Final Version

TAX INCREMENT FINANCING REDEVELOPMENT AGREEMENT

Between the

CITY OF KEARNEY, MISSOURI

and

STAR ACQUISITIONS, INC.

dated as of _____, 2012

THE SHOPPES AT KEARNEY REDEVELOPMENT AREA

TAX INCREMENT FINANCING REDEVELOPMENT AGREEMENT

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TAX INCREMENT FINANCING REDEVELOPMENT AGREEMENT

THIS TAX INCREMENT FINANCING REDEVELOPMENT AGREEMENT (the "**Agreement**") is made and entered into as of the _____ day of _____, 2012, by and between the **CITY OF KEARNEY, MISSOURI**, a fourth class city and political subdivision of the State of Missouri (the "**City**"), and **STAR ACQUISITIONS, INC.,** a Missouri Subchapter S corporation (the "**Developer**") (the City and the Developer being sometimes collectively referred to herein as the "**Parties**", and individually as a "**Party**", as the context so requires). (All capitalized terms used but not otherwise defined herein shall have the meanings ascribed in **Section 1.02** of this Agreement.)

RECITALS

1. The Board of Aldermen created the Tax Increment Financing Commission of the City of Kearney, Missouri (the "**TIF Commission**"), by approval of mayoral appointments of members of the TIF Commission and empowered the TIF Commission to exercise those powers and fulfill such duties as are required or authorized for the TIF Commission under the TIF Act. The various Taxing Districts within the Redevelopment Area have appointed members to the TIF Commission in accordance with Section 99.820 of the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865 RSMo (the "**TIF Act**").

2. On October 15, 2009, the City published a request for proposals soliciting proposals for the redevelopment of the Redevelopment Area (as hereinafter defined) and made such requests for proposals available for potential developers of the Redevelopment Area (as hereinafter defined).

3. On October 19, 2009, the Developer submitted a proposed tax increment financing plan (the "**Redevelopment Plan**") for the redevelopment of an area that consists of approximately 37 acres within the City, and is generally located at the southeastern quadrant of Interstate 35 and Highway 92 (the "**Redevelopment Area**"). The Redevelopment Area will be developed as one redevelopment project (the "**Project**") to be built in one redevelopment project area (the "**Redevelopment Project Area**").

4. On November 9, 2009, the TIF Commission, after giving all notices required by the TIF Act, opened a public hearing at which all interested parties had the opportunity to be heard and at which the TIF Commission heard and considered all protests and objections concerning the Redevelopment Plan, the Redevelopment Area and the approval of the Project. On that date, the TIF Commission concluded the hearing and made its recommendation to the Board of Aldermen to approve the Redevelopment Plan.

5. Based on the recommendation of the TIF Commission, the TIF Plan was amended on November 19, 2009, and notice of the changes to the TIF Plan was mailed to all taxing districts and published in *The Kearney Courier* in compliance with Section 99.825, RSMo.

6. After due consideration of the TIF Commission's recommendations and making each of the findings required by Section 99.810 of the TIF Act, the Board of Aldermen adopted Ordinance No. 1126-2010 on January 19, 2010 (the "**Redevelopment Plan Ordinance**"), designating the Redevelopment Area as a blighted area, approving the Redevelopment Plan, designating the Redevelopment Area as a "redevelopment area" as provided in the TIF Act, appointing the Developer as the developer for the Redevelopment Plan, and establishing the Special Allocation Fund. The Board also adopted Ordinance No. _____ on _____ ___ 20__, approving this Agreement and authorizing the City to execute and enter into this Agreement.

7. The Board of Aldermen concluded that the redevelopment of the Redevelopment Area as provided for herein, in the Redevelopment Plan Ordinance, and in the Plan, will further the growth of the City, facilitate the redevelopment of the entire Redevelopment Area, improve the environment of the City, increase the assessed valuation of the real estate situated within the City, increase the sales tax revenues realized by the City, foster increased economic activity within the City, increase employment opportunities within the City, enable the City to direct the development of the Redevelopment Area, and otherwise be in the best interests of the City by furthering the health, safety, and welfare of its residents and taxpayers.

