



Note: At 6:30 p.m., executive session will be held regarding attorney-client matters pursuant to RSMo 610.021(1), real estate pursuant to RSMo 610.021(2), documents related to negotiated contract matters pursuant to RSMo 610.021(12) and personnel matters pursuant to RSMo 610.021(13).

BOARD OF ALDERMEN
Special Meeting Agenda
CITY OF PARKVILLE, MISSOURI
Tuesday, April 23, 2019 7:00 p.m.
City Hall Boardroom

Next numbers: Bill No. 3040 / Ord. No. 2993

1. CALL TO ORDER

2. CITIZEN INPUT

3. CONSENT AGENDA

4. ACTION AGENDA

- A. Approve the second reading of an ordinance to approve a redevelopment agreement with Parkville Development 38, LLC; Parkville Development 50, LLC; Parkville Development 70, LLC; Parkville Development 140, LLC; and Parkville Development VVI, LLC for Redevelopment Project Areas A through N of the Creekside Tax Increment Financing Plan (Community Development) (*postponed from the April 16, 2019, meeting*)

5. STAFF UPDATES ON ACTIVITIES

6. MAYOR, BOARD OF ALDERMEN & COMMITTEE REPORTS & MISCELLANEOUS ITEMS

7. ADJOURN

CITY OF PARKVILLE Policy Report

DATE: Thursday, April 18, 2019

PREPARED BY:
Stephen Lachky
Community Development Director

REVIEWED BY:
Rick McConnell
Special Counsel

ISSUE:

Approve the second reading of an ordinance to approve a redevelopment agreement with Parkville Development 38, LLC; Parkville Development 50, LLC; Parkville Development 70, LLC; Parkville Development 140, LLC; and Parkville Development VVI, LLC (for convenience these entities are referred to as the “Developer” in this Policy Report) for Redevelopment Project Areas A through N of the Creekside Tax Increment Financing Plan.

BACKGROUND:

In late summer / early fall of 2018, the applicant submitted applications for preliminary development plan for a multi-phased project known as “Creekside” along the I-435 and Highway 45 corridor (see Attachments 15-25 by reference). The Board of Aldermen approved preliminary development plans for the southeast and northwest quadrants on November 6, 2018, and for the southwest quadrant on December 18, 2018 (see Attachments 36-46 by reference). The Creekside proposal includes the following preliminary development plans:

- The Meadows At Creekside – a planned residential development consisting of 101 single-family homes, 96 townhome units and 216 apartment units on the southeast quadrant of the interchange (43.24 acres, more or less).
- Old Town At Creekside – a planned commercial development consisting of 13 lots for six restaurants, two mixed-use retail buildings with 100 apartment units, one café, one grocery/market, one hotel and one bank on the southeast quadrant of the interchange (38.12 acres, more or less).
- The Woods At Creekside & Creekside Village – a planned residential development consisting of 118 single-family homes and 176 townhome units in 44 buildings on the northwest quadrant of the interchange (34.65 acres, more or less).
- Creekside Commons – a planned commercial development consisting of 10 lots for three hotels, two restaurants, one quick-serve restaurant, one gas station, one pharmacy/medical office, one mixed-use retail building with 50 apartment units and six tournament quality youth baseball & softball fields on the northwest quadrant of the interchange (82.75 acres, more or less).
- Creekside Industrial – A planned industrial development consisting of 29 pad sites for office/service and industrial uses on the southwest quadrant of the interchange (49.01 acres, more or less).

On December 27, 2018, an Application for Tax Increment Financing (TIF) was submitted to the City (see Attachment 1 by reference) along with the Creekside TIF Plan (see Attachment 2 by reference). The plan proposes constructing the Creekside preliminary development plans listed above by establishing 14 separate Redevelopment Project Areas (titled A through N) totaling 124 acres, more or less. Estimated total project costs for all five of the Creekside preliminary development plans are approximately \$335 million, and the Creekside TIF Plan seeks approximately \$52 million in reimbursable project costs through TIF assistance and other mechanisms (see Attachment 2, Exhibit 4 by reference). The Creekside TIF Plan anticipates

that construction of the Redevelopment Project Areas will commence in 2019 and is expected to have its phases completed by 2025.

On February 26, 2019, a public hearing was held at the meeting of the Parkville TIF Commission, where the Commission recommended approval of Resolution No. TIF19-01 by a vote of 7-4 (see Attachment 7 by reference). On March 19, 2019 the Board of Aldermen approved the first reading of an ordinance approving the Creekside TIF Plan, Projects, and Redevelopment Area, making specific findings, and designating the developer for Projects A through N. Additionally, that evening the Board of Aldermen approved the first reading of ordinances to approve Redevelopment Project Areas A, B, C, D, E, F, G, H, I, J, K, L, M, and N of the Creekside TIF Plan as redevelopment projects and to adopt tax increment financing therein. The second reading of an ordinance to approve the Creekside TIF Plan was approved by the Board of Aldermen on April 2, 2019.

Because the ordinance for the Creekside TIF Plan was approved, as part of the approval process it is necessary for the City and developer to negotiate and approve a redevelopment agreement. The redevelopment agreement ("Contract"; see Attachment 2) serves as a contract between the City and the Developer, and binds the Developer to a number of terms and conditions associated with Redevelopment Project Areas A through N, including:

- Definitions of Terms and Project Improvements
Sections 3 through 8 of the Contract provide for the definition of terms and a description of the Redevelopment Area, Redevelopment Project Areas and Redevelopment Schedule. The Redevelopment Area is divided into 14 Redevelopment Project Areas. Section 6 requires the redevelopment of the Redevelopment Area with the improvements listed in Exhibit D to the Contract. The Redevelopment Schedule is set forth in Exhibit F to the Contract. Section 8 deals with construction of Public Improvements, including a police substation, in some detail, including requirements for design approval, insurance, performance and maintenance bonds and similar issues.
- Design Standards
Sections 9 and 10 of the Contract deal with design criteria, review procedures and control of project improvements. Section 11 sets forth a process and procedure for certification of final completion of improvements. Section 12 deals with property acquisition and relocation, as needed.
- Project Financing Issues
Sections 14 and 15 give an overview of the financing plan and sources of funds. The Developer is to construct both private and public improvements with private funds. Reimbursement will come from TIF Revenues and other project revenues, which includes special assessments and sales taxes from two CID's, sales taxes from one TDD, 75% of the City's general sales tax imposed on hotel rooms and 75% of the City's Tourism Guest Room Tax generated in the Redevelopment Area. Proceeds of the latter tax are to be used for promoting tourism. For this project, this is accomplished by using the funds to assist in the construction of competitive youth baseball fields and related infrastructure and common areas. Section 15.F includes a finding by the Board of Aldermen that the use of the room tax for these purposes promotes tourism because the fields will attract visitors to the City, provide enhanced recreational opportunities and increase the utilization of other local businesses. Section 15 also covers the anticipated use of Chapter 100 incentives to provide real property tax abatement and exemption of sales tax on construction materials for various portions of the Project.

ITEM 4A

For 04-23-19

Special Board of Aldermen Meeting

- Conditions Precedent to Duties of Parties
These are listed in Sections 17 and 18 of the Contract, respectively, and are consistent with other provisions of the Contract with respect to certain milestones to be achieved as conditions of the obligations of each party under the Contract.
- TIF Revenues and Reimbursement of Project Costs
Sections 18 through 22 of the Contract address the capture of TIF revenues and the process for reimbursement of project costs. Sections 18 and 19 provide for the capture of the increased property taxes from the redevelopment in the form of payments in lieu of taxes and one-half of the increase in sales taxes in the form of economic activity taxes as set forth in the TIF Act. Section 21 provides an order of reimbursement for various costs. First and second are reimbursement to taxing districts in accordance with various statutory provisions and previously described surplus distributions of PILOTs. Contingent on the City approving a CID amendment for one of the CID's to impose a \$2/occupied room night in hotels special assessments, the City is reimbursed for certain County sales tax amounts which would be received by the City if the TIF were not approved, and for payment of the purchase price for certain land (Tract I) in the project, and an alternative provision if the hotel special assessment CID amendment is not approved. Next is the payment to the City of up to \$300,000/year from CID special assessments, then reimbursement to the Developer, and finally reimbursement to the City for any costs it incurs related to construction of the police substation. Section 22 provides considerable detail on the manner for certifying reimbursable project costs, including interest expense of the Developer. Various tests apply, but the maximum reimbursable rate is set at Prime plus 3.0%.
- Maximum TIF Reimbursement Reduction
Section 26 provides that in the event that the formula described in the Contract produces an internal rate of return to the Developer in excess of 14%, reduction in the amount of Developer reimbursement is warranted. This provision is similar in operation to the one contained most recent TIF agreement approved by the City.
- Tenant Approvals and Prohibitions
Section 27 of the Contract includes provisions regarding tenant approvals and use restrictions in the Redevelopment Project Area. It provides that if a retail establishment relocates in one year from one facility to another within the City and the City finds that the relocation is a direct beneficiary of TIF, the base for determining EATs will be based on sales at the establishment in the year prior to relocation. In addition, this section requires that the Developer use commercially reasonable efforts to maximize the number of sales tax generating businesses within the Redevelopment Area.
- Sale of Property and Assignment of Developer's Obligations
Sections 28, 29 and 32-35 of the Contract address the sale of property in the Redevelopment Area by the Developer and assignment by the Developer of its various rights and obligations in the Contract. In general terms, the Developer may transfer property for development and borrowing purposes without City consent. The Developer may also assign various rights with notice to the City as provided in Sections 33 and 34. Section 35 covers transfers of interest in the development entities.

- Standard TIF Contract Obligations
The remainder of the Contract primarily deals with generally standard contract obligations of a developer on TIF projects (e.g., progress reports, compliance with applicable laws, indemnity, recording of the document, etc.).

BUDGET IMPACT:

With the exception of application and permit fees collected, there is no immediate budget impact. Long-term impacts would be realized from changes in property taxes and sales taxes collected from the site and proposed development and impacts to the same for area properties and other businesses as detailed in Exhibit 6 of the Creekside TIF Plan (see Attachment 2, Exhibit 6 by reference) and the independent Cost-Benefit Analysis prepared by Springsted Incorporated (see Attachment 4 by reference).

ALTERNATIVES:

1. Adopt an ordinance to approve the redevelopment agreement contract with the Developer for Redevelopment Project Areas A through N of the Creekside Tax Increment Financing Plan.
2. Adopt an ordinance to approve the redevelopment agreement contract, subject to other stated conditions.
3. Deny the ordinance and redevelopment agreement.
4. Postpone the item.

PUBLIC COMMENTS:

The Community Development Department did not receive any public comments prior to the public hearing at the TIF Commission meeting on February 26, 2019. A summary of discussion, comments from the TIF Commission and public comments provided at the public hearing are included in Attachment 6 by reference. Additional comments and discussion provided at the March 19, 2019 meeting of the Board of Aldermen can be viewed online at: <https://vimeo.com/325349168>.

TIF COMMISSION RECOMMENDATION:

On February 26, 2019, the Parkville TIF Commission convened to consider the Application for TIF and Creekside TIF Plan. At the conclusion of their meeting the TIF Commission, by a vote of 7-4, approved Resolution No. TIF19-01 recommending that the Board of Aldermen approve the Creekside TIF Plan, Projects and Redevelopment Area; make specific findings; and designate Parkville Development 38, LLC, as the developer for Projects A through E, Parkville Development 140, LLC, as the developer for Projects F through L, and Parkville Development 50, LLC and Parkville Development VVI, LLC, as the developer for Projects M and N included in the Plan (see Attachment 7 by reference).

STAFF RECOMMENDATION:

Staff recommends approval of the redevelopment agreement contract with the Developer for Redevelopment Project Areas A through N of the Creekside Tax Increment Financing Plan.

SUGGESTED MOTION:

I move to approve Bill No. 3040, an ordinance approving the redevelopment agreement with Parkville Development 38, LLC; Parkville Development 50, LLC; Parkville Development 70, LLC; Parkville Development 140, LLC; and Parkville Development VVI, LLC for Redevelopment Project Areas A through N of the Creekside Tax Increment Financing Plan, on second reading to become Ordinance No. ____.

ATTACHMENTS:

1. Ordinance
2. Tax Increment Financing Contract between the City of Parkville, Missouri and Parkville Development 38, LLC; Parkville Development 50, LLC; Parkville Development 70, LLC; Parkville Development 140, LLC; and Parkville Development VVI, LLC for Redevelopment Project Areas A through N of the Creekside Tax Increment Financing Redevelopment Plan
 - a. Exhibit A – Legal Description of Redevelopment Area
 - b. Exhibit B – Legal Description of Redevelopment Project Areas
 - c. Exhibit C – Map of the Redevelopment Project Area and Preliminary Site Plans
 - d. Exhibit D – Private Project Improvements
 - e. Exhibit E – Public Project Improvements
 - f. Exhibit F – Redevelopment Schedule
 - g. Exhibit G – Land Use Approvals
 - h. Exhibit H – Reimbursable Project Cost Budget
 - i. Exhibit I - Pro Forma With Public Incentives

ADDITIONAL EXHIBITS BY REFERENCE:*

1. Application for Tax Increment Financing (Case No. TIF18-01; submitted December 27, 2018 by Brian Mertz, applicant)
2. Creekside Tax Increment Financing Plan, Parkville, Missouri (prepared by Rouse Frets White Goss Gentile Rhodes, P.C. on behalf of Parkville Development 38, LLC; Parkville Development 50, LLC; Parkville Development 140, LLC; Parkville Development VVI, LLC; filed January 25, 2018; amended February 20, 2019)
3. But-For Determination Report (prepared by Springsted Incorporated; dated February 19, 2019)
4. Cost-Benefit Analysis of Creekside Project (prepared by Springsted Incorporated; dated March 6, 2019)
5. Comparison table of approved Tax Increment Financing projects in Parkville, Mo.
6. Public Comments from the February 26, 2019 meeting of the TIF Commission
7. Resolution No. TIF19-01 (dated February 26, 2019)
8. Parkville Master Plan (<http://parkvillemo.gov/departments/community-development-department/master-plan/>)
9. Ordinance No. 1874 – An ordinance providing for the extension of the city limits by embracing and including unincorporated real property located in Platte County lying west of the present city limits line of the City (annex Thousand Oaks).
10. Resolution No. 09-04-15 – A Resolution of Intent to use Economic Development Incentives to promote appropriate development in the Brush Creek Drainage and Brink Meyer Road Neighborhood Improvement Districts
11. 45-day notice of the TIF Commission public hearing to taxing jurisdictions mailed via certified mail (dated January 10, 2019)
12. Newspaper publication notice of the TIF Commission public hearing (published in The Landmark newspaper on January 30, 2019)
13. Notice of the TIF Commission public hearing mailed via certified mail to property owners (dated February 15, 2019)
14. Newspaper publication notice of the TIF Commission public hearing (published in The Landmark newspaper on February 20, 2019)
15. Case No. PZ18-15A – The Meadows At Creekside – Preliminary Development Plan
16. Case No. PZ18-15B – The Meadows At Creekside – Conditional Use Permit
17. Case No. PZ18-16A – Old Town At Creekside - Zoning Map Amendment
18. Case No. PZ18-16B – Old Town At Creekside - Preliminary Development Plan
19. Case No. PZ18-17A – The Woods At Creekside - Zoning Map Amendment
20. Case No. PZ18-17B – The Woods At Creekside - Preliminary Development Plan
21. Case No. PZ18-17C – The Woods At Creekside - Conditional Use Permit

ITEM 4A

For 04-23-19

Special Board of Aldermen Meeting

22. Case No. PZ18-17E – Creekside Commons - Zoning Map Amendment
23. Case No. PZ18-17F – Creekside Commons - Preliminary Development Plan
24. Case No. PZ18-18A – Creekside Industrial – Zoning Map Amendment
25. Case No. PZ 18-18B – Creekside Industrial – Preliminary Development Plan
26. Staff analysis, exhibits and comments presented at the September 11, 2018 Planning and Zoning Commission public hearing (<https://vimeo.com/289405189>; <https://vimeo.com/289404155>; <https://vimeo.com/289404863>)
27. Staff analysis, exhibits and comments presented at the October 9, 2018 Planning and Zoning Commission public hearing (<https://vimeo.com/294291017>; <https://vimeo.com/294291196>; <https://vimeo.com/294292249>; <https://vimeo.com/294293144>)
28. Staff analysis, exhibits and comments presented at the October 10, 2018 Planning and Zoning Commission public hearing (<https://vimeo.com/294490853>; <https://vimeo.com/294491598>)
29. Staff analysis, exhibits and comments presented at the October 30, 2018 Board of Aldermen meeting (<https://vimeo.com/298093890>)
30. Staff analysis, exhibits and comments presented at the November 6, 2018 Board of Aldermen meeting (<https://vimeo.com/299350151>)
31. Staff analysis, exhibits and comments presented at the November 13, 2018 Planning and Zoning Commission public hearing (<https://vimeo.com/300632492>)
32. Staff analysis, exhibits and comments presented at the December 4, 2018 Board of Aldermen meeting (<https://vimeo.com/307077571>)
33. Staff analysis, exhibits and comments presented at the December 18, 2018 Board of Aldermen meeting (<https://vimeo.com/307572001>)
34. Staff analysis, exhibits and comments presented at the February 26, 2019 Tax Increment Financing (TIF) Commission public hearing (<https://vimeo.com/320071000>)
35. Staff analysis, exhibits and comments presented at the March 19, 2019 Board of Aldermen meeting (<https://vimeo.com/325349168>)
36. Ordinance No. 2966 – Approving a preliminary development plan for The Meadows at Creekside, a planned residential development consisting of single-family homes, townhomes and apartments on approximately 43.42 acres, generally located at the southeast quadrant of the intersection of I-435 and Highway 45 along Brink-Myer Road
37. Ordinance No. 2967 – Approving a conditional use permit to allow townhome uses, multi-family apartment uses and a police substation, in conjunction with The Meadows at Creekside, a planned residential development consisting of single-family homes, townhomes and apartments on approximately 43.42 acres, generally located at the southeast quadrant of the intersection of I-435 and Missouri Highway 45 along Brink-Myer Road
38. Ordinance No. 2968 – Rezoning one parcel containing approximately 38.12 acres located on the southeast quadrant of the intersection of I-435 and Highway 45 along Brink-Myer Road, from Platte County “PI” Planned Industrial to Parkville City “B-2-P” General Business District
39. Ordinance No. 2969 – Approving a preliminary development plan for Old Town at Creekside, a planned commercial development consisting of retail, mixed-use, restaurant and other commercial uses on approximately 38.12 acres, generally located on the southeast quadrant of the intersection of I-435 and Highway 45 along Brink-Myer Road
40. Ordinance No. 2970 – Rezoning a portion of one parcel of land (approximately 60.4 acres of total approximate 128.77 acres), generally located on the northwest quadrant of the intersection of I-435 and Highway 45, from Platte County “R-7” Single-Family High Density District, Platte County “RMD” Residential Multiple Dwelling District and Platte County “RE” Rural Estates District to Parkville City “R-4-P” Mixed-Density Residential
41. Ordinance No. 2971 – Approving a preliminary development plan for The Woods at Creekside & Creekside Village, a planned residential development consisting of single-

ITEM 4A

For 04-23-19

Special Board of Aldermen Meeting

- family homes and townhomes on 34.65 acres and 25.74 acres respectively; generally located on the northwest quadrant of the intersection of I-435 and Highway 45
42. Ordinance No. 2972 – Approving a conditional use permit for The Woods at Creekside & Creekside Village, a planned residential development consisting of single-family homes and townhomes on 34.65 acres and 25.74 acres respectively, generally located on the northwest quadrant of the intersection of I-435 and Highway 45
 43. Ordinance No. 2973 – Rezoning three parcels of land (totaling 11.60 acres) and a portion of one parcel of land (82.75 acres, of the total 128.77 acres), generally located at the northwest quadrant of the intersection of I-435 and MO- Highway 45 from Platte County “R-7” Single-Family High Density District, Platte County “RMD” Residential Multiple Dwelling District, Platte County “RE” Rural Estates District and Platte County “CH” Commercial Highway District to Parkville City “B-2-P” General Business District
 44. Ordinance No. 2974 – Approving a preliminary development plan for Creekside Commons, a planned commercial development consisting of hotel, restaurant, gas station, pharmacy/medical office, general retail, outdoor recreation and cemetery uses on approximately 82.75 acres, generally located on the northwest quadrant of the intersection of I-435 and Highway 45
 45. Ordinance No. 2979 – Rezoning six parcels of land, approximately 49.01 acres, generally located on the southwest quadrant of intersection of I-435 and Highway 45 from “BP” Business Park District to “I-2-P” Light Industrial District
 46. Ordinance No. 2980 – Approving a preliminary development plan for Creekside Industrial, a planned industrial development consisting of pad sites for office/service and industrial uses on approximately 48.99 acres, generally located on the southwest quadrant of the intersection of I-435 and Highway 45

*Printed copies of referenced materials may be provided on request. Original materials are available for viewing at Parkville City Hall.

