly amended and modified herein, the Existing Contract shall remain unmodified and shall be in full force and effect. Except as expressly set forth herein, nothing herein shall constitute or be deemed to be a waiver by City of (i) any of the covenants, agreements, terms and conditions of the Existing Contract, nor (ii) the strict performance by Developer of any of the obligations of Developer under the Existing Contract within the times specified therein, nor (iii) the benefits of any warranties and representations of Developer under the Existing Contract. Words used as defined terms and not defined herein shall have the meaning established in the Existing Contract. References herein or in the Existing Contract to the "Contract" shall mean and refer to the Existing Contract as amended by this Fourth Amendment.

IN WITNESS WHEREOF, City and Developer have executed this Fourth Amendment as of the day and year first above written.

**CITY:**

**THE CITY OF LEE'S SUMMIT, MISSOURI**, a  
municipal corporation

By:


  
Randall L. Rhoads, Mayor

**DEVELOPER:**

**RED LEE'S SUMMIT EAST, LLC**, a Missouri  
limited liability company

By: Summit Fair Development, Inc., Manager

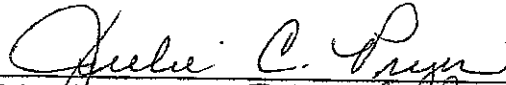
By:

  
Dan Lowe, President

STATE OF MISSOURI )  
 ) ss.  
COUNTY OF JACKSON )

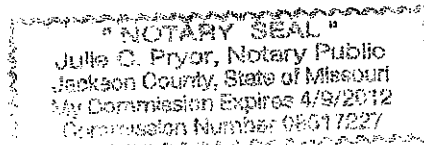
On this 28<sup>th</sup> day of February, 2012, before me personally appeared Randall L. Rhoads, to me known who being by me duly sworn, did say that he is the Mayor of **THE CITY OF LEE'S SUMMIT, MISSOURI**, a Missouri municipal corporation, that said corporation has no corporate seal, that said instrument was signed on behalf of said corporation by authority of its Council, and acknowledged said instrument to be the free act and deed of said corporation.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

  
Printed Name: Julie C. Pryor  
Notary Public in and for said County and State

My Commission Expires:

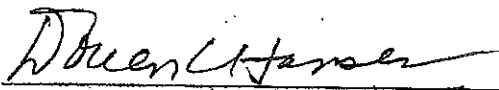
4/9/2012



STATE OF Missouri )  
 ) ss.  
COUNTY OF Jackson )

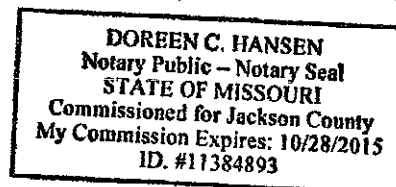
On this 2<sup>nd</sup> day of March, 2012, before me personally appeared DAN LOWE, to me known to be the person described in and who executed the foregoing instrument, who being by me duly sworn, did say he is the President of Summit Fair Development, Inc., the Manager of RED LEE'S SUMMIT EAST, LLC, a Missouri limited liability company, and acknowledged said instrument to be his free act and deed and the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

  
Printed Name: DAN LOWE DOREEN HANSEN  
Notary Public in and for said County and State

My Commission Expires:

10-28-2015



**OWNER APPROVAL AND CONSENT:**

In accordance with that certain Declaration Regarding Summit Fair Tax Increment Financing Contract, by **CBL LEE'S SUMMIT EAST, LLC**, a Missouri limited liability company ("Owner"), dated March 12, 2011, and recorded on March 16, 2011 as Instrument No. 2011E0025421 in the office of the Jackson County, Missouri Recorder of Deeds, Owner hereby approves this Fourth Amendment to Amended and Restated Tax Increment Financing Contract and reaffirms that its interests in the Property (as defined in the Declaration) is subject to the terms and provisions of the Existing Contract as amended by this Fourth Amendment. The Property shall be held and transferred subject to the terms and provisions of the Existing Contract as amended by this Fourth Amendment. Owner further agrees and acknowledges that, in the event from time to time of any future amendments to the Contract, Owner's interests in and to the Property shall be subject to the Contract as so amended only upon Owner's approval of the amendment.