8. Pursuant to the provisions of the TIF Act and the Redevelopment Plan Ordinance, the City is authorized to enter into this Agreement, to pay or reimburse Reimbursable Project Costs and issue Obligations as evidence of the City's obligation to pay or reimburse certain Redevelopment Project Costs incurred in furtherance of the Redevelopment Plan and the Project.

AGREEMENT

Now, therefore, in consideration of the premises and mutual promises contained herein and other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the Parties hereto agree as follows:

ARTICLE 1: RECITALS, EXHIBITS AND DEFINITIONS

Section 1.01. Recitals and Exhibits. The representations, covenants and recitations set forth in the foregoing recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this Section. The provisions of the Redevelopment Plan, the Redevelopment Plan Ordinance and the provisions of the TIF Act as amended as of and including the date of this Agreement, are hereby incorporated herein by reference and made a part of this Agreement, subject in every case to the specific terms hereof. In the event of any conflict between the provisions of this Agreement and the Funding Agreement or any other documents related to the Redevelopment Plan previously prepared or executed, the provisions of this Agreement shall control.

Section 1.02. Definitions. Words and terms not defined elsewhere in this Agreement shall, except as the context otherwise requires, have the following meanings:

"Action" shall have the meaning set forth in **Section 7.01.B**.

"Administrative Costs" means all documented costs and expenses reasonably incurred by the City for planning, legal, financial, administrative and other costs associated with the review, consideration, approval and implementation of the Redevelopment Plan, this Agreement and the Project, including all consultants engaged by the City.

"Advanced Funds" shall have the meaning set forth in **Section 2.05.B.**

"Advanced Funds Account" shall have the meaning set forth in **Section 2.05.B.**

"**Affiliate**" means any person, entity or group of persons or entities that 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.

"Agreement" means this Tax Increment Financing Redevelopment Agreement, as the same may be from time to time modified, amended or supplemented in writing by the Parties hereto.

"Applicable Law and Requirements" means any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, requirement or decision of or agreement with or by Governmental Authorities.

"Application for Reimbursable Project Costs" means a certificate in substantially the form attached as **Exhibit G** hereto furnished by the Developer to the City evidencing Reimbursable Project Costs incurred by the Developer.

"Best Efforts" means actual, reasonable, good faith attempts to accomplish or achieve the required obligation which shall be documented by the party taking such action, and proof of such documentation may be requested in writing by the other party to verify that such actual, reasonable, good faith attempts occurred. The failure to provide such documentation upon written request within a reasonable period of time after receipt of such written request shall be deemed noncompliance with such obligation and a breach of this Agreement, subject to the 30-day notice and cure period set forth in **Sections 8.01 and 8.02**.

"Board of Aldermen" means the Board of Aldermen of the City of Kearney, Missouri.

"Bond Counsel" means Gilmore & Bell, P.C., Kansas City, Missouri or an attorney at law or a firm of attorneys acceptable to the City of nationally recognized standing in matters pertaining to the tax-exempt nature of interest on obligations issued by states and their political subdivisions duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia.

"Bond Proceeds" means the gross cash proceeds from the sale of Bonds before payment of Financing Costs, together with any interest earned thereon.

"Bonds" means any tax increment revenue bonds issued by the City or another governmental entity in accordance with the TIF Act and this Agreement.

"Capital Contribution" means all or a portion of a Taxing District's capital costs resulting from the Project necessarily incurred or to be incurred in furtherance of the objectives of the Redevelopment Plan and the Project.

"Captured CID Revenues" shall have the meaning set forth in **Section 6.01.C.1**.

"CC&Rs" shall have the meaning set forth in **Section 5.03**.

"Certificate of Substantial Completion" means a certificate in substantially the form attached as **Exhibit F** hereto furnished by the Developer and approved by the City pursuant to **Section 5.04** upon the substantial completion of the Project or a portion thereof.

"CID" means a community improvement district which is established and operated in accordance with the CID Act and **Article 6** of this Agreement.