AN ORDINANCE APPROVING A TAX INCREMENT FINANCING AND ECONOMIC DEVELOPMENT CONTRACT WITH PARKVILLE DEVELOPMENT 38, LLC; PARKVILLE DEVELOPMENT 50, LLC; PARKVILLE DEVELOPMENT 70, LLC; PARKVILLE DEVELOPMENT 140, LLC AND PARKVILLE DEVELOPMENT VVI, LLC FOR IMPLEMENTATION OF THE CREEKSIDE TAX INCREMENT FINANCING REDEVELOPMENT PLAN

WHEREAS, on April 2, 2019, the Board of Aldermen of the City of Parkville, Missouri (the "City") adopted an ordinance (the "Plan Approval Ordinance") approving the Creekside Tax Increment Financing Plan (the "Plan") pursuant to the provisions of the Real Property Tax Increment Allocation Act, Sections 99.800 to 99.865, RSMo (the "Act"); and

WHEREAS, the Plan Approval Ordinance included a condition requiring the execution of a Tax Increment Financing & Economic Development Contract between the City and Parkville Development 38, LLC; Parkville Development 50, LLC; Parkville Development 140, LLC; and Parkville Development VVI, LLC (collectively, and together with Parkville 70, LLC, the "Developer") approved by the Board of Aldermen by ordinance, upon the terms and conditions as agreed upon by the parties to carry out the goals and objectives of the Plan; and

WHEREAS, the City and Developer have reached agreement on the terms of a redevelopment agreement that serves as a contract between the City and Developer and binding the Developer to a number of terms and conditions associated with the Plan.

BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF PARKVILLE, MISSOURI AS FOLLOWS:

Section 1. That the Tax Increment Financing and Economic Development contract between the City of Parkville and the Developer, in substantially the form attached hereto as Exhibit A, is hereby approved and adopted.

Section 2. This ordinance shall be in full force and effect from and after its passage by the Board of Aldermen and approval by the Mayor according to law.

Section 3. This ordinance is effective upon its passage and approval.

PASSED and APPROVED this 23rd day of April 2019.

Mayor Nanette K. Johnston

ATTESTED:

City Clerk Melissa McChesney

**TAX INCREMENT FINANCING
& ECONOMIC DEVELOPMENT
CONTRACT**

between

CITY OF PARKVILLE, MISSOURI

and

**PARKVILLE DEVELOPMENT 38, LLC;
PARKVILLE DEVELOPMENT 50, LLC;
PARKVILLE DEVELOPMENT 70, LLC;
PARKVILLE DEVELOPMENT 140, LLC;
PARKVILLE DEVELOPMENT VVI, LLC**

for implementation of the

**CREEKSIDE
TAX INCREMENT FINANCING REDEVELOPMENT PLAN**

April ____, 2019

Table of Contents

1.	Recitals and Exhibits.....	1
2.	Rules of Interpretation	2
3.	Definitions.....	2
4.	Redevelopment Area.....	10
5.	Redevelopment Project Area	10
6.	Project Improvements	10
7.	Redevelopment Schedule.....	11
8.	Design and Construction of Public Project Improvements.....	11
9.	Design Criteria and Review Procedures for Private Project Improvements.....	17
10.	Control of Project.....	18
11.	Certificate of Completion and Compliance	19
12.	Acquisition of Property and Relocation of Business	20
13.	Actions Contesting the Plan.....	23
14.	Financing Plan	23
15.	Funding Sources and Uses of Funds.....	24
16.	Conditions Precedent to Developer’s Duties	29
17.	Conditions Precedent to City’s Duties.....	29
18.	Payments in Lieu of Taxes.....	30
19.	Economic Activity Taxes.....	31
20.	Creekside Incentive Fund	32
21.	Disbursements from Creekside Incentive Fund.....	32
22.	Reimbursable Project Cost Certification	34
23.	Payment of Project Costs - “As Collected” Basis.....	36
24.	Cost Overruns	37
25.	Full Assessment of Redevelopment Project Area.....	38
26.	Maximum TIF Reimbursement Reduction	38
27.	Tenant Approvals and Prohibitions	39
28.	Lease of Project Property.....	39

29.	Sale or Disposition of Project Property	40
30.	Progress Reports	41
31.	Compliance with Laws	42
32.	Assignment of Developer’s Obligations	42
33.	Assignment of Payments.....	43
34.	Collateral Assignment of Contract.....	43
35.	Transfer of Interests in Developer – City Approval	43
36.	Indemnification	43
37.	Breach-Compliance.....	45
38.	Excusable Delays	46
39.	Notice	47
40.	Modification.....	47
41.	Effective Date	48
42.	Recording.....	48
43.	Applicable Law	48
44.	Covenant Running With the Land	48
45.	Relocation Costs	48
46.	Administrative Costs and Expenses.....	48
47.	Validity and Severability	49
48.	Time and Performance are of the Essence	50
49.	City’s Legislative Powers	50
50.	Good Faith; Consent or Approval.....	50

Exhibits

- A Legal Description of Redevelopment Area
- B Legal Description of Redevelopment Project Areas
- C Map of the Redevelopment Project Area and Preliminary Site Plans
- D Private Project Improvements
- E Public Project Improvements
- F Redevelopment Schedule
- G Land Use Approvals
- H Reimbursable Project Cost Budget
- I Pro Forma With Public Incentives

TAX INCREMENT FINANCING CONTRACT

THIS TAX INCREMENT FINANCING & ECONOMIC DEVELOPMENT CONTRACT (the “**Contract**”) is made and entered into as of the ____ day of _____, 2019 (the “**Effective Date**”), by and between the City of Parkville, Missouri, (“**City**”), and Parkville Development 38, LLC; Parkville Development 50, LLC; Parkville Development 70, LLC; Parkville Development 140, LLC; and Parkville Development VVI, LLC, each a Missouri limited liability corporation (collectively the “**Developer**”) and selected by the City to implement its plan of redevelopment more fully described herein.

Recitals.

A. The Tax Increment Financing Commission of Parkville, Missouri (the “**Commission**”) on February, 26, 2019, recommended that the City approve the Creekside Tax Increment Financing Plan (the “**Redevelopment Plan**”) for the 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 phased construction of multiple blighted properties, presented as fourteen (14) separate Redevelopment Project Areas and designated as Redevelopment Projects A through N in Parkville, Missouri which consists of the improvements (the “**Project Improvements**”) described in **Section 6** herein.

C. By Ordinance No. 2988, adopted by the City’s Board of Aldermen (the “**Board of Aldermen**”) on April 2, 2019, the City approved the Redevelopment Plan, determined that the Redevelopment Area is a Blighted Area and that it met the other requirements of the Act, and selected Developer to implement Redevelopment Projects A through N of the Redevelopment Plan.

D. By Ordinance No.____, adopted by the **Board of Aldermen** on April 23, 2019, the City approved this Contract.

E. The Redevelopment Plan is part of a larger economic development plan that includes the programs identified in Section 15 of this Contract and each of which is a necessary component to the achievement of the redevelopment objectives identified in the Creekside Tax Increment Financing Redevelopment Plan.

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

1. Recitals and Exhibits. The representations, covenants, and recitations set forth in the foregoing recitals are material to this Contract and are hereby incorporated into and made a part of this Contract as though they were fully set forth in this **Section 1**. The provisions of the Plan, the Plan Ordinance, and the provisions of the TIF Act as amended as of and including the date of this Contract, form the basis of this Contract and may be used to resolve ambiguity. In the

event of any conflict between the provisions of this Contract and any other documents related to the Plan previously prepared or executed, the provisions of this Contract shall control.

2. Rules of Interpretation. 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 40** 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.

E. All exhibits identified as Exhibit A through Exhibit I attached hereto and identified herein are incorporated by reference.

F. The provisions of the Plan, a copy of which is on file with the office of the City Clerk of the City, the Plan Ordinance, such ordinances adopted by the Board of Aldermen which designate the Redevelopment Project Areas, and the provisions of the TIF Act as amended as of and including the date of this Contract, are all hereby incorporated herein by reference and made a part of this Contract.

3. 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 to words and terms defined elsewhere in this Contract, the following words and terms shall have the meanings ascribed to them in this **Section 3** unless the context in which such words and terms are used clearly requires otherwise.

“Act,” the Real Property Tax Increment Allocation Redevelopment Act, Section 99.800, et seq., RSMo, as amended.

“Activation Date,” shall mean, with respect to any Redevelopment Project Area, or portion thereof if subdivided, the effective date of the Redevelopment Project Ordinance.

“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.

“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.

“Board of Aldermen,” the governing body of Parkville, Missouri.

“Chapter 100 Industrial Development Plan,” means the Master Plan for the Industrial Development Projects for the Creekside Development submitted by the Developer to the City.

“CID,” means the Creekside Community Improvement District, which will be organized by the Developer with the approval of the City pursuant to the CID Act.

“CID Act,” the Community Improvement District Act, Sections 67.1401 to 67.1471 RSMo, as amended.

“CID Costs,” those Redevelopment Project Costs identified in **Exhibit H**, along with the other costs specified in **Section 15.B** hereof, which may be reimbursed or funded from CID Revenue.

“CID Improvements,” the improvements within the Redevelopment Project Area which are eligible to be paid for or reimbursed with CID Revenue.

“CID Revenue,” all funds derived from the CID Sales Tax, the Hotel Special Assessments, the CID Special Assessment, and any interest earned thereon that are not captured as Economic Activity Taxes.

“CID Sales Tax,” means a one percent (1%) sales tax on sales levied by the CID within a defined area pursuant to the CID Act.

“CID Sales Tax Account,” the separate segregated account within the Creekside Incentive Fund into which the CID Sales Tax is deposited and controlled pursuant to the intergovernmental agreement between the CID and the City (“CID Contract”).

“CID Special Assessment,” means the special assessment imposed on certain real properties by the Meadows at Creekside CID pursuant to the CID Act located outside the Redevelopment Area but are part of the overall economic development plan.

“CID Special Assessment Account,” the separate segregated account within the Creekside Incentive Fund into which the CID Special Assessment is deposited and controlled pursuant to the intergovernmental agreement between the Meadows at Creekside CID and the City (“Meadows CID Contract”).

“City,” the City of Parkville, Missouri.

“City Administrator,” the City Administrator of Parkville, Missouri.

“City Engineer,” the City Engineer of Parkville, Missouri.

“City Capital Cost Payment,” an annual payment of \$45.70 per each \$50 of County transportation sales taxes captured as Economic Activity Taxes from the Creekside Incentive Fund to the City for capital costs resulting from the Redevelopment Project necessarily incurred or to be incurred in furtherance of the objectives of the Redevelopment Plan for so long as the County transportation sales tax and distribution formula regarding TIF districts is in effect and applied to the City’s distribution of the County transportation sales tax proceeds.

“City Treasurer,” the Finance Director of Parkville, Missouri.

“Commission,” the Tax Increment Financing Commission of Parkville, Missouri;

“Competitive Youth Ballfields,” means the youth baseball and softball fields and related improvements located outside of the Redevelopment Project Area.

“County,” Platte County, Missouri.

“County Assessor,” the assessor of Platte County, Missouri.

“County Collector,” the collector of Platte County, Missouri.

“Creekside Incentive Fund,” shall mean the fund established by the City for the deposit of funds pursuant to this Contract. The Creekside Incentive Fund shall contain at least one fund consisting of two separate accounts and six additional separate segregated ledger accounts: a “Special Allocation Fund” established pursuant to the Act, which includes the Payment in Lieu of Taxes Account and the Economic Activity Taxes Account; the CID Sales Tax Account; TDD Sales Tax Account; CID Special Assessment Account; Hotel Special Assessment Account; Hotel Sales Tax Account and the Tourism Guest Room Tax Account.

“Debt Service,” the amount required for the payment of interest and principle on the Obligations and/or Private Loans 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 and/or Private Loans.

“Developer,” Parkville Development 38, LLC; Parkville Development 50, LLC; Parkville Development 70, LLC; Parkville Development 140, LLC; Parkville Development VVI, LLC; its successors and assigns.

“Developer Controlled Improvements,” the Project Improvements owned or controlled by Developer or owned or controlled by its Affiliates and authorized transferees, successors and assigns pursuant to the provisions of **Section 29**.

“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 the Redevelopment Project Area, over the amount of such taxes generated by economic activities within the respective Redevelopment Project Area in the calendar year prior to the adoption of the Ordinance designating the respective Redevelopment Project Area, while Tax Increment Financing remains in effect as provided for in the Act, but excluding those taxes, licenses, fees, or special assessments identified in Section 99.845.3 of the Act, personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to Section 70.500, RSMo, and taxes levied for the purpose of public transportation pursuant to Section 94.660, until the designation is terminated pursuant to Subsection 2 of Section 99.850 of the Act.

“Economic Activity Taxes Account,” the separate segregated account within the Special Allocation Fund that is created within the Creekside Incentive Fund into which the Economic Activity Taxes are to be deposited.

“Financing Costs,” shall mean all necessary and incidental expenses related to any loans or other obligations obtained by the Developer, the City or other issuer, the CID, the Meadows at Creekside CID, or the TDD for the purpose of funding the Reimbursable Project Costs, all costs reasonably incurred in furtherance of the issuance of Private Loans or Obligations, including but not limited to interest, loan fees, points not exceeding two percent (2%) of the principal amount of the loan, loan origination fees not to exceed three percent (3%) of the principal amount of the loan, and interest payable to banks or similar financing institutions that are in the business of loaning money, plus reasonable fees and expenses of the Developer’s or City’s attorneys and consultants, the Developer’s or City’s administrative fees and expenses, underwriters’ discounts and fees, the costs of printing any Obligations and any official statements relating thereto, the costs of credit enhancement, if any, capitalized interest, debt service reserves and the fees of any rating agency rating any Obligations. Payment of financing costs shall be calculated pursuant to the provisions of **Section 22.C**.

“Hotel Sales Tax Account,” the separate segregated account within the Creekside Incentive Fund into which the Hotel Sales Tax Rebates are to be deposited.

“Hotel Sales Tax Rebate,” means seventy-five percent (75%) of the City’s portion of the general retail sales tax imposed on the economic activities associated with hotel operations within

the Redevelopment Area that is not captured as Economic Activity Taxes by tax increment financing.

“Hotel Special Assessment,” means a Two Dollar (\$2.00) charge per night on all occupied hotel rooms within the CID boundary.

“Hotel Special Assessment Account,” the separate segregated account within the Creekside Incentive Fund into which the Hotel Special Assessment is deposited.

“Land Use Approvals,” those approvals required pursuant to City’s zoning and subdivision regulations, including past approvals listed on **Exhibit G**, which are required for the construction of the Redevelopment Project.

“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 Parkville, Missouri, such as zoning ordinances, subdivision ordinances, building codes, property maintenance codes, and City’s adopted Public Works engineering standards and requirements; provided, however, unless otherwise provided herein Developer shall have the right to contest, in any manner provided by law and at its sole expense, the applicability or validity of any Legal Requirement.

“Meadows at Creekside CID,” means the Meadows at Creekside Community Improvement District, which will be organized by the Developer with the approval of the City pursuant to the CID Act.

“MHTC,” the Missouri Highways and Transportation Commission.

“MoDOT,” the Missouri Department of Transportation.

“Ordinance,” an ordinance enacted by the Board of Aldermen.

“Payment in Lieu of Taxes,” or “PILOTs,” those estimated revenues from real property in the Redevelopment Project Area, which revenues according to the Redevelopment Project or Plan are to be used to pay Reimbursable Project Costs, which Taxing Districts would have received had the City not adopted Tax Increment Financing as provided for in the Act, and which would result from levies made after the time of the adoption of Tax Increment Financing during the time the current equalized value of real property in the Redevelopment Project Area exceeds the Total Initial Equalized Value of real property in such area until the designation is terminated pursuant to subsection 2 of Section 99.850 of the Act, which shall not be later than twenty three (23) years after the Redevelopment Project and Redevelopment Project Area is approved by an Ordinance of the Board of Aldermen; provided that payments in lieu of taxes shall be subject to the provisions

of Section 99.845.1(3) of the Act, as amended, regarding the blind pension fund tax and the merchants' and manufacturers' inventory replacement tax and Section 99.845.15 of the Act regarding property tax levied under Section 205.971 RSMo. Payments in Lieu of Taxes which are due and owing shall constitute a lien against the real estate in the Redevelopment Project Area from which they are derived, the lien of which may be foreclosed in the same manner as a special assessment lien as provided in Section 88.861 RSMo.;

“Payment in Lieu of Taxes Account,” the separate segregated account within the Special Allocation Fund that is created within the Creekside Incentive Fund into which Payments in Lieu of Taxes are to be deposited.

“Police Substation,” means a building constructed on land owned by the City located on the east side of Brink-Meyer Road across from the eastern boundary of the Redevelopment Area to be used by the Parkville Police Department.

“Plan Ordinance,” means Ordinance No. 2988, passed by the Board of Alderman on April 2, 2019, approving the Plan.

“Private Loans,” private loans obtained by the Developer, or its successors, assigns or transferees, from third party private lending institutions to fund Reimbursable Project Costs. Financing Costs, as defined herein, relating to Private Loans, including interest thereon shall be a Reimbursable Project Cost.

“Private Project Improvements,” shall mean the improvements described in **Exhibit D**.

“Project Improvements,” shall mean, collectively, the Private Project Improvements described in **Exhibit D** and the Public Project Improvements and **Exhibit E**.

“Public Project Improvements,” shall mean the improvements described in **Exhibit E**.

“Redevelopment Area,” shall mean the boundary area legally described as **Exhibit A** attached hereto.

“Redevelopment Plan,” or “Plan” means the Creekside Tax Increment Financing Plan approved by the Board of Aldermen by Ordinance No. 2988 on April 2, 2019, and any amendments thereto.

“Redevelopment Project,” any development project located within the Redevelopment Area that is designated as such by Ordinance and is intended to further the objectives of the Redevelopment Plan and that is approved pursuant to the Act;

“Redevelopment Project Areas,” as referenced in this Contract, means Redevelopment Project Areas A through N, which may be further subdivided as provided in **Section 5A** and as legally described in **Exhibit B** and depicted on **Exhibit C**;

“Redevelopment Project Cost Budget,” the budget setting forth the Redevelopment Project Costs, and identifying those Redevelopment Project Costs to be funded or reimbursed in accordance with this Contract, attached hereto as **Exhibit H** and incorporated herein by reference.

“Redevelopment Project Costs,” includes the sum total of all reasonable or necessary costs incurred or estimated to be incurred in connection with the Redevelopment Plan and Redevelopment Project. Such costs generally include the following (with the estimated Redevelopment Project Costs for the Redevelopment Project set forth in **Exhibit H**):

- (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 Redevelopment Project;
- (3) Property assembly costs, including but not limited to, acquisition of land and other property, real or personal, or rights or interests therein, including demolition of buildings and the clearing, grading, and filling of land;
- (4) Costs of construction, rehabilitation and/or repair or remodeling of existing buildings and fixtures or any other public or private improvements including construction of adequate stormwater facilities, mitigating environmental impacts, and the costs of design, engineering, and construction of such improvements;
- (5) Cost of construction of public works or improvements including the cost of landscaping, parking lots, sidewalks, walking trails, retaining walls, and access drives;
- (6) Costs of utility installation, relocation, and service provision;
- (7) Financing Costs, including all necessary and incidental expenses related to Private Loans to finance all or any portion of the Reimbursable Project Costs incurred or estimated to be incurred, but not limited to interest, loan fees, capitalized interest, financial advisor fees, legal fees, broker fees or discounts, original purchaser’s discount, printing and other costs related to such financing paid by the Developer or an affiliate of the Developer;
- (8) All or a portion of a Taxing District’s capital cost resulting from the Redevelopment Project necessarily incurred or to be incurred in furtherance of the objectives of the Redevelopment Plan, to the extent the City, by written agreement, accepts and approves such costs;
- (9) Relocation costs to the extent that the City determines that relocation costs shall be paid or are required to be paid by federal or state law; and

(10) Payments in Lieu of Taxes.

“Redevelopment Project Ordinances,” means the Ordinances which are approved by the Board of Alderman and activate Tax Increment Financing with respect to a Redevelopment Project Area or portion of a Redevelopment Project Area that has been subdivided pursuant to **Section 5A**.

“Reimbursable Project Costs,” the portion of Redevelopment Project Costs, which pursuant to the Redevelopment Plan and this Contract are eligible for payment or reimbursement from: (i) Payments in Lieu of Taxes, (ii) Economic Activity Taxes, (iii) Tourism Guest Room Tax, (iv) Hotel Sales Tax Rebate, (v) CID Revenue or (vi) TDD Revenue, as shown on **Exhibit H** and further described in **Section 22** in this Contract.