CBL LEE'S SUMMIT EAST, LLC,  
a Missouri limited liability company



By: [Signature]  
Name: John N. Foy  
Title: VICE CHAIRMAN - CFO

STATE OF TENNESSEE )  
                                  ) ss:  
COUNTY OF HAMILTON )

**John N. Foy**  
Vice Chairman of the Board  
Chief Financial Officer

On this 20<sup>th</sup> day of February, 2012, before me, a Notary Public in and for said County and State, personally appeared John N. Foy, to me known to be the VC-CFO of CBL LEE'S SUMMIT EAST, LLC, a Missouri limited liability company, and who executed as such officer the foregoing instrument on behalf of said limited liability company, and such person duly acknowledged the execution of the same to be the act and deed of said limited liability company.

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

[Signature]  
Notary Public

My Commission Expires:

03-20-13

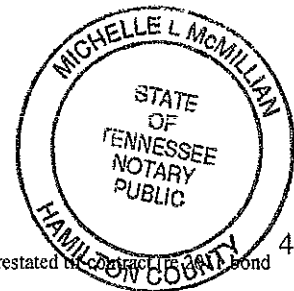


Exhibit A  
Legal Description

All of the following described real estate situated in the County of Jackson, State of Missouri:

All that part of Lots 12 and 13, Desendorf Acres, together with a portion of unplatted land, all lying in Section 36, Township 48 North, Range 32 West, in the City of Lee's Summit, Jackson County, Missouri, described as follows:

COMMENCING at the Southeast corner of the Southeast Quarter of Section 36, Township 48 North, Range 32 West; thence North 2 degrees 13 minutes 20 seconds East along the East line of the Southeast Quarter of said Section 36 a distance of 95.01 feet to a point on the North right of way line of Chipman Road; thence North 86 degrees 50 minutes 12 seconds West along the North right of way line of Chipman Road a distance of 1828.41 feet to the POINT OF BEGINNING; thence continuing North 86 degrees 50 minutes 12 seconds West along the North right of way line of Chipman Road a distance of 817.46 feet to a point; thence North 3 degrees 24 minutes 34 seconds East a distance of 1661.31 feet to a point; thence in a Northwesterly direction along a curve to the left, having a radius of 2010.08 feet, through a central angle of 17 degrees 06 minutes 00 seconds, an arc distance of 599.91 feet to a point; thence North 13 degrees 41 minutes 26 seconds West a distance of 689.27 feet to a point on the South right of way line of Interstate Highway I-470; thence North 76 degrees 18 minutes 18 seconds East along the South right of way line of Interstate Highway I-470 a distance of 4.65 feet to a point; thence in a Southeasterly direction along a curve to the left whose initial tangent bears South 30 degrees 23 minutes 30 seconds East, having a radius of 464.00 feet, through a central angle of 37 degrees 55 minutes 39 seconds, an arc distance of 307.15 feet to a point; thence South 68 degrees 19 minutes 08 seconds East a distance of 61.06 feet to a point; thence in a Southeasterly direction along a curve to the left whose initial tangent bears South 75 degrees 48 minutes 56 seconds East, having a radius of 468.00 feet, through a central angle of 25 degrees 19 minutes 21 seconds, an arc distance of 206.84 feet to a point; thence North 78 degrees 51 minutes 43 seconds East a distance of 99.48 feet to a point; thence in a Northeasterly direction along a curve to the left, having a radius of 668.00 feet, through a central angle of 18 degrees 44 minutes 44 seconds, an arc distance of 218.55 feet to a point; thence North 60 degrees 06 minutes 59 seconds East a distance of 100.00 feet to a point; thence South 29 degrees 53 minutes 01 seconds East a distance of 120.00 feet to a point; thence South 60 degrees 06 minutes 59 seconds West a distance of 100.00 feet to a point; thence in a Southwesterly direction along a curve to the right, having a radius of 788.00 feet, through a central angle of 17 degrees 45 minutes 22 seconds, an arc distance of 244.20 feet to a point; thence South 28 degrees 38 minutes 05 seconds West a distance of 40.17 feet to a point; thence South 17 degrees 16 minutes 49 seconds East a distance of 21.94 feet to a point; thence in a Southeasterly direction along a curve to the right, having a radius of 754.50 feet, through a central angle of 12 degrees 45 minutes 54 seconds, an arc distance of 168.09 feet to a point; thence South 4 degrees 52 minutes 05 seconds West a distance of 138.37 feet to a point; thence South 2 degrees 59 minutes 20 seconds West a distance of 179.69 feet to a point; thence South 2 degrees 32 minutes 21 seconds East a distance of 114.18 feet to a point; thence South 2 degrees 59 minutes 20 seconds West a distance of 227.97 feet to a