"CID Act" means the Community Improvement District Act, Sections 67.1401 to 67.1571 RSMo.

"CID Revenues" means the revenues generated and collected by or on behalf of the CID through imposition of the CID Sales Tax.

"CID Revenues Account" means the separate segregated account within the Special Allocation Fund into which Captured CID Revenues will be deposited.

"CID Sales Tax" means the sales tax imposed by the CID in accordance with the CID Act and the CID petition approved by the City.

"City" means the City of Kearney, Missouri, a fourth class city and political subdivision of the State of Missouri.

"City Administrator" means the City Administrator of the City, or his/her designee.

"City Attorney" means the then current attorney appointed by the City as the City Attorney.

"City Engineer" means a person or firm engaged by the City to perform engineering services, or a person that may be hired and appointed by the City as the City Engineer.

"City Event of Default" has the meaning set forth in **Section 8.02**.

"City Indemnified Parties" shall have the meaning set forth in **Section 7.01.A**.

"City Planning Commission" means the Planning Commission of the City.

"Collection Authority" means the TIF Commission, the City, the County Collector, or any other governmental official or body charged with the collection of Payments in Lieu of Taxes or Economic Activity Taxes.

"Construction Inspector" means a City employee designated by the City to perform inspections.

"Construction Plans" means plans, drawings, specifications and related documents, and construction schedules for the construction of the Work, together with all supplements, amendments or corrections, submitted by the Developer and approved by the City in accordance with this Agreement.

"Cooperative Agreement" has the meaning set forth in **Section 6.01.C.1**.

"County" means Clay County, Missouri.

"County Assessor" means the County Assessor of Clay County, Missouri.

"County Collector" means the County Collector of Clay County, Missouri.

"Debt Service" means the amount required for the payment of principal of and interest on Obligations 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 Obligations or Private Loans.

"Design Standards" shall have the meaning set forth in **Section 5.01.C**.

"Developer" means Star Acquisitions, Inc., a Missouri Subchapter S corporation, or its permitted successors or assigns in interest.

"Developer Event of Default" has the meaning set forth in **Section 8.01**.

"Developer Private Improvements" means the improvements, excluding the Public Improvements, constructed in accordance with the Redevelopment Plan, including approximately 170,000 square feet of retail, specialty retail, restaurant and/or other commercial facilities and related infrastructure, parking, landscaping, internal vehicle and pedestrian roads and paths, signage and other private improvements that will serve the Project in accordance with Governmental Approvals, which may include, but is not required to include, a grocery store, bank, gas station, pharmacy, hotel, sit-down and fast food restaurants, and small and large tenant retail, and which may also include other types of users and additional or different buildings that are consistent with shopping center developments, including financial institutions, professional offices, and other commercial uses, subject to the limitation set forth in Section 5.02(B)(1) hereof.

"Developer's Indemnified Parties" shall have the meaning set forth in **Section 7.02.A**.

"Drive A" means the public roadway which will be constructed from the current intersection of Route 92 and Platte Clay Way/Regency Drive south and west to the southern boundary of the Property.

"**Drive B"** means the public roadway extending from Drive A north to Route 92.

"Economic Activity Taxes" shall have the meaning ascribed to such term in Section 99.805 of the TIF Act.

"Economic Activity Taxes Account" means the separate segregated account within the Special Allocation Fund into which fifty percent (50%) of Economic Activity Taxes are to be deposited.

"Effective Date" means the date written in the first paragraph on page 1 of this Agreement.

"Excusable Delay" means any delay beyond the reasonable control of the Party affected, caused by damage or destruction by fire or other casualty, strike, shortage of materials, civil disorder, war, wrongful failure or refusal of any governmental entity to issue any permits and/or legal authorization necessary for the Developer to proceed with construction of the Work or any portion thereof, adverse market conditions, the Developer's inability to secure acceptable financing and/or Tenants for the development despite the Developer's commercially reasonable efforts, unavailability of labor or other labor/contractor disputes outside the reasonable control of the Developer, unusually adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or abnormal duration, tornadoes, and any other events or conditions, which shall include but not be limited to any litigation interfering with or delaying the construction of all or any portion of the Project in accordance with this Agreement, which in fact prevents the Party so affected from discharging its respective obligations hereunder. Developer agrees to voluntarily undertake the Project on the Effective Date. The Parties agree that the market conditions on the Effective Date do not constitute extraordinary market conditions that may cause Excusable Delay of commencement of work on the Project.