“Tax Increment Financing,” tax increment allocation financing as provided pursuant to the Act.

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

“TDD,” means a Transportation Development District to be formed pursuant to the TDD Act and in accordance with this Contract, with boundaries that include the boundaries of the Redevelopment Area.

“TDD Act,” the Transportation Development District Act, Sections 238.200 to 238.275 RSMo, as amended.

“TDD Costs,” means those redevelopment Project Costs identified in **Exhibit H**, along with the other costs specified in **Section 15.D** hereof, which may be reimbursed or funded from TDD Revenue.

“TDD Improvements,” means the improvements within the Redevelopment Project Area which are eligible to be paid for or reimbursed with TDD Revenue.

“TDD Revenue,” all funds derived from TDD Sales Tax revenue and any interest earned thereon that are not captured as Economic Activity Taxes.

“TDD Sales Tax,” up to a one percent (1%) sales tax imposed by a TDD on sales within the boundary of the TDD in accordance with the TDD Act.

“TDD Sales Tax Account,” the separate segregated account within the Creekside Incentive Fund into which the TDD Sales Tax is to be deposited and controlled pursuant to the intergovernmental agreement between the TDD and the City (“TDD Contract”).

“TIF Revenue,” Payments in Lieu of Taxes, Economic Activity Taxes, and all interest earned on funds deposited in the Payments in Lieu of Taxes Account and the Economic Activity Taxes Account.

“Total Initial Equalized Assessed Value,” that amount certified by the County Assessor as the total equalize assessed value of all taxable real property within a Redevelopment Project Area, as may be subdivided, determined by adding together the most recently ascertained equalized assessed value of each taxable lot, block, tract or parcel of real property within such Redevelopment Project Area immediately after the Ordinance approving such Redevelopment Project Area has been approved by the Board of Aldermen.

“Tourism Guest Room Tax,” means the tax imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels levied pursuant to Section 70.500, RSMo within the Redevelopment Area.

“Tourism Guest Room Tax Account,” the separate segregated account within the Creekside Incentive Fund into which the Tourism Guest Room Tax is to be deposited.

“Tourism Guest Room Tax Rebate,” means seventy-five percent (75%) of the City’s portion of the Tourism Guest Room Tax that is not captured as Economic Activity Taxes by tax increment financing.

4. Redevelopment Area. The Redevelopment Area is the area legally described on **Exhibit A** attached hereto.

5. Redevelopment Project Areas. The Redevelopment Project Areas consist of fourteen (14) areas of land connected by Highway 45 right-of-way as depicted in **Exhibit C** and identified as Redevelopment Projects Areas A through N, in accordance with the provisions of the Redevelopment Plan.

A. Subdividing Redevelopment Project Areas. Redevelopment Project Areas may be subdivided upon the request of the Developer subject to the consent of the City provided that such subdivision is allowed by the TIF Act. Any request to subdivide a Redevelopment Project Area that is not consented to by the City because it is not in compliance with the TIF Act shall proceed as a TIF plan amendment pursuant to the TIF Act.

B. Designation of Redevelopment Project Area. Tax Increment Financing with respect to the Redevelopment Project shall be approved by Ordinances of the Board of Aldermen (the “**Redevelopment Project Ordinances**”).

6. 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 redevelopment area under the Act, Developer shall cause the Redevelopment Project Area to be redeveloped through the construction of the Project Improvements. The Project Improvements consist of: (A) the Private Project Improvements described in **Exhibit D** attached

hereto and incorporated herein by reference, (the “**Private Project Improvements**”); and (B) the Public Project Improvements described in **Exhibit E** attached hereto and incorporated herein by reference (the “**Public Project Improvements**”). Except as otherwise provided in this Contract, the Developer shall construct or cause the construction of the Private Project Improvements and Public Project Improvements (the Private Project Improvements and Public Project Improvements as sometimes collectively referred to as the “Project Improvements”).

7. Redevelopment Schedule.

A. It is the intention of the parties that development activities for the Redevelopment Project be substantially commenced and completed on or before the estimated dates set forth on **Exhibit F**, as may be reasonably amended from time to time, attached hereto and incorporated herein by reference (the “**Redevelopment Schedule**”). Developer shall construct all Private Project Improvements and all Public Project Improvements, and shall complete all other development-related activities including, but not necessarily limited to land acquisition, 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 statutorily mandated Redevelopment Plan amendment shall be made by agreement of the parties hereto. The parties hereto recognize and agree that market, including tenant/user demand, and other conditions may affect the Redevelopment Schedule. Therefore, the Redevelopment Schedule is subject to change and/or modification, with the written approval of the City Administrator, which shall not be unreasonably conditioned, delayed, or withheld.

B. 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 Redevelopment Schedule and the provisions of this Contract. In order to implement the Redevelopment Schedule, City will endeavor to facilitate the timely passage of the Redevelopment Project Ordinances referred to in **Section 5.B.** hereof. Developer shall render such reasonable aid and assistance as requested by City to insure favorable consideration of the Redevelopment Project Ordinances by the Board of Aldermen. City shall endeavor to expedite the approval of the 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 Board of Aldermen of its legislative authority. If as a result of solely the Developer’s failure to timely complete its obligations under this Contract and provided that the City has fulfilled all of the terms of this Contract and provided that the delay has not been caused by an event not otherwise in control of the Developer, City may require Developer to appear before the Board of Aldermen to show cause why this Contract and the Redevelopment Plan or Redevelopment Project shall not be terminated in accordance with **Section 37** hereof.

8. Design and Construction of Public Project Improvements.

Developer's Duties. Developer shall cause all the Public Project Improvements to be designed and constructed as follows:

A. Public Project Improvements. The Public Project Improvements shall be constructed in accordance with all Legal Requirements and such Developer Public Project Plans (as defined in **Section 8.E.** below) as are approved by City in writing. Developer, with the assistance of City as requested, shall obtain all approvals and permits required by any other entities or governmental departments for the Public Project Improvements prior to the commencement of any construction for any Public Project Improvements. City agrees to cooperate in good faith to facilitate approval of the design, engineering and construction of the Public Project Improvements requiring approval by any other governmental entities or governmental departments.

B. Police Substation. The Developer, after meeting with the City and reviewing the City's construction and design specifications, shall provide the City with a good faith estimate of the total cost to construct the Police Substation (the "**Developer's Estimate**"). The Developer's share of the cost to construct the Police Substation shall be an amount not to exceed One Hundred Thousand Dollars and Zero/100 (\$100,000.00) (the "**Developer's Cost Share**"). The City's share of the cost to construct the Police Substation shall be the amount by which the actual construction costs exceed the Developer's Cost Share (the "**City's Cost Share**"). If the City elects to proceed, then the City and Developer shall enter into a construction contract to build the Police Substation in accordance with the terms and provisions of this **Section 8.** Construction of the Police Substation shall not commence until the Developer acquires the Phase II land pursuant to the agreement between the City and Parkville Development 70, LLC dated March 5, 2019, (the "**Purchase Agreement**") or upon the earlier election of the Developer and the City. Once the Developer commences construction, the Developer shall submit cost information to the City identifying the amount of actual construction costs incurred to build the Police Substation in a manner consistent with Reimbursable Project Cost Certifications in **Section 22.** When the cumulative amount of actual construction costs exceeds Developer's Cost Share, the City shall reimburse Developer the City's Cost Share for those amounts identified on the certified Reimbursement Request within thirty (30) days following City's certification of such request. 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. In lieu of the foregoing and in the Developer's sole discretion, Developer may pay the sum of One Hundred Thousand Dollars and Zero/100 (\$100,000.00) to the City in satisfaction of Developer's obligation herein payable no later than the date that construction of the Police Substation would have commenced but for Developer's election to make a lump sum payment.

C. 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. 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, and such approval shall not be unreasonably withheld. 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 shall be approved administratively without action by the Board of Alderman to approve

such changes, unless a statutorily mandated Redevelopment Plan amendment is required. The provisions of this **Section 8.C.** and the schedule for the Public Project Improvements are subject to the provisions of **Section 8.D.**

D. Design Phase. To the extent that the Developer has not received prior approvals identified on **Exhibit G** relating to the preliminary design of a Public Project Improvement, Developer shall meet with City staff regarding the preliminary design of the Public Project Improvements to be constructed by Developer pursuant to this Contract 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:

(1) 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**”).

(2) 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.

(3) 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.

The City shall use its best efforts to review Developer’s submittals within two (2) weeks of the date of submission and shall either accept Developer Public Project Plans as submitted or provide Developer with a detailed list of specific objections the City has to said submittals.

E. Right of way Acquisition.

(1) It is the Developer’s intent to purchase or acquire all land necessary to complete the Redevelopment Project. As necessary, 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. Developer shall prepare the documents necessary for acquisition of right of way or easements; provided, however, that such documents shall be subject to the review and approval of the Public Works Department.

(2) In the event Developer is unable, after good faith negotiations, to acquire some or all of the right of way or easements necessary for the Public Project Improvements (the “**Necessary Right of Way**”) due to existing title issues or other encumbrances affecting the property, the Developer shall deliver to City a written request (the “**Developer Request**”) for City to acquire any of the Necessary Right of Way.

F. Utility Relocation. Developer shall, in good faith, use reasonable efforts to cause the applicable utility companies to relocate, at the utility company's expense, any existing utilities that are required to be relocated as part of the construction of the Project Improvements. If, after using reasonable efforts, the Developer is unable to cause the utility companies to relocate existing utilities at the utility company's expense, then Developer agrees that the costs associated with relocating any existing utilities as a result of construction of the Project Improvements, which are not paid by a utility company, shall be paid by Developer; such costs shall be a Reimbursable Project Cost regardless of whether such costs are included on **Exhibit H** attached hereto.

G. Off-Site Improvements and Utilities. The parties agree that no additional off-site improvements or utility work outside the boundaries of the Redevelopment Area other than the Public Project Improvements identified in **Exhibit E** will be required of Developer.

H. 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.

I. Insurance. The Developer shall comply with the insurance requirements set forth in this subsection unless the Developer requests approval of commercially reasonable substitute insurance requirements, and the City approves such request in writing, which approval shall not be unreasonably withheld.

(1) 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 conveyed to MoDOT, as applicable, Developer shall obtain and keep in force, or cause the Developer's general contractor to obtain and keep in force, the following insurance and Developer shall file with City a certificate of insurance evidencing such insurance:

(i) Commercial General Liability: Commercial general liability insurance written on an occurrence basis including personal injury, bodily injury, broad form property damage, operations hazard, owner's protective coverage, contractual liability (with a cross liability clause), and products and completed operations liability, in limits not to exceed \$1,000,000 inclusive per occurrence and \$1,000,000 annual aggregate.

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

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

(iv) 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.

(2) Notwithstanding the foregoing policy amounts, the policies in effect shall provide coverage in an amount not less than the maximum amount of liability as published annually by the Department of Insurance in the Missouri Register, in accordance with Section 537.610 RSMo which is made applicable to political subdivisions pursuant to Section 537.600, RSMo.

(3) Endorsements. 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 canceled or not renewed without thirty (30) days advance written notice (or ten (10) days advance notice if for nonpayment) of such event being given to City.

(4) Use of Contractors and Subcontractors. Developer shall require any contractor to obtain or cause to be obtained all insurance required under this Subsection prior to commencement or continuation of work. Said insurance shall be maintained in full force and effect until Final Completion as set forth in **Section 10.E** herein.

(5) Workers' Compensation. Developer shall require all contractors performing work for Developer to obtain and maintain Workers' Compensation Insurance for all employees, Developer shall require all contractors to require 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 to obtain and maintain such insurance. Developer further waives, and shall cause all contractors performing work for Developer to waive, its rights to subrogation with respect to any claim against the City for injury arising out of performance under this Contract. Developer shall cause all contractors to ensure that all subcontractors performing work for Developer waive, their rights to subrogation with respect to any claim against City for injury arising out of performance under this Contract. 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 until Final Completion.

(6) Bonds; Assignment of Warranty. Developer shall provide, or cause to be provided, or cause its contractor to provide the following bonds and assignment of warranty for the Public Project Improvements and all other public infrastructure improvements that are constructed by Developer and dedicated to City. Developer shall comply with MoDOT requirements for bonds regarding work performed in MoDOT right of way.

(i) Performance Bond and Payment Bond. Prior to commencement of construction and ending upon the completion of construction of the Public Project Improvements and acceptance of such Public Project Improvements by the City in accordance with adopted City engineering standards and requirements, Developer shall maintain or cause to be maintained or cause its contractor to maintain a performance and payment bond in a form as approved by the City Engineer, in an amount equal to the cost of the Public Projects Improvements covered by such bond, as reasonably 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.

(ii) Assignment of Contractor's Warranty. Prior to acceptance and dedication of the Public Projects Improvements, Developer shall assign, in a form reasonably approved by the City Attorney, general contractor's warranty for the Public Projects Improvements, which warranty shall be in effect for a term of one (1) year from the date of Final Completion as defined in Subsection (i) above for such Public Projects Improvements.

(iii) Maintenance Bond. Prior to acceptance and dedication of the Public Projects Improvements by the City, Developer shall provide or cause to be provided or cause its contractor to provide a maintenance bond, for a term of two (2) years as required by the City's adopted regulations for public works projects.

(iv) 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.

J. City Inspector. City shall cause a qualified and authorized inspector to be present at reasonable times during the construction of the Public Project Improvements to facilitate the resolution of construction decisions arising in the field.

K. Dedication. Upon completion, inspection and approval of the Public Project Improvements by the City or MoDOT, as applicable, Developer will dedicate the Public Project Improvements to the City or MoDOT, as applicable, for its use, operation and maintenance; provided, that in no event shall operation or maintenance of detention basins or retention basins

become the responsibility of the City. City shall be under no obligation to accept the dedication or conveyance of any Public Project Improvement constructed pursuant to this Contract until it has been inspected and approved to the reasonable satisfaction of City. Upon written notice of the inspection and approval of the City's Director of Public Works, or of MoDOT, as applicable, Developer agrees to convey all the Public Project Improvements to the City or MoDOT, as applicable, free and clear of all liens and encumbrances or other obligations other than typical utility easements. Said conveyance shall be by appropriate document, and shall be sufficient, in the reasonable opinion of the City Attorney, to convey marketable title of record.

9. Design Criteria and Review Procedures for Private Project Improvements.

A. The Developer shall comply with and/or follow controls and design criteria in the Land Use Approvals relating to exterior improvements that defines and visually represents the exterior finishes and signage allowed for individual tenants, street furniture, lighting and other similar features to be used throughout the development (hereinafter the “**Design Criteria**”).

B. The construction plans, site plans and building elevations for the Project Improvements shall conform to the Redevelopment Plan, Land Use Approvals, Final Site Development Plan, and this Contract. To ensure that the 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) No Project Improvements shall be commenced or made unless and until, where applicable, all the construction plans therefore, in the detail herein required, or any changes thereto, shall have been submitted to and approved in writing by the City or the City staff, which approval shall not be unreasonably withheld, all in accordance with the Redevelopment Plan and Land Use Approvals. The City shall use its best efforts to review Developer’s submittals within two (2) weeks of the date of submission and shall either accept Project Improvements as submitted or provide Developer with a detailed list of specific objections the City as to said submittals.

(2) The City shall have the absolute right at any time, in its sole judgment and discretion, to approve a variance from conformance to, or a waiver of compliance with, the approved controls and design criteria 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. Notwithstanding anything contained herein to the contrary, non-substantial changes and variations to the construction plans may be approved by the City administratively.

(3) Subsequent to commencement of the Project Improvements and until said Project Improvements have been completed, Developer shall provide a report to the City describing the progress of Developer in construction in accordance with **Section 30**. During such period the work of Developer shall be subject to inspection by representatives of City as described in **Section 8.J**. hereof and as required by Legal Requirements.

(4) In no event shall the review and approval by the City of construction plans or changes, or any information submitted in connection therewith, be deemed or construed to be a determination that the same are in compliance with any laws, regulations or ordinances, nor shall review and approval relieve the Developer of any liability or responsibility in connection with such compliance.

10. Control of Project.

A. Construction. Except as otherwise provided in this Contract, Developer shall have complete and exclusive control over construction of the Developer Controlled Improvements, subject, however, to all Legal Requirements. As to all parts of the Redevelopment Project, during the period they are owned or controlled by Developer, or its assigns, Developer, or its assigns, hereby grants to City, its agents and employees the right to enter subject, however, to (1) the rights of tenants or purchasers, which are not Affiliates of the Developer and (2) all applicable safety procedures and requirements of Developer or its contractor(s). The City, its agents or employees seeking access to the Redevelopment Area shall provide notice to Developer of not less than two (2) Business Days prior to entering the Redevelopment Area so that the Developer can coordinate such entry with its project manager.

B. Dedication of Right of Way. Developer shall dedicate all necessary rights-of-way for Public Project Improvements at no cost to the City according to the terms of **Section 8.K** above.

C. Vacation of Right of Way by City. Implementation of the Redevelopment Plan may require the vacation of any existing rights of way and easements by City. In order to allow Developer to maintain the Redevelopment Schedule, City will endeavor to facilitate the timely passage of ordinances which will vacate City-owned rights of way.

D. Certificates of Substantial Completion and Occupancy. The City shall issue a certificate of substantial completion at such time that the Public Project Improvements are sufficiently complete in accordance with the applicable construction specifications so that the Public Project Improvements are functional and can be utilized for their intended use (herein "**Substantial Completion**"); provided that, the City has received all required approvals, licenses, and other documents from any other governmental authority having jurisdiction over the Public Project Improvements. The City shall not be obligated to issue any occupancy certificates for structures within the Redevelopment Project Area unless the Developer is in compliance with its obligations regarding the Public Project Improvements pursuant to this Contract.

Developer shall send City not less than twenty (20) days' advance notice of Substantial Completion of the Public Project Improvements. City shall provide Developer with a detailed written notice of the reasons for objection to the Substantial Completion of the Public Project Improvements within such twenty (20) day period. In the event no objections are received by Developer, Substantial Completion shall be deemed to have occurred on the date of Substantial Completion set forth in the Developer's notice provided as set forth above. In the event objections are made by the City, Developer shall proceed to correct the deficiency in accordance with the Public Project Plans and the foregoing procedure shall be repeated until the deficiency is corrected

and the City approves the Substantial Completion in accordance with the foregoing procedure. Upon request of Developer, City shall provide verification in writing of Substantial Completion. Subject to compliance with this Section, Developer may request and obtain a certificate of substantial completion for a portion or subset of Public Project Improvements such as grading, parking lots and drives, utilities, CID specific improvements, or Public Project Improvements located within the Redevelopment Project Area.

E. Final Completion. Developer shall send City not less than twenty (20) days' advance notice of Final Completion. City shall provide Developer with a detailed written notice of the reasons for objection to the Final Completion of the Public Project Improvements within such twenty (20) day period. In the event no objections are received by Developer, Final Completion shall be deemed to have occurred on the date of Final Completion set forth in the Developer's notice provided as set forth above. In the event objections are made by the City within such ten (10) day period, Developer shall proceed to correct the deficiency in accordance with the Developer Public Project Plans and the foregoing procedure shall be repeated until the deficiency is corrected and the City approves the Final Completion in accordance with the foregoing procedure. Upon request of Developer, City shall provide verification in writing of Final Completion

F. Maintenance and Repair. Developer, at its sole cost and expense, at all times shall (1) maintain and operate Developer Controlled Improvements, but not City or State owned Public Project Improvements, like other similarly situated commercial developments, (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.

Unless Developer has agreed to fulfill such obligations, Developer shall use its best efforts to contractually obligate any tenant, purchaser, transferee, developer, manager, contractor or subcontractor (“User”) to comply with the provisions of this **Section 10.F.** for its respective portion of the Private Project Improvements. Developer shall enforce the provisions of this **Section 10. F.** in a commercially reasonable manner (which shall not require Developer to litigate). Developer hereby agrees that every lease, sales contract or other contract regarding the Redevelopment Project Area entered into following the Effective Date of this Contract shall indicate the responsibility of the Developer or User to fulfill **Section 10. F.** Developer shall use commercially reasonable efforts to enforce such contract rights (which shall not require Developer to litigate).

11. Certificate of Completion and Compliance.

A. Upon the completion of construction of the Redevelopment Project, Developer shall submit a report certifying that the Project Improvements contained therein have been completed in accordance with the Redevelopment Plan and that it is in material compliance with all other provisions of this Contract. Developer shall, as part of its report, submit its certificate setting forth on an aggregate basis and to Developer’s knowledge, a reasonable estimate of (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 are eligible for reimbursement on an as collected basis; and (3) the actual private equity and debt used to complete the Project Improvements.