point; thence South 7 degrees 33 minutes 46 seconds West a distance of 137.94 feet to a point; thence South 2 degrees 59 minutes 20 seconds West a distance of 257.57 feet to a point; thence South 2 degrees 57 minutes 26 seconds East a distance of 100.11 feet to a point; thence in a Southwesterly direction along a curve to the right whose initial tangent bears South 3 degrees 53 minutes 34 seconds West, having a radius of 5060.00 feet, through a central angle of 2 degrees 04 minutes 56 seconds, an arc distance of 183.88 feet to a point; thence South 10 degrees 19 minutes 20 seconds West a distance of 137.77 feet to a point; thence in a Southwesterly direction along a curve to the left whose initial tangent bears South 4 degrees 45 minutes 45 seconds West, having a radius of 2451.00 feet, through a central angle of 6 degrees 39 minutes 08 seconds, an arc distance of 284.56 feet to a point; thence South 4 degrees 44 minutes 05 seconds East a distance of 25.46 feet to a point; thence South 11 degrees 49 minutes 00 seconds East a distance of 19.32 feet to a point; thence South 87 degrees 00 minutes 45 seconds East a distance of 39.45 feet to a point; thence in a Southeasterly direction along a curve to the right, having a radius of 75.00 feet, through a central angle of 44 degrees 53 minutes 24 seconds, an arc distance of 58.76 feet to a point; thence South 42 degrees 07 minutes 21 seconds East a distance of 163.74 feet to a point; thence in a Southeasterly direction along a curve to the left, having a radius of 39.00 feet, through a central angle of 44 degrees 54 minutes 14 seconds, an arc distance of 30.57 feet to a point; thence South 87 degrees 01 minutes 35 seconds East a distance of 38.08 feet to a point; thence South 3 degrees 11 minutes 02 seconds West a distance of 449.13 feet to a point; thence South 86 degrees 50 minutes 12 seconds East a distance of 141.56 feet to a point; thence South 3 degrees 09 minutes 48 seconds West a distance of 9.00 feet to the POINT OF BEGINNING and containing 1,351,342 Square Feet or 31.023 Acres, more or less.

And,

A tract of land in the Southwest Quarter of Section 36, Township 48, Range 32 in the City of Lee's Summit, Jackson County, Missouri being described as follows: Commencing at the Northeast corner of the Southwest Quarter of said Section 36; thence North 86 Degrees 30 Minutes 55 Seconds West, (Deed-North 89 Degrees 19 Minutes 41 Seconds West) along the North line of the Southwest Quarter of said Section 36, 310.41 feet (Deed-310.15 feet) to a point on the Westerly right of way line of existing Missouri Route 50, as now established, said point being the true Point of Beginning of the tract to be herein described; thence South 13 Degrees 41 Minutes 23 Seconds East (Deed-South 16 Degrees 28 Minutes 19 Seconds East) along said Westerly right of way line, 7.38 (Deed-6.21 feet) to a point 70.00 feet right of existing Missouri Route Southbound centerline Station 544+40; thence South 23 Degrees 59 Minutes 40 Seconds East (Deed-South 23 Degrees 50 Minutes 28 Seconds East) along said Westerly right of way line, 111.80 feet to a point 50.00 feet right of said Southbound Centerline Station 545+50; thence South 13 Degrees 41 Minutes 23 Seconds East (Deed-South 13 Degrees 32 Minutes 11 Seconds East) along said Westerly right of way line, parallel with the centerline of said Southbound lane, 253.20 feet; thence Southerly along said Westerly Right of Way line, on a curve to the right, tangent to the last described course having a radius of 1860.08 feet (Deed-1859.86 feet) a central angle of 17 Degrees 06 Minutes 00 Seconds, an arc distance of 555.14 feet (Deed-555.66 feet); thence South 03 Degrees 24 Minutes 37 Seconds West (Deed-South 3 Degrees 34 Minutes 54 Seconds West), along said Westerly right of way line, 810.73 feet (Deed-810.21 feet) thence North 86 Degrees 35 Minutes 23 Seconds West (Deed-North 86 Degrees 26 Minutes 11 Seconds West), 469.87 feet (Deed-469.53 feet) to a point on the Easterly right of way line of relocated Route 50, as now established; thence North 11 Degrees 26 Minutes 03 Seconds West (Deed-