"Existing Grocery Store" means, collectively, the existing grocery stores within the City on the Effective Date but outside the Redevelopment Area that generates approximately Fifteen Million Dollars ($15,000,000) of sales per year.

"Financing Costs" means all costs reasonably incurred by the Developer, the TIF Commission, or the City as a result of issuing one or more series of Obligations or securing Private Loan(s) to pay all or any portion of Reimbursable Project Costs incurred or estimated to be incurred, including but not limited to interest, loan origination fees not to exceed two percent (2%) of the principal amount of the loan and interest, capitalized interest, financial advisor fees, legal fees (including the City Attorney, special TIF counsel, Bond Counsel, and Developer's counsel), broker fees or discounts, original purchaser's discount, printing and other costs related to such financing. Financing Costs shall include interest on non-borrowed funds (i.e., equity) used by Developer to pay for Reimbursable Project Costs. Financing Costs shall be Reimbursable Project Costs, but shall not be subject to the Reimbursable Project Costs Cap. Any interest in excess of the maximum rate allowed by law on any Private Loan shall not constitute Financing Costs.

"Financing Documents" means the financing agreements, disbursement agreements and all other agreements and certificates executed in connection with the issuance of Obligations.

"Funding Agreement" means the Preliminary Funding Agreement executed by the City and the Developer dated September 21, 2009, for the payment of City costs associated with the Redevelopment Plan.

"Governmental Approvals" means all plat approvals, re-zoning or other zoning changes, site plan approvals, conditional use permits, variances, building permits, architectural review or other subdivision, zoning or similar approvals required for the implementation of the Project and consistent with the Redevelopment Plan, the Site Plan and this Agreement, as all may be amended from time to time.

"Governmental Authorities" means any and all jurisdictions, entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies or authorities of any type of any governmental unit (federal, state or local) whether now or hereafter in existence.

"Grocery Store Base Sales" means Fifteen Million Dollars ($15,000,000) of "base sales" at the New Grocery Store within the Redevelopment Area for purposes of calculating Economic Activity Taxes generated by the New Grocery Store, subject to any reduction or adjustment in the calculation of such sales pursuant to **Section 4.06.E**.

"Indenture" means one or more trust indentures in the form and substance mutually agreed to by the Parties, relating to the issuance by the City of the Obligations.

"Insurance Consultant" means an insurance advisor, broker, or consultant selected by the Developer subject to the reasonable approval of the City.

"**Lender**" means the holder or holders of any mortgage or deed of trust encumbering Developer's interest in all or a portion of the Redevelopment Area.

"MHTC" shall have the meaning set forth in **Section 5.01.J**.

"New Grocery Store" means the grocery store anticipated to be located within the Redevelopment Area.

"Non-Captured CID Revenues" shall have the meaning set forth in **Section 6.01.C.2**.

"Obligations" means the Bonds or other debt obligations, singly or in series, issued by the City or any third party at the direction of the City pursuant to the TIF Act and in accordance with this Agreement.

"Ordinance" means an ordinance adopted by the Board of Aldermen.

"Party" or **"Parties"** means the City and/or the Developer.

"Payments in Lieu of Taxes" shall have the meaning assigned to such term in Section 99.805 of the TIF Act.

"Permitted Subsequent Approvals" means the building permits and other Governmental Approvals customarily obtained prior to construction which have not been obtained or which the City or other Governmental Authority has not yet determined to grant on the date that this Agreement is executed.

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

"Priority Road Improvements" means the road and traffic improvements set forth in **Exhibit K**.

"Private Loans" means loans made in whole or in part to finance or refinance Reimbursable Project Costs.