B. City may conduct an investigation, and if City determines that the Redevelopment Project or any portion thereof has been completed in material accordance with the Redevelopment Plan, as evidenced by a Certificate of Substantial Completion 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 Project or any portion thereof which is the subject of an investigation or review under this **Section 11.B.** have not been completed in material accordance with the Redevelopment Plan, or that Redevelopment Project Costs have not been incurred as certified, or that Developer is not in material 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 (a) in the event of any subsequent default by Developer in the performance of any of its other obligations under this Contract, or (b) if the noncompliance was not reasonably discoverable at the time of issuance of the certificate.

(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 Platte County, Missouri.

C. The City shall respond within ten (10) days to all requests by Developer for the issuance of a certificate or hearing under this **Section 11.C.** City shall provide Developer with a detailed written notice of the reasons for objection to the Substantial Completion of the Public Project Improvements within such ten (10) day period. In the event no objections are received by Developer, Substantial Completion shall be deemed to have occurred on the date of Substantial Completion set forth in the Developer's notice provided as set forth above. In the event objections are made by the City, Developer shall proceed to correct the deficiency in accordance with the Developer Public Project Plans and the foregoing procedure shall be repeated until the deficiency is corrected and the City approves the Substantial Completion in accordance with the foregoing procedure. Upon request of Developer, City shall provide verification in writing of Substantial Completion

12. Acquisition of Property and Relocation of Businesses.

A. Developer to Use Good Faith Efforts to Acquire the Property by Negotiation. Developer shall use good faith and commercially reasonable efforts to acquire a fee

simple interest in all of the real property, including Necessary Right of Way, located within the Redevelopment Area (the Redevelopment Area being referred to herein as the "Property") by negotiated purchase, donation, option, easement or lease. The Developer shall obtain all title commitments, inspections, tests, surveys and reports, hire and retain all experts, professionals, including attorneys or engineers, and staff, and advance all Acquisition Costs, as provided in this Contract, as necessary to acquire the Property. The Developer shall have the right to encumber its interest in the Property concurrent with acquisition of the Property and payment of Acquisition Costs. All of the Property acquired by the Developer, subject to **Section 29** hereof, shall be held in the name of the Developer or an Affiliate and shall be subject to the terms, conditions and covenants contained herein and in the Plan immediately upon acquisition and prior to any encumbrances placed thereon.

B. Tract I Purchase Option. As part of the consideration exchanged by the parties to this Contract, the sufficiency of which is hereby affirmed, the City grants Developer the exclusive option ("Tract I Purchase Option") to purchase all land owned by the City within Redevelopment Project Areas M and N exclusive of any rights of way ("Tract I"). The City shall record a memorandum of the Tract I Purchase Option with the Platte County Recorder of Deeds Office. The Tract I Purchase Option shall be granted upon the execution of this Contract and shall continue for an initial term ending December 31, 2025, as will be extended annually unless Developer fails to take any action required as provided in **Section 12.B.(2)**, until either (i) the Tract I Purchase Option is exercised, or (ii) the Tract I Purchase Option lapses, whichever occurs first.

(1) Exercise of Option. Developer shall have the right, but not the obligation, to exercise the Tract I Purchase Option by delivering written notice of such exercise to the City together with the exercise price of Ten Dollars (\$10.00). Upon exercise, the Developer and the City shall enter into a purchase and sale agreement which shall contain terms consistent with this Contract ("Tract I Purchase Agreement"). The Tract I Purchase Agreement shall set the purchase price for Tract I equal to One Million Six Hundred Thousand Dollars (\$1,600,000.00) less the cumulative amount the City received pursuant to **Sections 12.B.(2)** (but not including amounts in excess of \$100,000 in any year) and **Section 21.E.** and **Section 21.F.** ("Tract I Purchase Price"), payable as hereinafter set forth. The City shall execute a special warranty deed conveying title to Tract I and shall take a second secured lien position behind all third-party mortgage lenders. The Tract I Purchase Price shall continue to be paid annually solely from available sources within the Creekside Incentive Fund pursuant to **Section 21.E.** and **Section 21.F.** Notwithstanding the foregoing, the Developer shall be deemed to have exercised the Tract I Purchase Option once the City receives a cumulative amount equal to One Million Six Hundred Thousand pursuant to **Section 12.B.(2)** (but not including amounts in excess of \$100,000 in any year) and **Section 21.E** and **Section 21.F** at which time the City shall execute a special warranty deed conveying title to Tract I to Developer.

(2) Lapse of Option.

i. If the City approves the amendment to the CID petition imposing the Hotel Special Assessment and if the City receives less than One Hundred Thousand Dollars (\$100,000.00) within a calendar year beginning January 1, 2022

and ending December 31, 2025 pursuant to **Section 21.E.** and **Section 21.F.**, then the City shall send written notice to Developer (“Shortfall Notice”) and identify the amount of money the City actually received pursuant to **Section 21.E.** and **Section 21.F.** The Developer shall have sixty (60) days to pay to the City the difference between One Hundred Thousand Dollars (\$100,000.00) and the amount identified in the Shortfall Notice. If the Developer fails to make such payment as specified in this **Section 12.B.(2)(i)** then the Tract I Purchase Option shall lapse. Any amounts paid by Developer pursuant to this subsection shall be deemed Reimbursable Project Costs.

ii. If the City approves the amendment to the CID petition imposing the Hotel Special Assessment and if the City receives less than One Hundred Fifty Thousand Dollars (\$150,000.00) within a calendar year beginning January 1, 2026 pursuant to **Section 21.E., Section 21.F.** and **Section 21.G.**, then the City shall send a Shortfall Notice to Developer and identify the amount of money the City actually received pursuant to **Section 21.E., Section 21.F** and **Section 21.G.** The Developer shall have sixty (60) days to pay to the City the difference between One Hundred Fifty Thousand Dollars (\$150,000.00) and the amount identified in the Shortfall Notice. If the Developer fails to make such payment as specified in this **Section 12.B.(2)(ii)**, then the Tract I Purchase Option shall lapse. Any amounts paid by Developer pursuant to this subsection shall be deemed Reimbursable Project Costs.

iii. If the Tract I Purchase Option lapses, the Developer shall be deemed to have relinquished all development rights related to Tract I granted by the Redevelopment Plan, the Plan Ordinance, any Redevelopment Project Ordinance, this Contract or any other related documents or approvals. Once Developer’s rights have been relinquished pursuant to this Section 12.B.(2), Developer’s obligations as to Tract I shall likewise be released and Developer shall have no further duties and obligations as it relates to Tract I.

C. Right of Way. If the City refuses to attempt to acquire the Necessary Right-of-Way, or the City, after using good faith efforts, shall fail to acquire any Necessary Right of Way within twenty-four (24) months of the Developer Request (the "**Outside Acquisition Date**"), then upon the earlier of (i) Developer being informed that City will not attempt to acquire the Necessary Right-Of-Way or (ii) the Outside Acquisition Date, City and Developer shall reasonably and in good faith cooperate and develop alternative plans and designs which can be built within the then existing rights of way and easements, and prepare, for City consideration and approval, such amendments to the Public Improvement schedule, the Redevelopment Schedule, this Contract, and the Plan as may be necessary as a result of the alternative plans and designs, and any resulting delays in Developer's construction of the Project Improvements shall not be deemed a default by Developer under the terms of this Contract.

D. Relocation. The Developer shall relocate those occupants or businesses displaced from any portion of the Property acquired by the Developer in accordance with the Relocation Plan, except insofar as otherwise agreed in writing by such displaced occupant or business and approved in writing by the Developer; it being understood and agreed that any

displaced occupant or business may waive his/her/their rights to statutory and other relocation benefits under the Relocation Plan or otherwise. The City and Developer acknowledge and agree that at the time of the City's adoption of the Plan Ordinance and the Effective Date hereof, there were no occupants or businesses located within the Redevelopment Area.

13. Actions Contesting the Plan. At any time during the effective period of this Contract, if a third party brings an action (or raises a defense to an action filed by the City) against the City or the City's officials, agents, employees or representatives contesting the validity or legality of the Redevelopment Area, the Redevelopment Projects, singularly or collectively, the Plan, the Plan Ordinance and the findings therein, any Ordinance approving the Redevelopment Projects, the Obligations, or the Ordinance approving this Contract, the Developer shall assume the defense of such claim or action with counsel jointly determined by the Developer and the City, which shall include, but not necessarily be limited to, the City Attorney and the City's special counsel for economic development matters, and pay the costs and attorney's fees of such counsel. The Developer may not settle or compromise any claim or action for which the Developer has assumed the defense without the prior approval of the City. However, if the City does not approve a settlement or compromise which the Developer would agree to, the Developer shall not be responsible for any costs or expenses incurred thereafter in the defense of such claim or action. The Parties expressly agree that so long as no conflicts of interest exist between them with regard to the handling of such litigation, the same attorney or attorneys may simultaneously represent the City and the Developer in any such proceeding; provided, the Developer and the agreed-to counsel shall consult with the City throughout the course of any such action and the Developer shall pay all reasonable and necessary costs incurred by the City in connection with such action. All cost of any such defense, whether incurred by the City or the Developer, shall be deemed to be Reimbursable Project Costs and reimbursable from any amounts in the Creekside Incentive Fund or from the proceeds of Obligations, and such reimbursable litigation costs shall be in addition to the Reimbursable Project Costs set forth in the Redevelopment Project Cost Budget established in Exhibit H.

14. Financing Plan.

A. It is acknowledged that prior to the execution of this Contract, the Developer submitted (i) the estimated Redevelopment Project Costs and sources of funds which are reflected in Exhibit H, attached hereto, and (ii) evidence of commitments to finance the Redevelopment Project Costs attached as Exhibit 8 to the Plan (collectively referred to as the “**Project Financing**”).

B. The Developer represents and warrants that, to the best of its present knowledge and belief, the Project Financing submitted by the Developer, if timely implemented and funded, will enable the Developer to timely implement or cause to be implemented the Private Project Improvements and Public Project Improvements as required in this Contract and the Redevelopment Schedule and the information and statements contained therein, taken as a whole, are accurate as of the date hereof, in all material respects and complete for the purposes for which used and made and do not fail to state any material facts as necessary in order to make the statements or representations made herein, in light of the circumstances under which they are made, not misleading. The Developer's representation and warranty as set forth herein shall be deemed to be ongoing until termination or expiration of this Contract.

C. The Developer represents and warrants that, to the best of its present knowledge and belief, the Redevelopment Project Costs identified on **Exhibit H**, attached hereto, are costs the Developer intends to incur or cause to be incurred in connection with all development the Developer intends to undertake or cause to be undertaken in connection with the implementation of the Project Improvements pursuant to the Plan and this Contract.

15. Funding Sources and Uses of Funds.

A. Private Funds. Developer shall construct or cause to be constructed the Private Project Improvements and the Public Project Improvements with private funds. Developer shall advance all Private Funds necessary to construct the Private Project Improvements and the Public Project Improvements. 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 (hereinafter the "**Private Funds**").

B. Creekside Community Improvement District.

(1) Capture of CID Sales Tax Revenue as EATs. A portion of the CID Sales Tax will be an Economic Activity Tax. As such, subject to the calculation of Economic Activity Taxes as defined in the Act, approximately fifty percent (50%) of the revenues generated by the CID Sales Tax occurring within the Redevelopment Project Area will be directed to the Economic Activity Taxes Account of the Creekside Incentive Fund and the remaining approximately fifty percent (50%) of the revenues generated by the CID Sales Tax shall be deposited in the CID Sales Tax Account of the Creekside Incentive Fund, subject to annual appropriation by the Board of Directors of the CID. All Redevelopment Project Costs which are included within the definition of "projects" in the CID Act will also be declared as Reimbursable Project Costs.

(2) CID Contract. After the CID has been formed, Developer shall use good faith efforts to cause the CID board of directors to immediately enter into a contract ("**CID Contract**") with City in a form reasonably acceptable to City and the CID with regard to funding of the CID Costs. City and Developer agree that the costs incurred by the CID and certified by City as provided in **Section 22** hereof are Reimbursable Project Costs that may be paid from the Creekside Incentive Fund.

(i) The CID Contract shall include, without limitation, provisions that (1) grant City the right to collect, on behalf of the CID, the CID Revenue, and to collect a fee therefore, not to exceed one percent (1%) of the collected CID Revenue, (2) impose an obligation on the City to accept CID Costs certified by the CID board of directors as incurred by Developer and eligible for funding from CID Revenue, and (3) such other provisions as City and the Developer shall reasonably determine to be necessary.

(ii) The CID Contract may provide, but shall not require, that the CID may, subject to annual appropriation, pledge the non-Economic Activity Taxes portion of the CID Sales Tax to the payment of Reimbursable Project Costs, subject

to the limitations of the CID Act, and less operating and administrative expenses of the CID and any costs reasonably incurred by Developer or City in forming the CID. The parties acknowledge that only a portion of the Reimbursable Project Costs will qualify as CID-eligible expenses. The CID Revenue shall be used to pay for or reimburse the CID Costs and shall be deposited in the CID Sales Tax Account of the Creekside Incentive Fund.

(iii) The CID Contract shall provide for and maintain the CID Sales Tax until all CID-eligible Reimbursable Project Costs are repaid with CID Revenue and/or proceeds from the Creekside Incentive Fund.

(iv) Neither the City, the Developer, nor its successors in the ownership of any parcel within the CID boundary shall (1) contest the imposition of the CID Sales Tax or (2) advocate or support for the early termination or reduction of the rate of the CID Sales Tax. In accordance with **Sections 28 and 29**, Developer shall either (i) include in any instrument in which Developer transfers ownership of any parcel in the Redevelopment Area language whereby the transferee accepts and agrees to comply with the above covenants or (ii) record a document of record against the property Developer owns in the Redevelopment Area binding Developer's successors to comply with the above covenants, which document shall be recorded prior to Developer transferring ownership of any parcel in the Redevelopment Area.

(3) Hotel Special Assessment. Developer shall use good faith efforts to cause the property owners within the CID boundary to amend the CID petition to impose the Hotel Special Assessment. Developer shall also use good faith efforts to cause the CID board of directors to amend the CID Contract to pledge the Hotel Special Assessment to the payment of Reimbursable Project Costs and to make other amendments to the CID Contract consistent with this **Section 15.B**.

C. Meadows at Creekside Community Improvement District.

(1) CID Special Assessments will be directed to the CID Special Assessment Account within the Creekside Incentive Fund. All Redevelopment Project Costs which are included within the definition of "projects" in the CID Act will also be declared as Reimbursable Project Costs.

(2) CID Contract. Developer shall use good faith efforts to cause the Meadows at Creekside CID board of directors to immediately enter into a contract ("**Meadows CID Contract**") with City in a form reasonably acceptable to City and the Meadows at Creekside CID with regard to funding of the CID Costs. City and Developer agree that the costs incurred by the Meadows at Creekside CID and identified as District Projects in the CID Special Assessment Petition shall be paid in accordance with the CID Special Assessment Petition and the CID Act.

(i) The Meadows CID Contract shall include, without limitation, provisions granting City (1) an assignment of the right to collect, on behalf of the Meadows at Creekside CID, the CID Revenue, and (2) such other provisions as City and the Developer shall reasonably determine to be necessary.

(ii) The Meadows CID Contract shall provide for and maintain the CID Special Assessment until all District Project Costs are repaid with CID Revenue and/or proceeds from the Creekside Incentive Fund.

(iii) Neither the City, the Developer, nor its successors in the ownership of any parcel within the Meadows at Creekside CID boundary shall (1) contest the imposition of the CID Special Assessment or (2) advocate or support for the early termination or reduction of the rate of the CID Special Assessment levy. In accordance with **Sections 28 and 29**, Developer shall either (i) include in any instrument in which Developer transfers ownership of any parcel in the Redevelopment Area language whereby the transferee accepts and agrees to comply with the above covenants or (ii) record a document of record against the property Developer owns in the Redevelopment Area binding Developer's successors to comply with the above covenants, which document shall be recorded prior to Developer transferring ownership of any parcel in the Redevelopment Area.

D. Transportation Development District

(1) Capture of TDD Sales Tax Revenue as EATs. The TDD Sales Tax will be an Economic Activity Tax. As such, subject to the calculation of Economic Activity Taxes as defined in the Act, approximately fifty percent (50%) of the revenues generated by the TDD Sales Tax occurring within the Redevelopment Project Area will be directed to the Economic Activity Taxes Account of the Creekside Incentive Fund and the remaining approximately fifty percent (50%) of the revenues generated by the TDD Sales Tax shall be deposited in the TDD Sales Tax Account of the Creekside Incentive Fund, subject to annual appropriation by the Board of Directors of the TDD. All Redevelopment Project Costs which are included within the definition of "projects" in the TDD Act will also be declared as Reimbursable Project Costs.

(2) TDD Contract. After the TDD has been formed, Developer shall use good faith efforts to cause the TDD board of directors to immediately enter into a contract ("**TDD Contract**") with City in a form reasonably acceptable to City and the TDD with regard to funding of the TDD Costs. City and Developer agree that the costs incurred by the TDD and certified by City as provided in **Section 22** hereof are Reimbursable Project Costs that may be paid from the Creekside Incentive Fund.

(i) The TDD Contract shall include, without limitation, provisions that (1) grant City the right to collect, on behalf of the TDD, the TDD Revenue, and to collect a fee therefore, not to exceed one percent (1%) of the collected TDD Revenue, (2) impose an obligation on the City to accept TDD Costs certified by the TDD board of directors as incurred by Developer and eligible for funding from

TDD Revenue, and (3) such other provisions as City and the Developer shall reasonably determine to be necessary.

(ii) The TDD Contract may provide, but shall not require, that the TDD may, subject to annual appropriation, pledge the non-Economic Activity Taxes portion of the TDD Sales Tax revenue to the payment of Reimbursable Project Costs, subject to the limitations of the TDD Act, and less operating and administrative expenses of the TDD and any costs reasonably incurred by Developer or City in forming the TDD. The parties acknowledge that only a portion of the Reimbursable Project Costs will qualify as TDD-eligible expenses. The TDD Revenue shall be used to pay for or reimburse the TDD Costs and shall be deposited in the TDD Sales Tax Account of the Creekside Incentive Fund.

(iii) The TDD Contract shall provide for and maintain the TDD Sales Tax until all TDD-eligible Reimbursable Project Costs are repaid with TDD Revenue and/or proceeds from the Creekside Incentive Fund.

(iv) Neither the City, the Developer, nor its successors in the ownership of any parcel in the TDD shall (1) contest the imposition of the TDD Sales Tax or (2) advocate or support for the early termination or reduction of the rate of the TDD Sales Tax. In accordance with **Sections 28 and 29**, Developer shall either (i) include in any instrument in which Developer transfers ownership of any parcel in the Redevelopment Area language whereby the transferee accepts and agrees to comply with the above covenants or (ii) record a document of record against the property Developer owns in the Redevelopment Area binding Developer's successors to comply with the above covenants, which document shall be recorded prior to Developer transferring ownership of any parcel in the Redevelopment Area.

E. Hotel Sales Tax. Developer, or any third party, may operate hotels within the Redevelopment Project Area. Subject to the provisions hereof, the City shall rebate seventy-five percent (75%) of the City's portion of the general retail sales taxes imposed on the rental of hotel/motel rooms that are not captured as Economic Activity Taxes within the Redevelopment Area for a period of twenty three (23) years after Redevelopment Project Areas containing a hotel are activated by Ordinance of the Board of Alderman. Subject to annual appropriation, the pledged amount shall be deposited into the Creekside Incentive Fund for the purpose of reimbursing the Developer for Reimbursable Project Costs which are determined to be legally eligible for payment from such funds. During this time period, the City shall use its best efforts to cause the officer of the City at any time charged with the responsibility of formulating budget proposals to include in all budget proposals submitted for each budget period in which this Contract is effective a request for an appropriation of the Hotel Sales Tax Rebate collected during such period for application as provided in this Contract. When appropriated, the Hotel Sales Tax Rebate shall be deposited in the Hotel Sales Tax Account of the Creekside Incentive Fund and expended in the same manner as Economic Activity Taxes pursuant to this Contract, subject to the provisions of this paragraph.