North 11 Degrees 16 minutes 48 Seconds West) along said Easterly right of way line, 282.11 feet (Deed-228.28 feet) to a point 180.00 feet left of relocated Route 50 Survey Centerline Station 557+47.6 feet; thence North 11 Degrees 39 Minutes 09 Seconds West (Deed-North 11 Degrees 29 Minutes 57 Seconds West) along said Easterly right of way line, 558.10 feet to a point 180.00 feet (Deed-150.00 feet) left of said Centerline Station 551+89.5, said point being 124.00 feet right of Ramp No. 8 survey Baseline Station 0+00; thence Northeasterly, along said Easterly right of way line, on a curve to the right, tangent to the last described course, having a radius of 639.94 feet, a central angle of 41 Degrees 22 Minutes 41 Seconds, an arc distance of 462.16 feet to a point 124.00 feet right of said Ramp No. 8 Centerline Station 5+51.7 feet; thence North 36 Degrees 55 minutes 33 Seconds East (Deed-North 37 Degrees 04 Minutes 45 Seconds East) along said Easterly right of way line, 207.44 feet to a point 150.00 feet right of said Ramp No. 8 Centerline Station 7+57.5; thence Northeasterly, along said Easterly Right of Way line, on a curve to the left, having an initial tangent bearing of North 29 Degrees 43 Minutes 32 Seconds East, a radius of 1104.93 feet, a central angle of 14 Degrees 55 Minutes 49 Seconds, an arc distance of 287.92 feet (Deed-286.66 feet) to its intersection with the North line of the Southwest Quarter of said Section 26; thence South 86 Degrees 30 Minutes 55 Seconds East (Deed-South 86 Degrees 19 Minutes 41 Seconds East) along said North line, 225.24 feet (Deed-225.49 feet) to the true Point of Beginning.

And,

A tract of land in the Northwest Quarter of Section 36, Township 48, Range 32 in the City of Lee's Summit, Jackson County, Missouri, more particularly described as follows: Beginning at the Southeast corner of the Northwest Quarter of said Section 36; thence North 86 degrees 19 minutes 41 seconds West, along the South line of said Northwest Quarter of said Section 36, 310.15 to a point on the Westerly Right-of-Way line of Old Missouri Highway 50, said point being the true Point of Beginning; thence continuing along a prolongation of the last described course, 225.49 feet to a point on the Easterly Right-of-Way line of relocated Missouri Highway 50; thence Northeasterly along a curve to the left, along said Easterly Right-of-Way line, having a radial bearing of North 74 degrees 59 minutes 09 seconds West and a radius of 1104.93 feet an arc distance of 140.47 feet, said point being 150.00 feet Easterly from Sta. 11+26.6 on Ramp 8 on said relocated Missouri Highway 50, as measured perpendicular thereto; thence North 7 degrees 43 minutes 49 seconds East, parallel with said Ramp 8 and along said Easterly Right-of-Way line 180.60 feet to a point 150.00 feet right of Sta. 13+07.20 on said Ramp 8, as measured perpendicular thereto; thence Northeasterly along a curve to the right, along said Easterly Right-of-Way line having a radial bearing of South 82 degrees 16 minutes 11 seconds East and a radius of 613.94 feet, an arc distance of 23.99 feet to a point 150.00 feet right of Sta. 13+37.05 on said Ramp 8, as measured perpendicular thereto; thence North 77 degrees 07 minutes 26 seconds East along the Southerly Right-of-Way line of Interstate Route 470, 61.96 feet (60.9 feet record) to a point on the Westerly Right-of-Way line of Old Missouri Highway 50, said point being 90.00 feet right of Sta. 540+50.00 as measured perpendicular thereto; thence South 16 degrees 28 minutes 19 seconds East along said Westerly Right-of-Way line, 384.30 feet to the true Point of Beginning.