"Project" means the Public Improvements and the Developer Private Improvements described in the Redevelopment Plan and this Agreement to be constructed by or on behalf of the Developer in the Redevelopment Area pursuant to this Agreement.

"Project Budget" means the Project Budget set forth in **Exhibit C**.

"**Project Ordinance**" means the Ordinance designated as Bill No. _____ that approves the Redevelopment Project and activates the collection of TIF Revenues in the Redevelopment Project Area.

"**Project Schedule**" means the schedule for design, construction and operation of the Project as set forth in **Exhibit D**.

"Projected Assessed Value" shall have the meaning set forth in **Section 4.05.C**.

"Property" means all of the real property located within the boundaries of the Redevelopment Area and existing improvements in the Redevelopment Area as set forth in the Redevelopment Plan.

"Public Facility Project" means the community center, aquatics center, or other public facility, which will be designed and constructed by the City or the CID with the Non-Captured CID Revenues.

"Public Improvements" means that portion of the Work which consists of improvements in public rights-of-way or easements which will be dedicated to, owned and maintained by a public entity, including the City or the CID contemplated in **Article VI** hereof, as described in the Project Budget.

"Redevelopment Area" means the area legally described in **Exhibit B** and designated as the Redevelopment Area by the Redevelopment Plan Ordinance.

"Redevelopment Plan" means the plan entitled "*Shoppes at Kearney Tax Increment Financing Plan,*" as approved by the Redevelopment Plan Ordinance, as such plan may be amended from time to time by the City in accordance with the TIF Act.

"Redevelopment Plan Ordinance" means Ordinance No. 1126-2010, adopted by the Board of Aldermen on January 19, 2010, which approved the Redevelopment Plan and took other actions related to the Redevelopment Plan.

"Redevelopment Project" means the improvements within an area designated as a tax increment financing project under the TIF Act pursuant to an Ordinance.

"Redevelopment Project Area" means the area selected for a Redevelopment Project.

"Redevelopment Project Costs" means the sum total of all reasonable or necessary costs incurred or estimated to be incurred in connection with the Redevelopment Project, and any such costs incidental to the Redevelopment Plan or the Redevelopment Project, as applicable. Such costs include, but are not limited to, the following:

(1) Costs of studies, surveys, plans and specifications;

(2) Professional service costs, including, but not limited to, architectural, engineering, legal, marketing, financial planning, consulting, or special services;

(3) Property assembly costs, including, but not limited to, acquisition of land and other property, real or personal, or rights or interests therein, demolition of buildings, and the clearing and grading of land;

(4) Costs of rehabilitation, reconstruction, repair or remodeling of existing buildings and fixtures;

(5) Cost of construction of public works or Public Improvements;

(6) Cost of Developer Private Improvements;

(7) Financing Costs, including, but not limited to, all necessary and incidental expenses related to the issuance of any Obligations, and which may include payment of interest on any Obligations issued pursuant to the TIF Act accruing during the estimated period of construction of the Project for which such Obligations are issued and for not more than eighteen (18) months thereafter, and including reasonable reserves related thereto;

(8) All or a portion of a Taxing District's capital costs resulting from the Project necessarily incurred or to be incurred in furtherance of the objectives of the Redevelopment Plan and the Project, 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;

(10) Payments in Lieu of Taxes;

(11) Administrative Costs.

"Reimbursable Project Costs" means those costs which are incurred by the City or by or on behalf of the Developer, before or after the date of this Agreement, including Financing Costs, Administrative Costs and the costs set forth in the Project Budget which is attached as **Exhibit C**, which as stated in the Project Budget, includes all Redevelopment Project Costs legally reimbursable under the TIF Act, other than the costs of acquiring the land constituting the Redevelopment Area and building construction, even if not specifically identified as or within a line item in the Project Budget, as a result of preparing, reviewing and adopting the Redevelopment Plan and the Project, designation of the Redevelopment Area, planning, financing, acquiring and constructing the Project and any other Work authorized by the Redevelopment Plan, the oversight of the construction of the Project, the implementation of the Redevelopment Plan, and the management of the Special Allocation Fund, and which are at all times consistent with the TIF Act or any judicial interpretation of the TIF Act and which may be authorized for reimbursement in accordance with this Agreement.