F. Tourism Guest Room Tax Rebate. Developer, or any third party, may operate hotels within the Redevelopment Project Area. Because of the direct impact of the

completed Redevelopment Project on the City's efforts to promote tourism, the City has agreed, pursuant to Sec. 160.045, RSMo., subject to annual appropriation, to pledge seventy-five percent (75%) of the revenues generated by the City's Tourism Guest Room Tax within the Redevelopment Area for a period of twenty three (23) years after Redevelopment Project Areas containing a hotel are activated by the Board of Alderman's Ordinances. Subject to annual appropriation, the pledged amount shall be deposited into the Creekside Incentive Fund for the purpose of promoting tourism, which may include but is not limited to reimbursing the Developer for the costs associated with marketing expenses related to the promotion of tourism and costs incurred to develop and construct the Competitive Youth Ballfields and related public infrastructure and publicly accessible common areas. By approval of this Contract, the Board of Aldermen finds that the use of the Tourism Guest Room Tax revenues for such Reimbursable Project Costs are for a public purpose and are specifically for the promotion of tourism due to the capability of the Competitive Youth Ballfields to attract visitors to the City, to provide enhanced recreational opportunities to residents and visitors alike and to increase the provision of and utilization of hotels, restaurants and other commercial businesses in the City by such visitors. During this time period, the City shall use its best efforts to cause the officer of the City at any time charged with the responsibility of formulating budget proposals to include in all budget proposals submitted for each budget period in which this Contract is effective a request for an appropriation of the Tourism Guest Room Tax Rebate collected during such period for application as provided in this Contract. When appropriated, the Tourism Guest Room Tax Rebate shall be deposited in the Tourism Guest Room Tax Account of the Creekside Incentive Fund and expended as described in this **Section 15.E**.

G. Chapter 100 Incentives.

(1) The City will provide certain incentives under Sections 100.010 to 100.200 of the Revised Statutes of Missouri, as amended, and Article VI, Section 27(b) of the Missouri Constitution, as amended (collectively, "Chapter 100") and the Master Plan for Industrial Development Projects for The Creekside Development (the "Chapter 100 Industrial Development Plan"). The Chapter 100 Industrial Development Plan includes three Chapter 100 projects:

(i) A project consisting of the construction of a development intended to contain multiple uses such as hotels, retail space, restaurants, industrial and other commercial uses and associated infrastructure (the "Commercial Project"); and

(ii) A project consisting of the construction of apartment buildings and associated infrastructure to be operated as commercial facilities for rent to various segments of the public as multi-family complexes (the "Apartments Project").

(iii) A project consisting of the construction of the mixed-use buildings expected to contain retail and other commercial uses and multi-family residential uses and associated infrastructure (the "Mixed-Use Retail Project").

(2) The incentives to be provided pursuant to the Chapter 100 Industrial Development Plan include the following (the "Chapter 100 Incentives"):

(i) Provide sales tax exemption on construction materials while maintaining property tax benefits for the Developer similar to what would have been provided in reimbursement under the TIF Plan for the Commercial Project; and

(ii) Provide sales tax exemption on construction materials and an abatement of ad valorem taxes otherwise due for 16 years for the Apartments Project; and

(iii) Provide sales tax exemption on construction materials for the entire Mixed-Use Retail Project and an abatement of ad valorem taxes otherwise due for 23 years for the first floor of the Mixed-Use Retail Project.

(3) No other incentives available pursuant to Chapter 100 will be considered in connection with the Chapter 100 Industrial Development Plan. The provision of Chapter 100 is conditioned on the approval by the Board of Aldermen of the Chapter 100 Industrial Development Plan, the issuance of industrial development bonds (“Chapter 100 Bonds”) to effect the Chapter 100 Industrial Development Plan or portions thereof, and the form and substance of legal documents to be entered into with respect to the issuance of the Chapter 100 Bonds, all of which constitute legislative decisions in the sole discretion of Board of Aldermen. The City anticipates consideration of at least three separate issuances of Chapter 100 Bonds for the Chapter 100 Industrial Development Plan and may, in its discretion, agree to additional issuances of Chapter 100 Bonds, provided that the total amount of Chapter 100 Bonds to be issued shall not exceed the amount stated in the Chapter 100 Industrial Development Plan.

16. Conditions Precedent to Developer’s Duties. Developer’s obligations hereunder are expressly conditioned upon the occurrence of each of the following events:

A. The establishment of the CID, approval and execution of the CID Contract and Meadows CID Contract, and the imposition of the CID Sales Tax by the CID.

B. The establishment of the TDD, approval and execution of the TDD Contract, and the imposition of the TDD Sales Tax by the TDD.

C. The approval of the Chapter 100 Industrial Development Plan.

D. City approval of the Land Use Approvals described in Exhibit G.

E. Developer obtaining the financing for any Redevelopment Project Area substantially in accordance with the terms set forth in **Section 14** for the Project Financing, provided such financing is deemed satisfactory in the sole discretion of Developer to implement the Redevelopment Project.

17. Conditions Precedent to City’s Duties. City’s obligations hereunder are expressly conditioned upon the occurrence of each of the following events:

A. Developer obtaining the financing for any Redevelopment Project Area substantially in accordance with the terms set forth in **Section 14** for the Project Financing, provided such financing is deemed satisfactory in the sole discretion of Developer to implement the Redevelopment Project.

B. City approval of the Land Use Approvals described in **Exhibit G**.

C. Developer's good faith attempts to close on the acquisition of all properties within the Redevelopment Area exclusive of Redevelopment Project Areas M and N, which shall be evidenced by its current land holdings and its execution of the real estate purchase agreement with the City for approximately 70 acres at the southeast corner of Highway 45 and Interstate 435.

D. The establishment of the CID, approval and execution of the CID Contract and Meadows CID Contract, and the imposition of the CID Sales Tax by the CID.

E. The establishment of the TDD, approval and execution of the TDD Contract, and the imposition of the TDD Sales Tax by the TDD.

City and Developer agree to use good faith efforts and cooperate with and assist each other in accomplishing all of the foregoing conditions precedent.

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 for the duration of the Redevelopment Plan (and any renewal periods thereof) 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 the Redevelopment Project Area shall constitute a default by the owner, assignee, and/or tenant of such property (but not the Developer in the event Developer is not the owner of such property) of the provisions of **Section 37** 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 tenant or the owner thereof (but not Developer in the event Developer is not the owner of such property) 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; provided, however, that the failure of any property in the 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 the Redevelopment Project Ordinances, City shall use all reasonable and diligent efforts to promptly notify the County Assessor, County Collector, 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.

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, 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.

D. Upon receipt, the City shall deposit such Payments in Lieu of Taxes in to the Payments in Lieu of Taxes Account within the Special Allocation Fund that is established in the Creekside Incentive Fund.

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, who shall be the City, as hereinafter provided, to the City Treasurer or other designated financial officer of City, who shall deposit such funds in the Economic Activity Taxes Account within the Special Allocation Fund that is established in the Creekside Incentive Fund. Following the approval of the Redevelopment Project, for as long as the Redevelopment Project Area is subject to Tax Increment 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. So long as Developer owns the subject property within the Redevelopment Project Area, Developer shall use commercially reasonable efforts to include the provisions as specified in **Section 28** hereof in all lease documents with tenants located at such subject property within the Redevelopment Project Area requiring said sales tax information to be provided to City. Developer shall use commercially reasonable efforts to include a similar provision in all sales contracts with purchasers of property located in the Redevelopment Project Area requiring said sales tax information to be provided to City. So long as Developer owns the subject property within the Redevelopment Project Area, Developer shall use commercially reasonable efforts to enforce said provisions with respect to such subject property (which shall not require Developer to litigate), and Developer shall use commercially reasonable efforts to provide that each such lease or sales contract 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. City shall comply with all applicable state

laws limiting disclosure of sales tax information related to individual business provided to the City as documentation of Economic Activity Taxes.

B. Certification by City. City, following reasonable research and investigation, using independent consultants, accountants and counsel 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. Upon written request from Developer or Taxing District, City shall provide its certification of Economic Activity Taxes due to the governing body of each such Taxing District.

C. City Sales Tax for Local Parks. Economic Activity Taxes shall not include the City's sales tax for local parks in the amount of one-half (1/2) cent (the "City Parks Tax") because the Board of Aldermen have not consented to the capture of a portion of the City Parks Tax within the Redevelopment Project Areas pursuant to Section 99.845.3 of the TIF Act.

20. Creekside Incentive Fund. The City Treasurer shall establish and maintain the Creekside Incentive Fund. Payments in Lieu of Taxes shall be deposited into the Payment in Lieu of Taxes Account within the Special Allocation Fund created in the Creekside Incentive Fund. Economic Activity Taxes shall be deposited into the Economic Activity Taxes Account within the Special Allocation Fund created in the Creekside Incentive Fund. The CID Sales Taxes, CID Special Assessments, TDD Sales Taxes, Hotel Special Assessment, Hotel Sales Tax Rebate, and Tourism Guest Room Tax Rebate shall each be maintained in separate segregated accounts. All amounts deposited and any interest earned on such deposits will be used in the manner set forth in the Redevelopment Plan and this Contract.

21. Disbursements from Creekside Incentive Fund. Disbursements from the Creekside Incentive Fund will be made in the following manner and order of priority, with application of Economic Activity Taxes, the Hotel Sales Tax Rebate and Tourism Guest Room Tax Rebate being subject to annual appropriation by the Board of Aldermen of the City:

A. Reimbursement to the Southern Platte Fire Protection District and the Southern Platte County Ambulance District pursuant to an annual election made in accordance with Section 99.848 of the Act.

B. Payment of fees and expenses incurred by the City in the administration of the Redevelopment Plan, the Redevelopment Project, and this Contract as detailed in **Section 46.C.**

C. Surplus PILOTs shall be disbursed to the appropriate Taxing Districts in the amount of (i) fifty percent (50%) of the available PILOTs generated from the Activation Date and continuing until eleven years thereafter, then thirty-five percent (35%) of the available PILOTs generated from beginning on the twelfth anniversary of the Activation Date and continuing until the seventeenth anniversary of the Activation Date, then twenty-five percent (25%) of the available PILOTs generated from the beginning of the eighteenth anniversary of the Activation Date and continuing until termination pursuant to **Section 25.**

D. Reimbursement of the City Capital Cost Payment, but only if the City approved the amendment to the CID petition imposing the Hotel Special Assessment.

E. Reimbursement to the City of up to the first One Hundred Thousand Dollars (\$100,000.00) for Tract I land generated annually from PILOTs within Redevelopment Project Areas M and N and payable whether or not the Tract I Purchase Option has lapsed. In no event shall the City receive more than One Million Six Hundred Thousand Dollars (\$1,600,000.00) in total reimbursements pursuant to **Section 12.B.(2)** (but not including amounts in excess of \$100,000 in any year) and this **Section 21.E.** and **Section 21.F** inclusive of the amount of any payments made by any third-party purchaser of land within Tract I. Notwithstanding the foregoing, if the City approves a real property tax abatement or other measure that impairs the amount of PILOTs on Tract I land and Tract I improvements otherwise payable into the Creekside Incentive Fund, the amount of reimbursement to the City pursuant to this **Section 21.E.** shall be reduced dollar for dollar by the amount of the impairment to the Tract I PILOTs as determined by a mutually agreed upon third party expert. The City may offer other incentives that do not impair the Tract I PILOTs without reducing the amount of reimbursement the City is otherwise entitled to pursuant to this Section.

F. If the City approves the amendment to the CID petition imposing the Hotel Special Assessment and beginning in calendar year 2022, reimbursement to the City of One Hundred Thousand Dollars (\$100,000.00) annually payable from available sources within the Creekside Incentive Fund less the amount of any reimbursement paid pursuant to **Section 21.E** until the City has received a cumulative amount equal to One Million Six Hundred Thousand Dollars (\$1,600,000.00) and payable whether or not the Tract I Purchase Option has lapsed. In no event shall the City receive more than One Million Six Hundred Thousand Dollars (\$1,600,000.00) in total reimbursements pursuant to **Section 12.B.(2)** (but not including amounts in excess of \$100,000 in any year) and **Section 21.E.** and this **Section 21.F.** inclusive of the amount of any payments made by any third-party purchaser of land within Tract I . Notwithstanding the foregoing, if the City approves a real property tax abatement or other measure that impairs the amount of PILOTs on Tract I land and Tract I improvements otherwise payable into the Creekside Incentive Fund, the amount of reimbursement to the City pursuant to this **Section 21.F.** shall be reduced dollar for dollar by the amount of the impairment to the Tract I PILOTs as determined by a mutually agreed upon third party expert. The City may offer other incentives that do not impair the Tract I PILOTs without reducing the amount of reimbursement the City is otherwise entitled to pursuant to this Section.

G. If (i) the City approves the amendment to the CID petition imposing the Hotel Special Assessment, (ii) the Developer has not exercised the Tract I Purchase Option, and (iii) the City has not conveyed Tract I to an entity whose ownership makes Tract I subject to neighborhood improvement district special assessments, beginning in calendar year 2026, reimbursement to the City of Fifty Thousand Dollars (\$50,000.00) annually payable from available sources within the Creekside Incentive Fund, payable whether or not the Tract I Purchase Option has lapsed.

H. Reimbursement to the City of up to the first \$300,000 generated annually from the CID Special Assessments until the City has received up to a cumulative \$4,800,000 when

combined with any amounts received by the City pursuant to the Purchase Agreement.

I. Reimbursement of the City's Cost Share of constructing the Police Substation, up to a cumulative maximum amount of \$100,000.

J. Reimbursement of (i) the Developer's unreimbursed Reimbursable Project Costs, and (ii) in the event the Developer has not exercised the Tract I Purchase Option, such option has lapsed and another owner or developer has incurred reimbursable project costs related to the development of Tract I and such costs are certified in a manner substantially similar to that set forth in Section 22 hereof, reimbursement of such costs up to a maximum amount of \$2,484,000. Reimbursement of the Developer's costs and the costs incurred by a subsequent owner or developer of Tract I shall be on a parity basis, with such reimbursement to be made from available revenues proportionate to the amount of certified costs of each as of the date of determination. In the event the Developer has certified costs in excess of the Total Public Capital Support Cap (defined in **Section 24**), the Total Public Capital Support Cap shall be the amount used in determining the relative amounts of costs to be reimbursed. In the event another owner or developer has certified costs in excess of \$2,484,000, only \$2,484,000 shall be the amount used in determining the relative amounts of costs to be reimbursed.

K. Reimbursement to the City of the unpaid balance of the Tract I Purchase Price pursuant to a land purchase agreement.

In the event that no amendment to the CID petition imposing the Hotel Special Assessment is submitted to the City, the requirement of City approval of the same as a prerequisite to the payments set forth in subparagraphs D and F above shall not apply. All disbursements will be made in compliance with such restrictions as are applicable to each source of revenue and in a manner designed to apply any such restricted revenues in the maximum amount possible.

22. Reimbursable Project Cost Certification

A. Request for Certification. Developer shall have the right to submit requests for certification for the line items and within the budget amounts identified on **Exhibit H** hereof as reimbursable expenses, including Developer's Cost Share to construct the Police Substation and Financing Costs incurred by Developer relating to Private Loans obtained to fund Reimbursable Project Costs. Developer shall submit its request for certification of Reimbursable Project Costs incurred within one hundred twenty (120) days of incurring such costs. For all Reimbursable Project Costs incurred by Developer prior to the execution of this Contract, such Reimbursable Project Costs shall be submitted for certification within one hundred twenty (120) days from the date of execution of this Contract. 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 in a format as stipulated by the City (including copies of invoices, canceled checks, receipts, lien waivers, and such other supporting documentation as City shall reasonably require) as City shall reasonably determine to be necessary (the "**Reimbursement Request**"), City shall review, verify and confirm the information included in the Reimbursement Request. The Reimbursement Request shall (1) identify each item of Reimbursable Project Cost by line item category in the Redevelopment

Project Cost Budget for the Redevelopment Project separately, (2) aggregate all costs in the Reimbursement Request by line item category as set forth in the Redevelopment Project Cost Budget for the Redevelopment Project or elsewhere in this Contract, (3) include a report setting forth the total amount, by line item category from the Redevelopment Project Cost Budget for the Redevelopment Project, of all Reimbursable Project Costs set forth in the then-current Reimbursement Request and all prior Reimbursement Requests 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 for the Redevelopment Project, completed as of the date of the current Reimbursement Request. Notwithstanding anything contained herein to the contrary, Developer shall be entitled to transfer amounts among each line item category in **Exhibit H** so long as Developer does not (a) exceed the aggregate of the Total Reimbursable Project Costs, (b) transfer to line items that are not approved for Tax Increment Financing funds, or (c) result in any additional fees or payments directly to Developer. If City determines that: (i) the Reimbursement Request accurately reflects Reimbursable Project Costs paid in accordance with this Contract and the Redevelopment Plan and (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 in accordance with the Redevelopment Project Cost Budget for the Redevelopment Project (subject to the foregoing sentence), it shall approve and certify the Reimbursement Request. If City, pursuant to its review of such Reimbursement Request 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. Any such disapproval may be appealed by Developer to the Board of Aldermen, which shall upon Developer's request hold a hearing at which Developer may present new and/or additional evidence. No Reimbursement Request will be approved if it causes the total Reimbursable Project Costs to exceed the Redevelopment Project Cost Budget without the formal approval by Board of Aldermen of an amended and restated **Exhibit H** reflecting such an increase. Each Reimbursement Request for Developer Reimbursable Project Costs shall be approved administratively, and no action of the Board of Aldermen shall be required to approve such Reimbursement Request. The City shall respond within a reasonable time period not to exceed thirty (30) days to all requests by Developer for approval under this **Section 22.A.**

B. Cost Allocation Across Line Items. Developer shall, in each Reimbursement Request, 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. Savings in the amount expended with respect to any specific line item in the Redevelopment Project Cost Budget in **Exhibit H** that is listed in the columns entitled "TIF" or "CID" or "TDD" may be applied to fund cost overruns in other TIF or CID or TDD line items subject only to any statutory restrictions on the use of TIF Revenue, Hotel Sales Tax Rebates, Tourism Guest Room Tax Rebates, CID Revenues or TDD Revenues set forth in the Act, the CID Act or the TDD Act, as applicable.

C. Payment of Interest Expenses.

(1) Third Party Borrowing. In the event Developer incurs Financing Costs 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 22**. For purposes of calculating interest expenses, Developer shall certify its interest expense pursuant to **Section 22** as a separate line item expense. For the month in which interest expense is initially incurred with respect to any advance of funds, the interest expense shall accrue from the 15th day of the month incurred for costs certified from the 1st through the 14th day of a month and from the last day of the month incurred for costs certified after the 15th day of a given month.

(2) Affiliate Borrowing. In the event Developer incurs Financing Costs 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 this **Section 22**. Financing Costs under this **Section 22.C.(2)** 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 rate at which the Developer could have acquired private financing from a non-Affiliate lender. For purposes of calculating interest expenses, Developer shall certify its interest expense pursuant to this **Section 22** 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 15th day of the month incurred for costs certified from the 1st through the 14th day of a month and from the last day of the month incurred for costs certified after the 15th day of a given month.

(3) Interest on Developer Equity – Project Improvements. In the event Developer finances a portion of the Reimbursable Project Costs associated with the Project Improvements with equity, Developer shall receive as a Reimbursable Project Cost, in addition to the return of its equity, interest on said equity as and from the date the equity was advanced at the same rate charged to Developer by its lender for debt financing. For purposes of calculating interest expense on Developer advanced equity, Developer shall certify its interest expense pursuant to this **Section 22** as a separate line item expense. For the month in which equity is initially advanced, the interest expense shall accrue from the 15th day of the month for equity advanced from the 1st through the 14th day of a month and from the last day of the month for equity advanced after the 15th day of a given month.

(4) Limit on Total Interest Expense. Notwithstanding any other provision in this **Section 22.C** or elsewhere in this Contract, the rate of interest to be reimbursed to the Developer from the Creekside Incentive Fund for financing Reimbursable Project Costs shall not exceed the current prime rate published in the Wall Street Journal plus three percent (3%).

23. Payment of Project Costs - “As Collected” Basis.

A. The Reimbursable Project Costs shall be reimbursed from the Creekside Incentive Fund on an “as collected” basis unless the City in its sole discretion agrees to issue Obligations. As funds are available within the Creekside Incentive Fund in accordance with the Plan and subject to the terms of the Reimbursable Project Cost Certifications as set forth in **Section 22**, the City, subject to **Section 26**, shall reimburse the Developer its Reimbursable Project Costs from: (i) fifty percent (50%) of the available PILOTs generated from the Activation Date and continuing until eleven years thereafter, then sixty-five percent (65%) of the available PILOTs generated from beginning on the twelfth anniversary of the Activation Date and continuing until the seventeenth anniversary of the Activation Date, then seventy-five percent (75%) of the available PILOTs generated from the beginning of the eighteenth anniversary of the Activation Date and continuing until termination pursuant to **Section 25** and which are on deposit in the PILOTs Account of the Creekside Incentive Fund; and (ii) subject to the Board of Aldermen’s annual appropriation, one hundred percent (100%) of collected Economic Activity Taxes (which represents approximately 50% of the total Economic Activity Taxes generated) from the Activation Date and continuing until termination pursuant to **Section 25** and which are on deposit in the Economic Activity Account of the Creekside Incentive Fund (collectively, the items described in (i) and (ii) shall be referred to hereinafter as the “TIF Revenue”) and (iii) any other revenue in the Creekside Incentive Fund. The City shall disburse to Developer sufficient proceeds from the Creekside Incentive Fund pursuant to the procedure set forth in **Section 21**, to the extent such funds are available in the Creekside Incentive Fund to pay those amounts identified on the certified Reimbursement Request within thirty (30) days following City’s certification of such Reimbursement Request. 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.