And,

Lot 3, EDMONDSON CREST, a subdivision in Lee's Summit, Jackson County, Missouri.



**EXHIBIT J**

REVISED BUDGET

Exhibit J - Redevelopment Project Cost Budget

Item	Blot Size	Ac.	Blot Size	Ac.	Cost	Cost Per Blot Size	Private	Public	Community Improvement District (CID)	Special Assessment
Land										
Land for Ward Rd (1.470 to Blue Pkwy - 2.06 ac @ \$6.49/sq ft)	208,650	1.47	208,650	1.47	\$14,137,421	\$9,583,240	\$11,188,240	\$2,954,181	\$1,949,259	\$2,225,740
Land for Blue Pkwy realignment N. of Chapman (6.57 ac @ \$6.49/sq ft)	288,216	6.57	288,216	6.57	\$1,857,566	\$283,679	\$0	\$0	\$0	\$0
Land for Blue Pkwy realignment S. of Chapman	497,166		497,166		\$3,000,000	\$6,030	\$0	\$5,000,000	\$0	\$1,857,368
Developer Retail Shell					\$15,022,800	\$72,000	\$15,022,800	\$0	\$0	\$0
Developer Retail TI					\$18,040,057	\$86,460	\$18,040,057	\$0	\$0	\$0
Cost of Buildings for Dept. Stores and Bldgs on Fed Sites (By Others)					\$42,000,000	\$145,570	\$42,000,000	\$0	\$0	\$0
Demolition - South of Chapman (Sight, Sign & Gilbert)					\$48,242	\$0	\$48,242	\$0	\$0	\$0
Site/Landscape					\$23,366,033	\$47,000	\$0	\$18,941,406	\$0	\$247,168
Blue Parkway (North of Chapman)					\$8,154,626	\$16,400	\$0	\$8,154,626	\$0	\$0
Blue Parkway (South of Chapman)					\$2,508,753	\$5,000	\$0	\$2,508,753	\$0	\$0
Ward Road & Associated Utility Relocations (Loop Road Around Township Property)					\$4,267,275	\$8,380	\$0	\$4,267,275	\$0	\$0
Engineering					\$2,029,880	\$4,000	\$1,454,286	\$575,595	\$0	\$19,269
Architectural					\$1,044,331	\$5,000	\$714,136	\$330,195	\$0	\$0
Leasing Commissions					\$2,400,300	\$11,500	\$2,400,300	\$0	\$0	\$0
Interest Carry					\$8,498,430	\$17,000	\$6,748,450	\$1,750,000	\$0	\$0
Paving					\$1,260,350	\$7,300	\$882,251	\$378,100	\$0	\$0
Legal					\$1,328,372	\$3,400	\$930,000	\$398,372	\$0	\$0
Closing - Loan and Land					\$250,000	\$0,500	\$175,000	\$75,000	\$0	\$0
Development Fee					\$3,781,078	\$7,600	\$3,781,078	\$0	\$0	\$0
Construction Management					\$763,171	\$1,500	\$520,083	\$243,088	\$0	\$0
Real Estate Consulting					\$50,000	\$0	\$50,000	\$0	\$0	\$0
Marketing (Grand Opening)					\$100,000	\$1,000	\$100,000	\$0	\$0	\$0
General Conditions					\$1,750,000	\$3,500	\$1,750,000	\$0	\$0	\$0
Investment Banking Fee (IRS C&B)					\$1,649,981	\$3,300	\$1,649,981	\$0	\$0	\$0
Contingency					\$2,550,372	\$5,100	\$2,085,191	\$465,181	\$0	\$0
TIF Shortfall Contingency					\$2,000,000	\$4,000	\$0	\$2,000,000	\$0	\$0
<b>Total Development Costs:</b>					<b>\$165,305,101</b>	<b>\$109,976,701</b>	<b>\$109,976,701</b>	<b>\$31,999,782</b>	<b>\$18,241,561</b>	<b>\$5,087,256</b>