"**Reimbursable Project Costs Cap**" shall have the meaning set forth in **Section 3.01**.

"**Related Entity**" shall have the meaning set forth in **Section 7.06.B.1**.

"Replacement Value" shall have the meaning set forth in **Section 7.03.B**.

"Restricted Entity" shall have the meaning set forth in **Section 7.07.C**.

"Restricted Period" shall have the meaning set forth in **Section 7.07.C**.

"**RSMo**" means the Revised Statues of Missouri, as amended.

"School District" means the Kearney R-1 School District.

"**Secured Lender**" shall have the meaning set forth in **Section 7.06.B.2**.

"Site Plan" means the final site plan for the Redevelopment Area submitted by the Developer to the City and approved by the City pursuant to Applicable Law and Requirements, which may be approved as a whole or in phases or stages.

"Soft Costs" means the total combined line items and associated expenditures listed on the Project Budget in the "Soft Costs" categories under "Public Infrastructure/Grading" and "Private Site Improvements," as well as any other similar type expenditures not listed on the Project Budget that are reimbursable under the TIF Act and/or CID Act.

"Special Allocation Fund" means the fund, including any accounts and subaccounts created therein, into which TIF Revenues are deposited, as required by the TIF Act and this Agreement.

"Storm Water Improvements" means those Public Improvements shown as storm sewer improvements in the Project Budget and on the Site Plan, including any portions of the Property identified as areas of avoidance under the Developer's Section 404 permit, which shall be owned and maintained by the CID in accordance with **Section 6.02.**

"Taxing District" means any political subdivision of the State of Missouri located wholly or partially within the Redevelopment Area having the power to levy real property taxes.

"Tenant" shall mean all lessees, purchasers and transferees of some portion of the Property.

"TIF Act" means the Real Property Tax Increment Allocation Redevelopment Act, Section 99.800 *et seq*., RSMo.

"TIF Commission" means the Tax Increment Financing Commission of the City of Kearney, Missouri, as constituted for review of the Redevelopment Plan.

"TIF Revenues" means Payments In Lieu of Taxes and fifty percent (50%) of Economic Activity Taxes.

"Total Initial Equalized Assessed Value" means that amount certified by the County Assessor which equals the most recently ascertained equalized assessed value of each taxable lot, block, tract, or parcel of Property within the Redevelopment Area immediately after tax increment financing for the Redevelopment Area has been approved by the Redevelopment Plan Ordinance.

"Trustee" means the banking or trust entity named as trustee in connection with the issuance of Obligations. All references to a Trustee in this Agreement, including reporting requirements to or from a Trustee, are only applicable if a Trustee is actually used in connection with the issuance of Obligations.

"Work" means all work necessary to prepare the Property and to construct the Project, including: (1) construction of the Public Improvements and the Developer Private Improvements; (2) demolition and removal of all existing buildings and improvements located on the Property and clearing and grading of the Property; and (3) all other work described in the Redevelopment Plan or reasonably necessary to effectuate the intent of this Agreement.

ARTICLE 2: REPRESENTATIONS AND WARRANTIES

Section 2.01. Representations of the City. The City makes the following representations and warranties, which are true and correct on the date hereof:

A. Due Authority. The City has full constitutional and lawful right, power and authority, under current applicable law, to execute, deliver and perform the terms and obligations of this Agreement, and all of the foregoing have been or will be duly and validly authorized and approved by all necessary City proceedings, findings and actions. Accordingly, this Agreement constitutes the legal valid and binding obligation of the City, enforceable in accordance with its terms.

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

C. Litigation. To the best of the City's knowledge, there is no litigation, proceeding or investigation pending or threatened against the City with respect to the Redevelopment Plan or this Agreement. In addition, to the best of the City's knowledge, there is no other litigation,

proceeding or investigation is pending or threatened against the City seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of the City to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by the City of the terms and provisions of this Agreement.