B. The City acknowledges that the Developer will incur Financing Costs to finance the payment of the Reimbursable Project Costs prior to the time such costs are certified and reimbursed, and the City agrees that such Financing Costs incurred by Developer and identified on **Exhibit H** shall be reimbursed in accordance with **Section 22** Reimbursable Cost Certification.

24. **Cost Overruns.** The Project Improvements shall be constructed in accordance with the Redevelopment Project Cost Budget attached hereto as **Exhibit H**. In no event shall the aggregate total of the Reimbursable Project Costs that is to be paid to the Developer in whole or in part from the Creekside Incentive Fund or from the net proceeds of the Obligations exceed the aggregate of the total Reimbursable Project Costs of Forty Five Million Six Hundred Thousand and No/100 Dollars (\$45,600,000) (the “Total Public Capital Support Cap”), not including Developer’s Cost Share of the Police Substation, any amounts paid under **Section 12.B.(2)**, and administrative costs, interest or Financing Costs as set out on **Exhibit H**. The amount of the Total Public Capital Support Cap includes the line items in **Exhibit H** for “Financing Costs (Interest Carry / Closing / Fees / Other)” but does not include interest that accrues on Reimbursable Project Costs pursuant to **Section 22.C**. In the event that the Tract I Purchase Option lapses pursuant to **Section 12.B.(2)**, then the amount of the Total Public Capital Support Cap shall be reduced by Two Million Four Hundred Eighty-Four Thousand Dollars (\$2,484,000.00). In no event shall the Reimbursable Project Costs that are to be paid to the City in whole or in part from the Creekside Incentive Fund, from the net proceeds of the Obligations, or from any amounts received pursuant

to the Purchase Agreement exceed One Million Six Hundred Thousand and No/100 Dollars (\$1,600,000.00) pursuant to **Section 21.E** and **Section 21.F**. In no event shall the amount paid to the City, whether in whole or in part from the CID Special Assessment Account, from the net proceeds of the Obligations, or from any amounts received pursuant to the Purchase Agreement exceed Four Million Eight Hundred Thousand and No/100 Dollars (\$4,800,000.00) pursuant to **Section 21.H**. The aggregate total of Reimbursable Project Costs to be paid to the City shall not exceed Six Million Four Hundred Thousand and No/100 Dollars (\$6,400,000) not including administrative costs as provided in Section 46, amounts paid pursuant to **Section 12.B(2)ii** by the Developer which result in payments to the City in excess of \$100,000 per year related to Tract I, amounts paid pursuant to **Section 21.G** or the City's Cost Share of constructing the Police Substation.

25. Full Assessment of Redevelopment Project Area. After all 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 last adoption of the Redevelopment Project Ordinances, City shall adopt an Ordinance dissolving the Creekside Incentive Fund and terminating the designation of the Redevelopment Project Area as a redevelopment area under the Act (the "**Termination Ordinance**"). From that date forward, all property in the Redevelopment Project 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 Project 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.

26. Maximum TIF Reimbursement Reduction. Upon the City's request within three (3) months after the issuance of a Certificate of Completion and Compliance, Developer shall update each of the numbers in the form titled "Pro Forma With Public Incentives" included in **Exhibit I** of the Contract ("IRR Formula") that are capable of being updated and provide the City with such updated IRR Formula, along with evidence of such updated costs, revenues and other figures to the reasonable satisfaction of the City.

A. If the updated IRR Formula produces a projected internal rate of return to the Developer that exceeds fourteen percent (14%), the maximum amount of TIF Revenue available for reimbursement of Developer hereunder shall be reduced so that the IRR Formula produces a projected internal rate of return to the Developer that is equal to fourteen percent (14%).

B. If the updated IRR Formula produces a projected internal rate of return to the Developer that does not exceed fourteen percent (14%), the maximum amount of TIF Revenue available for reimbursement of Developer hereunder shall not be reduced.

C. Thereafter, the maximum amount of TIF Revenue available for reimbursement of Developer hereunder shall not be subject to further review or adjustment.

27. Tenant Approvals and Prohibitions. The Developer shall have complete and exclusive control over the leasing or sales of property that it owns within the Redevelopment Project Area subject to City's Land Use Approvals and the following.

A. The Developer shall use best commercially reasonable efforts to maximize the number of sales tax generating businesses within the Redevelopment Project Area.

B. If a retail establishment relocates within one year from one facility to another facility within the City and the governing body of the municipality finds that the relocation is a direct beneficiary of Tax Increment Financing then the Economic Activity Taxes generated by the retail establishment shall equal the total additional revenues from Economic Activity Taxes which are imposed by a municipality or other Taxing District over the amount of Economic Activity Taxes generated by the retail establishment in the calendar year prior to its relocation to the Redevelopment Area.

28. Lease of Project Property.

A. Developer, or any third party, may lease real property within the Redevelopment Project Area. With regard to leases entered into following the Effective Date of this Contract, Developer shall use commercially reasonable efforts to insert in any such lease, and shall use commercially reasonable efforts to cause any third party to insert language reasonably similar to the following and shall use commercially reasonable efforts to have such Developer-lease signed by the lessee indicating acknowledgment and agreement to the following provision:

**Economic Activity Taxes, Community Improvement District, and
Transportation Development District Taxes**

Tenant acknowledges that the Leased Premises are a part of a Tax Increment Financing district (“**TIF District**”) created by the City and that certain taxes generated by Tenant's economic activities, including sales taxes, hotel taxes, and tourism guest room taxes will be applied toward the costs of certain improvements for the Development. In addition, Tenant acknowledges that the premises are or may become within the area of Community Improvement District (“**CIDs**”) and a Transportation Development District (“**TDD**”) which will each have the power to impose a sales tax on any retail sales generated within Tenant's Premises. Upon request of the City, 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 good cause shown, 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 which will permit the City to administer the TIF as well as the CIDs.

Tenant shall provide to Landlord upon Landlord's request a certification to the City that this Lease includes the provisions of preceding paragraph.

Tenant represents and warrants that its business is not currently located in the City within the meaning of the TIF Act. Tenant acknowledges that if Tenant's business is currently located within the City within the meaning of the TIF Act or the TIF Contract and the business will be relocated from its current location within the City, this Lease shall not be effective unless the Board of Aldermen approves the relocation, in addition to any other required approvals. Tenant acknowledges that the City is a third-party beneficiary of the obligations in this Section, and that the City may enforce these obligations in any manner provided by law.

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 Project Area. The City shall comply with all applicable state laws limiting disclosure of sales tax information related to individual businesses provided to the City as documentation of Economic Activity Taxes.

29. Sale or Disposition of Project Property.

A. Purchasing Entity. As a condition precedent to: (1) the transfer of any property interest within the boundaries of the Redevelopment Project Area to any transferee, other than a Lender or a party under any sale or lease of a pad site parcel for the construction thereon of improvements to be used by the purchaser or lessee of the parcel or its affiliate or borrower (such as the sale, lease, or transfer of a pad site for retail, restaurant or hotel building area for the construction and operation thereon), or (2) any transfer and assignment of Developer's obligations as set forth in **Sections 29 and 32** hereof, the Developer shall require the transferee or assignee to comply with the requirements of the Redevelopment Plan and the obligations set forth in this Contract. As a condition to the City granting consent pursuant to paragraph E of this section, the City may require the transferee or assignee to expressly assume in writing the obligations of Developer hereunder. Notwithstanding the foregoing, no consent will be required for the sale of any building after construction of the building is completed. Upon such sale or disposition, Developer shall be released from its obligations in this Contract relating to said transferred property or transferred or assigned obligations.

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 Project 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 6** 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.

D. Incorporation. The restrictions set forth above in **Section 28** hereof, shall be incorporated into any deed or other instrument conveying an interest in real property, other than a lease agreement, within the Redevelopment Project 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 Project Area.

E. Notification to City of Transfer; Board of Aldermen Approval. Developer shall notify City in writing of any proposed sale or other transfer of any or all of the real property in the Redevelopment Project Area or any interest therein other than any sale of a pad area for the construction thereon of improvements to be used by the purchaser of the pad area or its affiliate or tenant for retail and other permitted uses as provided for in this Contract. Such notice shall be provided not less than thirty (30) days prior to the proposed effective date of the sale or other transfer in a manner as described in **Section 39** 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 29** hereof have been fulfilled.

30. Progress Reports.

A. Upon the City's written request (not to exceed more than once per year) until all Project Improvements are completed, Developer shall report to the Board of Aldermen the progress of its implementation of the Redevelopment Project. 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 Redevelopment Project Costs in the Redevelopment Project Area compared to Redevelopment Plan estimates;
- (4) actual start and completion dates of Project Improvements in the Redevelopment Project Area compared to Redevelopment Plan estimates; and
- (5) 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.

31. 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 construction of the Project Improvements, the ownership, occupancy, use and operation of the Redevelopment Project and the Redevelopment Project Area.

32. 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 29** hereof, Developer agrees that this Contract and the rights, duties and obligations hereunder may not and shall not be assigned by Developer without the prior written consent of the Board of Aldermen, which consent shall be given if the Board of Aldermen determines that the proposed transferee has all of the qualifications and financial responsibility, as reasonably determined by the City, necessary and adequate to fulfill the obligations of Developer, and, if the proposed assignment relates to a portion of the Redevelopment Project Area on which Project Improvements are under way, such obligations to the extent that they relate to such property. For purposes of this section, it will be presumptively unreasonable for the City to withhold its consent to Developer conveying the Redevelopment Area, and assigning its rights and delegating its obligations under this Contract, to a developer who, individually or when combined with a property management entity, demonstrates to the reasonable satisfaction of the City, the following: (i) a net worth using generally accepted accounting practices of in excess of \$5,000,000; (ii) management or ownership of in excess of 1,000,000 square feet of properties, and (iii) that the City has not previously rescinded a development agreement with such developer, nor has such developer defaulted on any prior obligations to the City. Any proposed transferee shall, expressly for the benefit of City, enter into an agreement with the City obligating the assignee to 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 Project Area, such obligations, conditions and restrictions to the extent that they relate to such portion). For purposes of this **Section 32**, any sale, transfer, assignment, pledge or hypothecation of an interest in Developer (other than to an Affiliate of Developer) that results in a change in management control of Developer will constitute an assignment of this Contract. Notwithstanding the foregoing:

A. Developer may at any time without the City's consent convey the Redevelopment Project Area, assign its rights, and delegate its duties and obligations under this Contract to any entity controlled by the Developer or the principals of the Developer, provided that the management of the entity is provided by the principals, or by an entity which they together or individually control.

B. For so long as any of the principals of the Developer or their entities continues to be the managing member or managing partner of Developer or any successor entity

to Developer, no sale, transfer, assignment, pledge or hypothecation of an interest in Developer, to an investor, or other person will be construed as resulting in a change of control or construed as constituting an assignment of this Contract that requires the City's consent.

C. No consent will be required under this **Section 32** for any pledge or assignment of this Contract or pledge or assignment of an interest in Developer or any interest in any member of Developer as collateral security for Developer's financing.

Upon such assignment, Developer shall be released from such obligations accruing after the date of such assignment.

33. Assignment of Payments. Notwithstanding the provisions of **Section 32**, the 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.

34. Collateral Assignment of Contract. Notwithstanding the provisions of **Section 32**, the Developer may assign or pledge its rights under this agreement as collateral 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.

35. Transfer of Interests in Developer – City Approval. Developer shall, prior to the sale, conveyance, merger or other transfer of greater than fifty percent (50%) of the voting interest in Developer 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, 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 and assign its obligations in the Redevelopment Project 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 reasonably 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 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.

36. 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 Project Area or a portion thereof and the Project Improvements. Provided that, Developer shall not have any indemnification obligation with respect to any particular liability where one or more indemnified Parties’ negligence or willful misconduct was involved.

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 that is reasonably acceptable to the Indemnified Party. 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 Project Area as a redevelopment area with respect to any liability arising during the term of the Contract.

37. 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 Project as therein stated, except for any extensions or waivers described herein and Excusable Delays (as defined in **Section 38** 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 ninety (90) 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 ninety (90) day period (but in any event if the defaulting party shall not have cured such default within one hundred eighty (180) 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 (but not to compel construction) 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 Creekside Incentive Fund to such extent as is necessary to protect City from loss or to ensure that the Redevelopment Plan and Redevelopment Project is fully and successfully implemented in a timely fashion, and the right to withhold issuance of a Certificate of Completion and Compliance. In no event shall either party have the right to remote, punitive or consequential damages.

B. The Developer's right to exercise or not exercise the Tract I Purchase Option pursuant to Section 12.B. shall not constitute a breach or default of Developer's obligations under this Contract. Furthermore, any failure to meet a requirement related to Tract I prior to exercise of the option shall not constitute a breach or default of Developer's obligations under 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 Reimbursement Request or reimburse Developer for any Reimbursable Project Costs incurred or paid by Developer at any time while any default by Developer has occurred and remained uncured beyond Developer's cure period as provided in **Section 37.A.** herein, and City has provided notice of such default as required under **Section 37.** Notwithstanding the above, if the City validly terminates this Contract, the City shall be required to, in due course according to the standards set forth herein, certify any Reimbursable Project Costs, approve any Reimbursement Request and reimburse Developer for any Reimbursable Project Costs incurred or paid by Developer prior to any such notice of default. If City shall at any time elect to rely upon the provisions of this **Section 37.F.** 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. Actions brought in equity or which otherwise do not seek to recover damages are not precluded by this **Section 37.G.**

38. 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, including but not limited to, failure of City to approve complete applications for permits that comply with all applicable laws and regulations, failure of City to provide any consent required by this Contract where all applicable requirements for said consent have been complied with, acts of war or civil insurrection, breach of this Contract by City or any natural occurrence, adverse market conditions, the Developer's inability to secure acceptable financing and/or tenants or occupants for the development despite the Developer's commercially reasonable efforts, 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**"). 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. Nothing herein shall excuse Developer from any obligation to pay money hereunder, nor shall this **Section 38** 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.

39. 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:

Joe Parente
City Administrator
City Hall
8880 Clark Avenue
Parkville, Missouri 64152

With a copy to:

T. Chris Williams
Williams & Campo, P.C.
400 SW Longview Boulevard, Suite 210
Lee's Summit, MO 64081

Any notice to Developer shall be addressed to:

Parkville Development 38, LLC,
Parkville Development 50, LLC,
Parkville Development 70, LLC
Parkville Development 140, LLC,
Parkville Development VVI, LLC
Attn: Brian Mertz
7607 NW John Anders Road
Kansas City, Missouri 64152

With a copy to:

Patricia R. Jensen
Rouse Frets White Goss Gentile Rhodes, P.C.
4510 Belleview Suite 300
Kansas City, Missouri 64111

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.

40. 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.

41. 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 Reimbursable Project Costs remain outstanding and unpaid, subject, however, to the provisions of **Section 37** hereof.

42. Recording. Upon full execution by City and Developer, this Contract or a memorandum thereof shall be recorded by City, at Developer's expense, in the Office of the Recorder of Deeds for Platte County, Missouri.

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

44. Covenant Running With the Land. The provisions of this Contract 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 covenants running with the land and 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 35** 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).

45. 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 Project Area includes 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 Board of Aldermen of City.

46. 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 Project, this Contract or any agreement or instrument entered into pursuant to this Contract or in connection with the Redevelopment Project or the Redevelopment Plan, City and Developer have previously entered

into the Funding Agreement (the “**Funding Agreement**”). Within 120 days after execution of this Contract, the City shall submit final invoices which will be paid by Developer, along with the payment of any other outstanding invoices, pursuant to the terms of the Funding Agreement. All such invoiced amounts shall be paid first from the existing advanced funds and thereafter by the Developer directly to the extent that invoiced amounts exceed the existing advanced funds. All such payments by Developer are Reimbursable Project Costs and are eligible for reimbursement from the Creekside Incentive Fund. After final payment of all outstanding invoices is made by Developer under the Funding Agreement, the Funding Agreement shall be terminated, and any funds remaining on deposit with the City pursuant to the Funding Agreement shall be used by the City in accordance with **Section 46.C** hereof and shall be treated as a Reimbursable Project Cost to Developer.

B. After the Funding Agreement is terminated the City shall continue to invoice Developer for its actual costs incurred no more frequently than on a monthly basis up to a maximum of \$60,000 annually until the 6th anniversary of the execution of this Contract, and \$30,000 thereafter. The Developer shall pay such invoices less any amount the City may have collected pursuant to **Section 46.C** for a given period. Once the revenue the City receives pursuant to **Section 46.C** equals or exceeds the cumulative amount of expenses submitted to the Developer over the same period, then the provisions of this **Section 46.B** shall terminate.

C. Any of City’s actual and reasonable administrative costs and expenses that are provided for in this Contract shall be reimbursed to the City from up to one percent (1%) per annum of the revenue deposited in the Creekside Incentive Fund, excluding the CID Special Assessments. Upon termination of the Funding Agreement, the City shall deposit the funds remaining on deposit with the City pursuant to the Funding Agreement in a separate, segregated account of the City (the “Advanced Funds Account”) to reimburse any administrative costs and expenses. Amounts paid by Developer under the Funding Agreement are Reimbursable Project Costs.

D. 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 46** 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 quarterly.

47. 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.

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

49. 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 Board of Aldermen, and no action by the Board of Aldermen in exercising its legislative authority shall be a default under this Contract.

50. Good Faith; Consent or Approval. In performance of this Contract or in considering any requested extension of time, the parties agree that each will act in good faith, cooperate in expeditious and timely approvals, and will not act unreasonably, arbitrarily, or capriciously or unreasonably withhold or delay any approval required by this Contract; provided, however, that the City need not act reasonably in considering a requested extension of time that would extend a time period set forth in this Contract for the performance of an obligation by the Developer by more than three (3) years from the original end of such period as set forth in this Contract. Except as otherwise provided in this Contract, whenever consent or approval of either party is required, such consent or approval will not be unreasonably withheld, conditioned or delayed. The City agrees to reasonably cooperate with the Developer with respect to (i) applications for building permits from the City and the issuance thereof, and any permits or approvals required from any governmental agency, whenever reasonably requested to do so; provided, however, that all applications for such permits and approvals are in compliance with the applicable ordinances and regulations, approved plans and specifications, and all applicable codes, (ii) securing any construction and permanent financing that the Developer may reasonably require in connection with the performance of its obligations under this Contract, (iii) reviewing and approving Developer's plans, including but not limited to the Developer Public Project Plans, site plans and building elevations, construction plans and the Design Criteria and any amendments thereto. The Developer, in recognition of the significant public investment of the City; and the City, in recognition of the substantial financial commitment of the Developer, agrees to cooperate in good faith to accomplish the expeditious and optimal utilization of the retail space in Redevelopment Project Area. The Developer agrees and acknowledges that in each instance in this Contract or elsewhere where the City is required or has the right to review or give its approval or consent, no such review, approval or consent will imply or be deemed to constitute an opinion by the City, nor impose upon the City any responsibility for the design or construction of building elements, including but not limited to the structural integrity or life/safety requirements or adequacy of budgets or financing or compliance with any applicable federal or state law, or local ordinance or regulation, including without limitation any environmental laws. All reviews, approval and consents by the City under the terms of this Contract are for the sole and exclusive benefit of the Developer and no other person or party will have the right to rely thereon.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, the parties hereto have caused this Contract to be executed by their duly authorized representatives the day and year first above written.

PARKVILLE DEVELOPMENT 38, LLC

By: _____
Brian Mertz, Manager

STATE OF MISSOURI)
) ss.
COUNTY OF PLATTE)

On this ____ day of _____ 2019, before me, a notary public, appeared Brian Mertz, to me personally known, who, being by me duly sworn, did say that he is the Manager of Parkville Development 38, LLC, and that said instrument was signed on behalf of said limited liability company by authority of its members and he acknowledged said instrument to be the free act and deed of said limited liability company.

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

Notary Public

My Commission Expires:

PARKVILLE DEVELOPMENT 50, LLC

By: _____
Brian Mertz, Manager

STATE OF MISSOURI)
) ss.
COUNTY OF PLATTE)

On this ____ day of _____ 2019, before me, a notary public, appeared Brian Mertz, to me personally known, who, being by me duly sworn, did say that he is the Manager of Parkville Development 50, LLC, and that said instrument was signed on behalf of said limited liability company by authority of its members and he acknowledged said instrument to be the free act and deed of said limited liability company.