On-Site Costs (Facilities Built by Redeveloper)					\$93,895,415	\$55,789,360	\$55,789,360	\$28,673,245	\$7,681,817	\$751,994
Off-Site Costs (Facilities Built by Others)					\$42,000,000	\$42,000,000	\$42,000,000	\$0	\$0	\$0
Off-Site Costs					\$29,409,596	\$11,882,341	\$11,882,341	\$3,266,537	\$10,559,745	\$4,335,364
<b>Percentages of Total Project Costs by Category:</b>					<b>66.5%</b>	<b>72.7%</b>	<b>66.5%</b>	<b>19.4%</b>	<b>11.0%</b>	<b>3.1%</b>
<b>Estimated Bond Interest Expenses Over Bond Term</b>					<b>\$73,589,237</b>			<b>19.4%</b>		
<b>Estimated Bond Insurance Expenses</b>					<b>\$11,845,106</b>			<b>7.2%</b>		
<b>Total Reimbursements, Including Project Costs, Interest &amp; Insurance</b>					<b>\$140,765,134</b>			<b>85.1%</b>		
<b>Notes:</b>										
(1) Any projections contained herein are preliminary. These indications are provided solely for your information and consideration, are subject to change at any time without notice. The information contained in this presentation may include results of analyses from a quantitative model which represent potential future events that may or may not be realized, and is not a complete analysis of every material fact. Any estimates included herein constitute our judgment as of the date hereof and are subject to change without any notice.										
(2) Prior to any Transaction, you should determine, without reliance upon us or our affiliates, the economic risks and merits (and independently determine that you are able to assume these risks) as well as the legal, tax and accounting characterizations and consequences of any such Transaction. In this regard, by accepting this presentation, you acknowledge that (a) we are not in the business of providing (and you are not relying on us for) legal, tax or accounting advice (and you should receive and rely on) separate and qualified legal, tax and accounting advice (and any risks associated with any Transaction) and our disclaimer as to these matters.										
(3) IRS Circular 230 Disclosure: IRS, Corporate & Public Finances, LLC and its affiliates do not provide tax or legal advice. Any discussion of tax matters in these materials is not intended or written to be used, and cannot be used or relied upon, by you for the purpose of avoiding any tax penalties. Accordingly, you should seek advice based on your particular circumstances from an independent tax advisor.										
(4) The total amount of Reimbursable Project Costs within the CID budget shall not exceed \$19,865,751										
(5) The TIF Shortfall Contingency is available only to fund a TIF Shortfall										