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

Notary Public

My Commission Expires:

PARKVILLE DEVELOPMENT 70, LLC

By: _____
Brian Mertz, Manager

STATE OF MISSOURI)
) ss.
COUNTY OF PLATTE)

On this ____ day of _____ 2019, before me, a notary public, appeared Brian Mertz, to me personally known, who, being by me duly sworn, did say that he is the Manager of Parkville Development 70, LLC, and that said instrument was signed on behalf of said limited liability company by authority of its members and he acknowledged said instrument to be the free act and deed of said limited liability company.

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

Notary Public

My Commission Expires:

PARKVILLE DEVELOPMENT 140, LLC

By: _____
Brian Mertz, Manager

STATE OF MISSOURI)
) ss.
COUNTY OF PLATTE)

On this ____ day of _____ 2019, before me, a notary public, appeared Brian Mertz, to me personally known, who, being by me duly sworn, did say that he is the Manager of Parkville Development 140, LLC, and that said instrument was signed on behalf of said limited liability company by authority of its members and he acknowledged said instrument to be the free act and deed of said limited liability company.

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

Notary Public

My Commission Expires:

PARKVILLE DEVELOPMENT VVI, LLC

By: _____
Brian Mertz, Manager

STATE OF MISSOURI)
) ss.
COUNTY OF PLATTE)

On this ____ day of _____ 2019, before me, a notary public, appeared Brian Mertz, to me personally known, who, being by me duly sworn, did say that he is the Manager of Parkville Development VVI, LLC, and that said instrument was signed on behalf of said limited liability company by authority of its members and he acknowledged said instrument to be the free act and deed of said limited liability company.

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

Notary Public

My Commission Expires:

CITY OF PARKVILLE, MISSOURI

By: _____
Nanette K. Johnston, Mayor

Attest:

City Clerk
Approved as to form:

City Attorney

STATE OF MISSOURI)
) ss.
COUNTY OF PLATTE)

On this ____ day of _____ 2019, before me, a notary public in and for said State, personally appeared Nanette K. Johnston, Mayor of the City of Parkville, Missouri, who is personally known to me to be the same person who executed, as such official, the within instrument on behalf of said City and such person duly acknowledged to me that he/she executed the same for the purposes therein stated, and that the execution of the same was the free act and deed of said City.

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

Notary Public

My Commission Expires:

Exhibit A

Legal Description of Redevelopment Area

ENTIRE REDEVELOPMENT AREA

ALL THAT PART OF THE SOUTHWEST QUARTER OF SECTION 18, AND THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 51, RANGE 34 AND ALL THAT PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 51, RANGE 35, IN PARKVILLE, PLATTE COUNTY, MISSOURI, BEING BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 18; THENCE S00°45'15"W, ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER OF SECTION 18, A DISTANCE OF 2023.69 FEET TO THE POINT OF BEGINNING OF THE TRACT OF LAND TO BE HEREIN DESCRIBED; THENCE S89°14'49"E, A DISTANCE OF 498.95 FEET; THENCE S19°51'21"E, A DISTANCE OF 38.19 FEET; THENCE S89°08'59"E, A DISTANCE OF 175.13 FEET; THENCE N49°07'14"E, A DISTANCE OF 136.85 FEET; THENCE N89°24'32"E, A DISTANCE OF 320.40 FEET; THENCE S29°08'18"E, A DISTANCE OF 249.64 FEET; THENCE N89°54'58"E, A DISTANCE OF 85.29 FEET; THENCE S00°41'25"E, A DISTANCE OF 67.67 FEET; THENCE N88°21'28"E, A DISTANCE OF 224.69 FEET; THENCE S81°35'19"E, A DISTANCE OF 283.12 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF INTERSTATE ROUTE 435; THENCE S15°55'40"W, ALONG SAID WESTERLY RIGHT OF WAY LINE, A DISTANCE OF 418.45 FEET; THENCE S88°29'33"W, ALONG THE NORTHERLY LINE OF INTERSTATE ROUTE I-435, A DISTANCE OF 349.13 FEET; THENCE S01°32'27"E, A DISTANCE OF 109.72 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF HIGHWAY 45; THENCE S88°36'54"W, ALONG THE NORTHERLY RIGHT OF WAY LINE OF HIGHWAY 45, A DISTANCE OF 321.19 FEET; THENCE WESTERLY ALONG SAID HIGHWAY 45 RIGHT OF WAY ON A CURVE TO THE RIGHT BEING TANGENT TO THE LAST DESCRIBED COURSE, HAVING A RADIUS OF 1392.32 FEET, AN ARC DISTANCE OF 222.69 FEET; THENCE N07°49'53"E, ALONG SAID HIGHWAY 45 RIGHT OF WAY, A DISTANCE OF 5.00 FEET; THENCE WESTERLY ALONG SAID HIGHWAY 45 RIGHT OF WAY ON A CURVE TO THE RIGHT HAVING AN INITIAL TANGENT BEARING OF N82°13'17"W, A RADIUS OF 1387.32 FEET, AN ARC DISTANCE OF 145.29 FEET; THENCE S13°49'54"W, ALONG SAID HIGHWAY 45 RIGHT OF WAY, A DISTANCE OF 5.00 FEET; THENCE WESTERLY ALONG SAID HIGHWAY 45 RIGHT OF WAY, ON A CURVE TO THE RIGHT HAVING AN INITIAL TANGENT BEARING OF N76°13'14"E, A RADIUS OF 1392.32 FEET, AN ARC DISTANCE OF 162.05 FEET; THENCE N69°33'06"W, ALONG SAID HIGHWAY 45 RIGHT OF WAY, A DISTANCE OF 306.42 FEET; THENCE N58°20'32"W, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 114.15 FEET; THENCE N69°39'08"W, ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 200.00 FEET; THENCE N61°07'17"W, ALONG SAID RIGHT OF WAY LINE A DISTANCE OF 202.24 FEET;

THENCE N69°39'08"W, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 227.40 FEET; THENCE N00°44'51"E, A DISTANCE OF 236.57 FEET; THENCE S89°22'21"E, A DISTANCE OF 437.01 FEET TO A POINT ON THE RANGE LINE BETWEEN RANGE 34 AND RANGE 35; THENCE N00°45'15"E, ALONG SAID RANGE LINE, A DISTANCE OF 69.44 FEET TO THE POINT OF BEGINNING.

AND

ALL THAT PART OF THE SOUTHWEST QUARTER OF SECTION 18, AND THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 51, RANGE 34 AND ALL THAT PART OF THE SOUTHEAST QUARTER OF THE SOUTHEAST QUARTER OF SECTION 13, TOWNSHIP 51, RANGE 35, IN PARKVILLE, PLATTE COUNTY, MISSOURI, BEING BOUNDED AND DESCRIBED AS FOLLOWS: COMMENCING AT THE NORTHWEST CORNER OF THE SOUTHWEST QUARTER OF SAID SECTION 18; THENCE S00°45'15"W, ALONG THE WEST LINE OF SAID SOUTHWEST QUARTER OF SECTION 18, A DISTANCE OF 2518.05 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF HIGHWAY 45, SAID POINT ALSO BEING THE POINT OF BEGINNING OF THE TRACT OF LAND TO BE HEREIN DESCRIBED; THENCE S69°39'08"E, ALONG SAID RIGHT OF WAY LINE, A DISTANCE OF 152.88 FEET; THENCE S58°20'32"E, CONTINUING ALONG SAID LINE, A DISTANCE OF 114.15 FEET; THENCE S69°33'06"E, CONTINUING ALONG SAID LINE, A DISTANCE OF 306.42 FEET; THENCE SOUTHEASTERLY, CONTINUING ALONG SAID LINE, ALONG A CURVE TO THE LEFT BEING TANGENT TO THE LAST DESCRIBED COURSE, HAVING A RADIUS OF 1392.32 FEET, AN ARC DISTANCE OF 162.05 FEET; THENCE N13°49'54"E, CONTINUING ALONG SAID LINE, A DISTANCE OF 5.00 FEET; THENCE SOUTHEASTERLY, CONTINUING ALONG SAID LINE, ALONG A CURVE TO THE LEFT HAVING AN INITIAL TANGENT BEARING OF S76°13'14"E, A RADIUS OF 1387.32 FEET, AN ARC DISTANCE OF 145.29 FEET; THENCE S07°49'53"W, CONTINUING ALONG SAID LINE, A DISTANCE OF 5.00 FEET; THENCE EASTERLY, CONTINUING ALONG SAID LINE, ALONG A CURVE TO THE LEFT HAVING AN INITIAL TANGENT BEARING OF S82°13'16"E, A RADIUS OF 1392.32 FEET, AN ARC DISTANCE OF 222.69 FEET; THENCE N88°36'54"E, CONTINUING ALONG SAID LINE, A DISTANCE OF 321.19 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF INTERSTATE ROUTE 435; THENCE N01°32'27"W, ALONG SAID LINE, A DISTANCE OF 109.72 FEET; THENCE N88°29'33"E, CONTINUING ALONG SAID LINE, A DISTANCE OF 349.13 FEET; THENCE N15°55'40"E, CONTINUING ALONG SAID LINE, A DISTANCE OF 418.45 FEET; THENCE N70°35'25"E, CONTINUING ALONG SAID LINE, A DISTANCE OF 483.83 FEET; THENCE N13°06'36"E, CONTINUING ALONG SAID LINE, A DISTANCE OF 267.22 FEET; THENCE S75°08'27"E, CONTINUING ALONG SAID LINE, A DISTANCE OF 158.00 FEET; THENCE N24°31'31"E, CONTINUING ALONG SAID LINE, A DISTANCE OF 536.01 FEET; THENCE N03°29'43"E, CONTINUING ALONG SAID LINE, A DISTANCE OF 456.75 FEET; THENCE S75°08'27"E, A DISTANCE OF 250.73 FEET TO A POINT ON THE CENTERLINE

OF SAID INTERSTATE ROUTE 435; THENCE S14°51'33"W, ALONG SAID CENTERLINE, A DISTANCE OF 3244.92 FEET; THENCE S89°35'47"W, A DISTANCE OF 382.32 FEET TO A POINT ON THE WESTERLY RIGHT OF WAY LINE OF SAID INTERSTATE ROUTE 435; THENCE N11°21'20"E, ALONG SAID LINE, A DISTANCE OF 100.87 FEET; THENCE N11°17'46"E, CONTINUING ALONG SAID LINE, A DISTANCE OF 402.28 FEET; THENCE N75°08'27"W, CONTINUING ALONG SAID LINE, A DISTANCE OF 39.60 FEET; THENCE N01°23'00"W, CONTINUING ALONG SAID LINE, A DISTANCE OF 312.47 FEET; THENCE N75°08'27"W, CONTINUING ALONG SAID LINE, A DISTANCE OF 104.10 FEET; THENCE N01°23'40"W, CONTINUING ALONG SAID LINE, A DISTANCE OF 309.05 FEET; THENCE S88°37'05"W, CONTINUING ALONG SAID LINE, A DISTANCE OF 149.97 FEET; THENCE N84°15'36"W, CONTINUING ALONG SAID LINE, A DISTANCE OF 201.56 FEET; THENCE N01°23'06"W, CONTINUING ALONG SAID LINE, A DISTANCE OF 79.86 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF SAID HIGHWAY 45; THENCE N84°02'28"W, ALONG SAID LINE, A DISTANCE OF 118.43 FEET; THENCE S88°36'54"W, CONTINUING ALONG SAID LINE, A DISTANCE OF 202.14 FEET; THENCE WESTERLY, CONTINUING ALONG SAID LINE, ALONG A CURVE TO THE RIGHT BEING TANGENT TO THE LAST DESCRIBED COURSE, HAVING A RADIUS OF 1487.32 FEET, AN ARC DISTANCE OF 535.36 FEET; THENCE S19°07'18"W, CONTINUING ALONG SAID LINE, A DISTANCE OF 15.00 FEET; THENCE NORTHWESTERLY, CONTINUING ALONG SAID LINE, ALONG A CURVE TO THE RIGHT HAVING AN INITIAL TANGENT BEARING OF N70°45'45"W, A RADIUS OF 1502.32 FEET, AN ARC DISTANCE OF 31.75 FEET; THENCE N69°33'06"W, CONTINUING ALONG SAID LINE, A DISTANCE OF 331.02 FEET; THENCE N77°14'11"W, CONTINUING ALONG SAID LINE, A DISTANCE OF 185.71 FEET; THENCE N00°41'48"E, A DISTANCE OF 100.76 FEET TO A POINT ON THE CENTERLINE OF SAID HIGHWAY 45; THENCE N69°33'06"W, ALONG SAID LINE, A DISTANCE OF 464.12 FEET; THENCE N00°44'51"E, A DISTANCE OF 96.75 FEET TO A POINT ON THE NORTHERLY RIGHT OF WAY LINE OF SAID HIGHWAY 45; THENCE S69°39'08"E, ALONG SAID LINE, A DISTANCE OF 227.40 FEET; THENCE S61°07'17"E, CONTINUING ALONG SAID LINE, A DISTANCE OF 202.24 FEET; THENCE S69°39'08"E, CONTINUING ALONG SAID LINE, A DISTANCE OF 47.12 FEET TO THE POINT OF BEGINNING.

AND

ALL OF TRACT A, TRACT D, AND LOT 1, VERTICAL VENTURES III FIRST PLAT, AND PART OF THE NORTHWEST QUARTER OF SECTION 19, TOWNSHIP 51 NORTH, RANGE 34 WEST, ALL IN PARKVILLE, PLATTE COUNTY, MISSOURI BEING DESCRIBED AS FOLLOWS: COMMENCING AT THE SOUTHWEST CORNER OF SAID NORTHWEST QUARTER; THENCE N00°34'00"E, ALONG THE WEST LINE OF SAID NORTHWEST QUARTER, A DISTANCE OF 345.75 FEET TO THE POINT OF BEGINNING OF THE TRACT OF LAND TO BE HEREIN DESCRIBED; THENCE N00°34'00"E, CONTINUING ALONG SAID WEST LINE, A DISTANCE OF 1310.47 FEET TO THE SOUTHWEST CORNER OF LOT

6, SAID VERTICAL VENTURES III FIRST PLAT; THENCE S90°00'00"E, ALONG THE SOUTH LINE OF SAID LOT 6, A DISTANCE OF 454.54 FEET TO THE SOUTHEAST CORNER OF SAID LOT 6, SAID POINT ALSO BEING THE SOUTHWEST CORNER OF LOT 5, SAID VERTICAL VENTURES III FIRST PLAT; THENCE S54°39'14"E, ALONG THE SOUTH LINE OF SAID LOT 5, A DISTANCE OF 175.28 FEET TO A POINT ON THE WEST LINE OF SAID TRACT D, SAID TRACT ALSO KNOWN AS ENSIGN DRIVE; THENCE NORTHERLY, ALONG THE WEST LINE OF SAID TRACT D, ALONG A CURVE TO THE RIGHT HAVING AN INITIAL TANGENT BEARING OF N14°19'35"E, A RADIUS OF 530.00 FEET, AN ARC DISTANCE OF 201.29 FEET; THENCE N36°05'14"E, CONTINUING ALONG SAID LINE, A DISTANCE OF 20.83 FEET; THENCE NORTHEASTERLY, CONTINUING ALONG SAID LINE, ALONG A CURVE TO THE LEFT BEING TANGENT TO THE LAST DESCRIBED COURSE, HAVING A RADIUS OF 470.00 FEET, AN ARC DISTANCE OF 108.88 FEET; THENCE NORTHERLY, CONTINUING ALONG SAID LINE, ALONG A CURVE TO THE LEFT BEING TANGENT TO THE LAST DESCRIBED CURVE, HAVING A RADIUS OF 60.00 FEET, AN ARC DISTANCE OF 51.66 FEET; THENCE NORTHERLY, CONTINUING ALONG SAID LINE, ALONG A CURVE TO THE RIGHT BEING TANGENT TO THE LAST DESCRIBED CURVE, HAVING A RADIUS OF 67.00 FEET, AN ARC DISTANCE OF 10.05 FEET; THENCE NORTHWESTERLY, CONTINUING ALONG SAID LINE, ALONG A CURVE TO THE LEFT BEING TANGENT TO THE LAST DESCRIBED CURVE, HAVING A RADIUS OF 60.00 FEET, AN ARC DISTANCE OF 44.97 FEET; THENCE N60°51'26"W, CONTINUING ALONG SAID LINE, A DISTANCE OF 82.64 FEET; THENCE NORTHWESTERLY, CONTINUING ALONG SAID LINE, ALONG A CURVE TO THE RIGHT BEING TANGENT TO THE LAST DESCRIBED COURSE, HAVING A RADIUS OF 233.00 FEET, AN ARC DISTANCE OF 126.61 FEET; THENCE N00°34'00"E, CONTINUING ALONG SAID LINE, A DISTANCE OF 264.89 FEET TO THE SOUTHERLY MOST POINT OF TRACT B, SAID VERTICAL VENTURES III FIRST PLAT; THENCE N15°53'56"E, CONTINUING ALONG SAID LINE AND ALONG THE SOUTHEASTERLY LINE OF SAID TRACT B, A DISTANCE OF 58.63 FEET; THENCE NORTHERLY, CONTINUING ALONG SAID LINE, ALONG A CURVE TO THE LEFT BEING TANGENT TO THE LAST DESCRIBED COURSE, HAVING A RADIUS OF 15.00 FEET, AN ARC DISTANCE OF 22.98 FEET TO A POINT ON THE SOUTHERLY RIGHT OF WAY LINE OF MISSOURI STATE ROUTE 45; THENCE EASTERLY, ALONG SAID SOUTHERLY RIGHT OF WAY LINE AND ALONG THE NORTHERLY LINE OF SAID TRACT D, ALONG A CURVE TO THE LEFT HAVING AN INITIAL TANGENT BEARING OF S71°53'42"E, A RADIUS OF 1487.32 FEET, AN ARC DISTANCE OF 324.87 FEET TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE S18°04'15"W, ALONG THE EAST LINE OF SAID LOT 1, A DISTANCE OF 180.38 FEET; THENCE S00°26'09"E, CONTINUING ALONG SAID LINE, A DISTANCE OF 133.41 FEET; THENCE S50°05'11"W, CONTINUING ALONG SAID LINE, A DISTANCE OF 71.80 FEET TO THE SOUTHERLY MOST CORNER OF SAID LOT 1, SAID POINT ALSO BEING ON THE EASTERLY LINE OF SAID TRACT D; THENCE EASTERLY, ALONG SAID

EASTERLY LINE OF TRACT D, ALONG A CURVE TO THE LEFT HAVING AN INITIAL TANGENT BEARING OF S84°01'32"E, A RADIUS OF 60.00 FEET, AN ARC DISTANCE OF 20.66 FEET; THENCE EASTERLY, SOUTHERLY, AND SOUTHWESTERLY, ALONG A CURVE TO THE RIGHT BEING TANGENT TO THE LAST DESCRIBED CURVE, HAVING A RADIUS OF 67.00 FEET, AN ARC DISTANCE OF 194.98 FEET; THENCE SOUTHWESTERLY, CONTINUING ALONG SAID LINE, ALONG A CURVE TO THE LEFT BEING TANGENT TO THE LAST DESCRIBED CURVE, HAVING A RADIUS OF 60.00 FEET, AN ARC DISTANCE OF 43.53 FEET; THENCE SOUTHWESTERLY, CONTINUING ALONG SAID LINE, ALONG A CURVE TO THE RIGHT BEING TANGENT TO THE LAST DESCRIBED CURVE, HAVING A RADIUS OF 530.00 FEET, AN ARC DISTANCE OF 135.72 FEET; THENCE S36°05'14"W, CONTINUING ALONG SAID LINE, A DISTANCE OF 20.83 FEET; THENCE SOUTHWESTERLY, CONTINUING ALONG SAID LINE, ALONG A CURVE TO THE LEFT BEING TANGENT TO THE LAST DESCRIBED COURSE, HAVING A RADIUS OF 470.00 FEET, AN ARC DISTANCE OF 96.55 FEET TO THE NORTHWESTERLY CORNER OF SAID TRACT A; THENCE S89°59'34"E, ALONG THE NORTH LINE OF SAID TRACT A, A DISTANCE OF 328.30 FEET; THENCE N60°19'44"E, CONTINUING ALONG SAID NORTH LINE, A DISTANCE OF 288.88 FEET; THENCE N50°14'31"E, CONTINUING ALONG SAID NORTH LINE, A DISTANCE OF 309.59 FEET; THENCE N25°03'43"E, CONTINUING ALONG SAID NORTH LINE, A DISTANCE OF 46.43 FEET; THENCE N00°21'36"E, CONTINUING ALONG SAID NORTH LINE, A DISTANCE OF 89.38 FEET; THENCE S89°38'24"E, CONTINUING ALONG SAID NORTH LINE, A DISTANCE OF 116.92 FEET; THENCE S00°21'36"W, CONTINUING ALONG SAID NORTH LINE, A DISTANCE OF 37.48 FEET; THENCE S89°36'26"E, CONTINUING ALONG SAID NORTH LINE, A DISTANCE OF 100.87 FEET TO A POINT ON THE WEST RIGHT OF WAY LINE OF INTERSTATE 435; THENCE S01°23'40"E, ALONG SAID WEST LINE, A DISTANCE OF 128.26 FEET; THENCE S75°08'27"E, CONTINUING ALONG SAID WEST LINE, A DISTANCE OF 104.10 FEET; THENCE S01°23'00"E, CONTINUING ALONG SAID WEST LINE, A DISTANCE OF 276.09 FEET; THENCE N89°45'03"W, A DISTANCE OF 463.12 FEET; THENCE S00°14'11"W, A DISTANCE OF 541.10 FEET; THENCE S89°52'57"E, A DISTANCE OF 405.34 FEET; THENCE S09°12'29"W, A DISTANCE OF 23.03 FEET; THENCE S20°32'32"W, A DISTANCE OF 182.45 FEET; THENCE S33°10'40"W, A DISTANCE OF 622.24 FEET; THENCE S00°13'51"W, A DISTANCE OF 22.56 FEET; THENCE N89°52'53"W, A DISTANCE OF 1392.87 FEET TO THE POINT OF BEGINNING.

AND

A portion of Interstate 435 Highway (I-435) and Missouri Route 45 Highway (Rte 45) right of way lying in the South half of Section 18 and the North half of Section 19, Township 51 North, Range 34 West of the 5th P.M. in Platte County, Missouri and described as follows:

All that portion of the Easterly (Left) right of way of said I-435 Highway lying 1561.93 feet north of the centerline intersection of said I-435 and Rte 45 and 1338.07 feet south of said intersection; said right of way lies between I-435 highway stations 1410+00 to 1439+00.

AND ALSO:

All that portion of the entire Rte 45 Highway right of way lying 1509.60 feet east of the intersection of said Rte 45 and I-435; said right of way lies between Rte 45 Highway Stations 1542+48.40 and 1557+58.00

AND

All that part of the of the Northeast Quarter of Section 19, Township 51 North, Range 34 West of the 5th P.M., Platte County, Missouri, and including all or portions of a parcel conveyed in Document 2018013884 in Book 1303 at Page 828, and including all of Lot 1, VERTICAL VENTURES II FIRST PLAT, CORRECTED PLAT a subdivision in City of Parkville, all of the Records of said Platte County, and described as follows:

Beginning at the Southeast Corner of the North Half of the Southwest Quarter of said Northeast Quarter;

thence N 89°56'27" W, along the South line of said North Half, 1319.84 feet to the Southwest corner thereof;

thence N 00°13'43" W, along the West line of said Northeast Quarter, 1032.59 feet, to a point 938.52 feet (14.22 chains) south of the Northwest corner of said Northeast Quarter;

thence departing said West line, N 89°59'31" E, 379.76 feet to on the centerline of an old road;

thence S 23°21'20" W, along said centerline, 130.37 feet;

thence S 03°00'25" W, along said centerline, 196.86 feet;

thence S 41°47'16" E, along said centerline, 71.23 feet to the center line of Brush Creek and continuing along said Creek centerline along the following 12 courses;

- 1) thence N 10°15'06" E, 218.54 feet;
- 1) thence N 14°29'04" E, 159.29 feet;
- 2) thence N 61°59'36" E, 200.39 feet;
- 3) thence N 85°36'32" E, 28.50 feet;
- 4) thence N 22°11'16" E, 43.72 feet;
- 5) thence N 03°25'16" W, 45.25 feet;
- 6) thence N 11°54'09" E, 68.00 feet;
- 7) thence N 35°07'08" W, 103.52 feet;
- 8) thence N 01°31'00" E, 72.95 feet;
- 9) thence N 63°26'10" W, 54.49 feet;

10) thence N 24°13'00" W, 153.72 feet;

11) thence N 08°46'04" W, 49.92 feet to a point on the Southerly Missouri Highway 45 right of way line;

thence N 01°23'05" W, 300.00 feet to a point on the Northerly Missouri Highway 45 right of way line;

thence S 88°36'55" W, along said Northerly right of way line, 249.75 feet;

thence S 64°49'11" E, along said Northerly right of way line, 111.80 feet;

thence S 88°36'55" W, along said Northerly right of way line, 519.43 feet to a point on a line being 40.00 feet east of and parallel with the East line of the Northwest Quarter of said Northeast Quarter;

thence departing said right of way line, S 00°12'58" W, along said line, 1943.18 feet to a point on the North line of BLY ACRES, a Minor Subdivision in said Platte County;

thence N 89°55'39" W along said North line, 40.00 feet to a point on the East line of the Southwest Quarter of said Northeast Quarter;

thence N 00°12'58" E, along said East line, 18.33 feet to the POINT OF BEGINNING.

Except the following: all of Lot 1, VERTICAL VENTURES II FIRST PLAT, CORRECTED PLAT a subdivision in City of Parkville, all of the Records of said Platte County.

Exhibit B

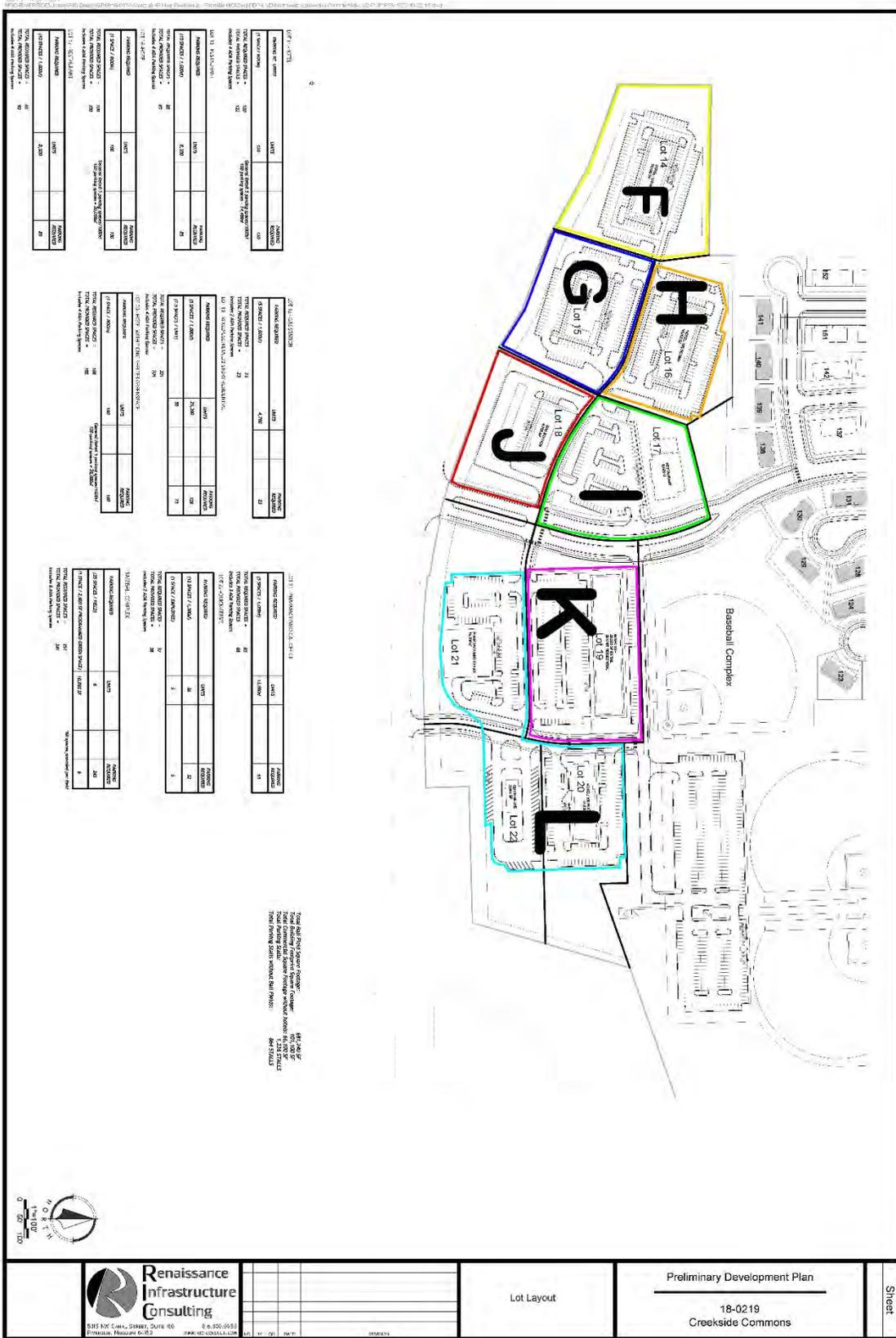
Legal Description of Redevelopment Project Areas

As shown in Exhibit 1B of the Creekside Tax Increment Financing Plan

Exhibit C

Map of the Redevelopment Project Areas and Preliminary Site Plans





{32601 / 69594; 841593. }

C-4



Lot Layout

Preliminary Development Plan
 18-0219
 Creekside Commons

Sheet

Exhibit D

Private Project Improvements

The Private Project Improvements shall include approximately four hundred thousand (400,000) square feet of industrial space, approximately two hundred thousand (200,000) square feet of new retail and restaurant space, four (4) hotels; and other improvements including but not limited to common areas and related parking improvements, sidewalks, curbs, gutters, and landscaping identified and developed in accordance with the preliminary site plans in **Exhibit C**.

Exhibit E

Public Project Improvements

The Public Project Improvements are those improvements that will be dedicated to the City or MoDOT identified in the TIF Plan, including:

1. Acquisition of land in the southwest corner of I-435 and Highway 45 including, but not limited to, Redevelopment Project Areas M and N;
2. General site fill, grading, construction of retaining walls, and other land preparation as required;
3. Sanitary sewer, water, and other utility infrastructure;
4. Storm water detention basins and facilities;
5. Streets, parking surfaces, curbs, gutters;
6. Hardscapes, landscapes, walking trail, and other public amenities;
7. Police Substation

Exhibit F

Redevelopment Schedule

Redevelopment Project Area	Commencement	Completion
Redevelopment Project A-E (SE Corner)	2019	2025
Redevelopment Project F-L (NW Corner)	2019	2025
Redevelopment Project M-N (SW Corner)	2020	2025

Exhibit G

Land Use Approvals

Ordinance No.	Description	Date
2979	Approving Preliminary Development Plan for Creekside Industrial	Dec. 18, 2018
2966	Approving Preliminary Development Plan for Meadows at Creekside	Nov. 6, 2018
2967	Approving Conditional Use Permit to Allow Townhomes, Multi-Family Apartments, and a Police Substation in Meadows at Creekside	Nov. 6, 2018
2968	Rezoning 38.12 Acres along Brink-Myer Road from "PI" to "B-2-P"	Nov. 6, 2018
2969	Approving Preliminary Development Plan for Old town at Creekside	Nov. 6, 2018
2970	Rezoning 60.4 Acres in the NW Quadrant from "R-7," "RMD," and "RE," to "R-4-P"	Nov. 6, 2018
2971	Approving a Preliminary Development Plan for the Woods at Creekside	Nov. 6, 2018
2972	Approving a Conditional Use permit to Allow Townhome Uses in Woods at Creekside and Creekside Village	Nov. 6, 2018
2973	Rezoning 3 parcels from "R-7," "RMD," "RE," and "CH" to "B-2-P"	Nov. 6, 2018
2974	Approving a Preliminary Development Plan for Creekside Commons	Nov. 6, 2018

Exhibit H

Redevelopment Project Cost Budget

Exhibit 4
Estimated Redevelopment Project Costs

COSTS	TOTAL PROJECT COSTS	PRIVATE	TRF & OTHER		Terminally Impoverished District (TID)				Transitional Development District (TDD)	
			UNITS / FATS / HTR / STR	MON/FAITS	QD-5A MON/FAITS	QD FAITS	TDD MON/FAITS	TDD FAITS		
COSTS										
Land Acquisition / HUD Investment Access	\$ 6,400,000	\$ -	1,600,000	\$ -	4,800,000	\$ -				
Total City Costs	\$ 6,400,000	\$ -	1,600,000	\$ -	4,800,000	\$ -				
DEVELOPMENT COSTS										
Acquisition	\$ 1,700,000	\$ 304,750	1,001,686	\$ -		\$ -	176,808	\$ -	176,808	\$ -
Building Construction	\$ 215,622,000	\$ 755,992,000	465,763	\$ -		\$ -	82,369	\$ -	82,369	\$ -
General Conditions	\$ 1,000,000	\$ 370,000	465,763	\$ -		\$ -		\$ -		\$ -
Site Construction (for & off-site)	\$ -	\$ -		\$ -		\$ -		\$ -		\$ -
Grading, retaining walls and site prep	\$ 898,500	\$ 2,600,000	437,624	\$ -		\$ -	1,149,977	\$ -	1,149,977	\$ -
Sewer/Sewer	\$ 1,177,000	\$ 1,810,000	1,166,750	\$ -		\$ -	200,000	\$ -	200,000	\$ -
Water	\$ 2,681,000	\$ 950,000	1,247,462	\$ -		\$ -	600,000	\$ -	600,000	\$ -
Electric	\$ 4,800,000	\$ 1,850,000	1,850,000	\$ -		\$ -	1,850,000	\$ -	1,850,000	\$ -
Gas	\$ 7,691,254	\$ 1,795,000	815,582	\$ -		\$ -	345,313	\$ -	345,313	\$ -
Surface Paving & Curbs	\$ 6,990,675	\$ 402,000	4,213,862	\$ -		\$ -	660,905	\$ -	660,905	\$ -
Sign Billage	\$ 2,374,000	\$ 725,000	1,081,762	\$ -		\$ -	188,619	\$ -	188,619	\$ -
Handicaps / Landscaping	\$ 3,077,500	\$ 1,065,000	1,665,434	\$ -		\$ -	785,539	\$ -	785,539	\$ -
Amplifiers / Walling / Tents	\$ 7,109,500	\$ 1,136,000	456,716	\$ -		\$ -	74,132	\$ -	74,132	\$ -
Signage	\$ 2,100,000	\$ 971,500	1,298,375	\$ -		\$ -	272,514	\$ -	272,514	\$ -
Professional Services (Legal/Arch/Engineer)	\$ 3,960,000	\$ 4,688,825	2,125,812	\$ -		\$ -	360,838	\$ -	360,838	\$ -
Commission & Marketing	\$ 4,275,000	\$ 998,699	857,009	\$ -		\$ -	153,078	\$ -	153,078	\$ -
Financial Costs (Interest/Contingency/Lease/Other)	\$ 4,833,000	\$ 2,724,197	857,009	\$ -		\$ -	153,078	\$ -	153,078	\$ -
Development Fee	\$ 1,771,000	\$ -		\$ -		\$ -		\$ -		\$ -
Contingency	\$ 3,281,818	\$ 242,506,272	242,506,272	\$ -		\$ -	1,307,432	\$ -	1,307,432	\$ -
Total Development Costs	\$ 348,871,818	\$ 881,296,272	25,989,385	\$ -	\$ 828,819	\$ -	4,132,781	\$ -	\$ 862,819	\$ -
PERMANENT TOTAL COSTS	\$ 355,271,818	\$ 881,296,272	27,588,685	\$ -	\$ 4,828,819	\$ -	4,132,781	\$ -	\$ 862,819	\$ -
Percentage of Total Development Costs by Category		86.1%	7.4%	1.8%	0.3%	1.3%	1.8%	1.3%	1.3%	1.3%
Costs Over 100 Sides Tax Exemption Materials	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -
Net Development Costs (Net of Sides Tax Exemption)	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -	\$ -

Notes:

- (1) Amount set forth in the TRF & OTHER, CID and TDD columns for Total Development Costs totaling approximately \$45.8 million are net reimbursable project cost reimbursements and do not include (other than certain limited interest and financing costs during the construction and ramp up period to stabilization) interest expenses, financing expenses, fees, or costs of insurance for bonds or any other financing instrument, all of which are reimbursable Project Costs in addition to any cap established for the Total Development Costs.
- (2) Amount set forth in the TRF & OTHER and CID columns for Total City Costs totaling approximately \$6.4 million are the gross reimbursable project cost reimbursements.
- (3) Any amounts paid to the City for payment to reimbursement of its professional fees and other charges of any kind related to these projects are deemed Reimbursable Project Costs in addition to any cap established for the project.
- (4) This Redevelopment Budget is an estimate of the development costs to implement the Project. The amounts set forth in the TRF and OTHER, CID and TDD columns for the Total Development Costs may be further allocated between TRF & OTHER, CID and TDD cost categories and any limitation on reimbursement that only be subject to statutory restrictions for the respective funding source.
- (5) The reimbursable amounts set forth in this Exhibit H are reasonable best estimates at the time of approval of this Plan and it is agreed to and understood that such amounts are subject to change as part of the development process. The reimbursable amounts may be applied to any one or all of the stated line items, irrespective of the costs set forth in this exhibit, up to the maximum reimbursable amount of \$55 million.
- (6) Redevelopment Project Costs within the Redevelopment Area total approximately \$185 million.

Exhibit I

Pro Forma With Public Incentives

But For
Evidence of "But For" - Economic Feasibility Analysis

CONFIDENTIAL - DRAFT

BUDGET SUMMARY		STABILIZED OPERATING PROGRAM										
		Year 0	Year 1	Year 2	Year 3	Year 4	Year 5	Year 6	Year 7	Year 8	Year 9	Year 10
Land Acquisition	\$	1,700,002										
Sitework & Infrastructure	\$	4,794,529										
Professional Services - Engineer/Architect/Consulting/Other	\$	2,318,000										
General Conditions/Impact & Other Fees	\$	1,020,000										
Interest Carry/Closing	\$	4,275,000										
Leasing, Sales Commissions & Marketing	\$	4,668,825										
Development Fee	\$	4,333,669										
Contingency	\$	4,895,393										
TOTAL DEVELOPMENT COSTS	\$	32,815,818										
Less: Ch. 100 Sales Tax Exemption to Others	\$	(3,379,884)										
Less: Net Costs By Others	\$	(1,889,919,116)										
Less: Ch. 107 Sales Tax Exemption to Developer	\$	(1,520,403)										
TOTAL NET DEVELOPMENT COSTS	\$	13,225,609										
CASH FLOW												
Net Operating Income (NOI)	\$	-	1,346,800	2,697,535	3,799,285	5,005,870	5,381,988	5,489,628	5,599,420	5,711,409	5,825,637	5,942,149
SOURCES/USES												
Uses	\$	68,307,343	20,754,777	18,254,777	18,879,777	6,348,527	-	-	-	-	-	-
Total Developer Costs	\$	68,307,343	20,754,777	18,254,777	18,879,777	6,348,527	-	-	-	-	-	-
Releasing Costs	\$	-	-	-	-	-	-	-	-	-	-	-
Total Uses	\$	68,307,343	20,754,777	18,254,777	18,879,777	6,348,527	-	-	-	-	-	-
Sources	\$	10,000,000	10,000,000	10,000,000	10,000,000	-	-	-	-	-	-	-
Public Finance Proceeds	\$	6,894,957	5,377,666	3,969,492	5,672,565	2,349,492	520,000	-	-	-	-	-
Land Sale Proceeds	\$	5,142,386	5,377,111	4,285,585	3,012,212	3,094,558	(2,349,492)	(520,000)	-	-	-	-
Private Capital	\$	68,307,343	20,754,777	18,254,777	18,879,777	6,348,527	-	-	-	-	-	-
Total Sources	\$	84,344,736	41,509,554	36,529,774	37,564,554	11,792,577	520,000	520,000	5,599,420	5,711,409	5,825,637	5,942,149
REVERSION												
Gross Reversion Proceeds (% Cap Rate)	%	7.50%										
Sales Costs	%	4%										
LINKED-BACKED CASH FLOW ANALYSIS (Before Debt)												
Cash Flows with No Economic Development Incentives except Sales Tax Exemption	\$	(6,412,386)	(4,030,312)	(1,587,750)	(9,212,927)	1,911,312	7,731,480	6,009,628	5,599,420	5,711,409	5,825,637	5,942,149
Internal Rate of Return (IRR)	%	2.04%										
Cash Flows with Economic Development Incentives	\$	(5,142,386)	(4,030,312)	(1,587,750)	787,073	1,911,312	7,731,480	6,009,628	5,599,420	5,711,409	5,825,637	86,766,064
Internal Rate of Return (IRR)	%	8.86%										

Notes:
(1) NOI is projected to increase 4.1% annually after stabilization.
(2) Reversion cap rate is gross of selling expenses.