Estimated Bond Interest Expenses Over Bond Term	\$73,589,237	\$42,515,020	\$20,590,116	\$10,483,291
Estimated Bond Insurance Expenses	\$11,845,106	\$6,929,193	\$4,735,739	\$1,770,155
<b>Total Reimbursements, Including Project Costs, Interest &amp; Insurance</b>	<b>\$140,765,134</b>	<b>\$81,454,895</b>	<b>\$42,567,456</b>	<b>\$16,740,904</b>

**EXHIBIT L**

<b>EXHIBIT L</b>		
<b>Reimbursable Cost Categories</b>		
<b>Development Costs</b>	<b>Developer Reimbursable Cost Categories</b>	<b>City Reimbursable Cost Categories</b>
Land	\$769,542	\$0
Land for Blue Pkwy realignment S. of Chipman (\$3m Sight, \$2m Siki/Gilbert)	\$5,000,000	\$0
Demolition - South of Chipman (Sight, Siki & Gilbert)	\$48,242	\$0
Site/Landscape	\$18,941,406	\$0
Blue Parkway (South of Chipman)	\$2,508,753	\$0
Engineering	\$575,595	\$0
Architectural	\$330,395	\$0
Interest Carry	\$1,750,000	\$0
Points	\$378,108	\$0
Legal	\$398,572	\$0
Closing - Loan and Land	\$75,000	\$0
Construction Management	\$234,088	\$0
General Conditions	\$525,000	\$0
Contingency	\$465,081	\$0
<b>Total Project Development Costs</b>	<b>\$31,999,782</b>	<b>\$0</b>
<b>City's Administrative Fee for Documentation of EATS, per Section 19(A)</b>	<b>\$0</b>	<b>\$659,072</b>
<b>City's Administrative Costs and Expenses, per Section 49</b>	<b>\$250,000</b>	<b>\$1,000,000</b>
<b>Estimated Bond Interest Expenses Over Bond Term</b>	<b>\$42,515,920</b>	<b>\$0</b>
<b>Estimated Bond Issuance Expenses</b>	<b>6,939,193</b>	<b>\$0</b>
<b>Total Reimbursement</b>	<b>\$81,704,895</b>	<b>\$1,659,072</b>
Notes:		
(1) Amounts listed in the Developer Reimbursable Cost Categories column may be adjusted in accordance with Section 23(C).		

**EXHIBIT M**

**CID IMPROVEMENTS AND COSTS**

<b>Eligible Service/Improvement</b>	<b>1% Sales Tax</b>	<b>Special Assessment</b>	<b>Total</b>
1. Land	\$2,225,740	\$0	\$2,225,740
2. Site/Landscape	\$3,824,449	\$0	\$3,824,449
3. Land for Ward Road (I-470 to Blue Parkway)			
	\$0	\$751,994	\$751,994
4. Land for Blue Pkwy Realignment N. of Chipman	\$1,857,368	\$0	\$1,857,368
5. Demolition – North of Chipman (Blue Parkway)	\$247,468	\$0	\$247,468
6. Blue Parkway (North of Chipman)	\$8,067,268	\$87,358	\$8,154,626
7. Ward Road & Associated Utility Relocations	\$19,269	\$4,248,006	\$4,267,275
8. Bond Issuance Expenses, Reserve Funds, etc.	\$3,735,759	\$1,170,155	\$4,905,914
9. Interest	\$20,590,116	\$10,483,291	\$31,073,407
10. Common Area Maintenance/Operating Costs	\$0	\$4,250,000	\$4,250,000
11. Security Personnel, Equipment and Facilities	\$0	\$1,000,000	\$1,000,000
12. Other Eligible Expenses	\$0	\$1,000,000	\$1,000,000
13. TIF Shortfall Contingency	\$2,000,000	\$0	\$2,000,000
<b>TOTAL</b>	<b>\$42,567,436</b>	<b>\$22,990,804</b>	<b>\$65,558,239</b>

NOTES:

- (1) The Site/Landscape CID reimbursements are anticipated to fund streetscape, landscape, drainage, water, storm and sewer systems, sidewalks, streets, traffic signals, parking lots, earthwork and other site improvement costs.
- (2) Items 10 and 11 represent annually recurring costs and include the total amount for the first five years.
- (3) CID Revenue shall first be used to pay required minimum annual debt service on any bonds or other obligations issued to fund capital costs (Items 1, 2, 3, 4, 5, 6, 7, 8 and 9 and any part of 12 considered a capital cost). Non-capital costs (Items 10, 11 and any non-capital component of 12) shall be funded from any excess CID revenue not pledged to pay the required minimum annual debt service on the bonds or other obligations.
- (4) The total combined costs for Items 1, 2, 3, 4, 5, 6 and 7 shall not exceed \$19,865,751.
- (5) Notwithstanding Note (4), the TIF Shortfall Contingency (Item 13) may be used to fund any TIF Reimbursable Project Costs identified in the Lee's Summit East TIF Plan provided that the total principal amount of any bonds or other obligations issued to fund TIF Reimbursable Project Costs are less than \$31,999,782, plus all related bond-financing costs, reserves, capitalized interest, etc.
- (6) None of the costs in Items 10 and 11 will be payable from bond proceeds.