D. Governmental or Corporate Consents. No consent or approval is required to be obtained from, and no action need be taken by, or document filed with, any governmental body or corporate entity in connection with the execution and delivery by the City of this Agreement.

E. No Default. No default or event of default has occurred and is continuing, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a default or an event of default in any material respect on the part of the City under this Agreement.

F. Construction Permits. The City reasonably believes that all permits and licenses necessary to construct the Public Improvements can be obtained.

Section 2.02. Representations of the Developer. The Developer makes the following representations and warranties, which are true and correct on the date hereof:

A. Due Authority. The Developer has all necessary power and authority to execute, deliver and perform the terms and obligations of this Agreement and to execute and deliver the documents required of the Developer herein, and such execution and delivery has been duly and validly authorized and approved by all necessary proceedings. Accordingly, this Agreement constitutes the legal valid and binding obligation of the Developer, enforceable in accordance with its terms.

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

C. Litigation. To the best of the Developer's knowledge, there is no litigation, proceeding or investigation pending or threatened against the Developer seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of the Developer to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by the Developer, of the terms and provisions of this Agreement.

D. No Material Change. (1) The Developer has not incurred any material liabilities or entered into any material transactions other than in the ordinary course of business except for the transactions contemplated by this Agreement and (2) there has been no material adverse change in the business, financial position, prospects or results of operations of the Developer, which could affect the Developer's ability to perform its obligations pursuant to this Agreement from that shown in any financial information provided by the Developer to the City prior to the execution of this Agreement.

E. Governmental or Corporate Consents. No consent or approval is required to be obtained from, and no action need be taken by, or document filed with, any governmental body

or corporate entity in connection with the execution, delivery and performance by the Developer of this Agreement.

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

G. Approvals. Except for Permitted Subsequent Approvals, the Developer has received and is in good standing with respect to all certificates, licenses, inspections, franchises, consents, immunities, permits, authorizations and approvals, governmental or otherwise, necessary to conduct and to continue to conduct its business as heretofore conducted by it and to own or lease and operate its properties as now owned or leased by it. Except for Permitted Subsequent Approvals, the Developer has obtained all certificates, licenses, inspections, franchises, consents, immunities, permits, authorizations and approvals, governmental or otherwise, necessary to acquire, construct, equip, operate and maintain the Developer Private Improvements. The Developer reasonably believes that all such certificates, licenses, consents, permits, authorizations or approvals which have not yet been obtained will be obtained in due course.

H. Construction Permits. Except for Permitted Subsequent Approvals, all governmental permits and licenses required by applicable law to construct, occupy and operate the Developer Private Improvements have been issued and are in full force and effect or, if the present stage of development does not allow such issuance, the Developer reasonably believes, after due inquiry of the appropriate governmental officials, that such permits and licenses will be issued in a timely manner in order to permit the Developer Private Improvements to be constructed.

I. Compliance with Laws. To the best of the Developer's knowledge, the Developer is in compliance with all valid laws, ordinances, orders, decrees, decisions, rules, regulations and requirements of every duly constituted governmental authority, commission and court applicable to any of its affairs, business, operations as contemplated by this Agreement.

J. Other Disclosures. The information furnished to the City by the Developer in connection with the matters covered in this Agreement are true and correct and do not contain any untrue statement of any material fact and do not omit to state any material fact required to be stated therein or necessary to make any statement made therein, in the light of the circumstances under which it was made, not misleading.

K. Project. The Developer represents and warrants that the Redevelopment Area is sufficient to construct the Project as contemplated in the Redevelopment Plan and this Agreement.

Section 2.03. Conditions to Effective Date. This Agreement shall not become effective until the Developer has furnished the City with:

A. a copy of the Developer's Articles of Incorporation certified by the Secretary of State of the State of Missouri;

B. a Certificate of Good Standing of the Developer in the State of Missouri; and

C. a copy of the Bylaws of the Developer.

Section 2.04. Developer to Advance Costs. The Developer agrees to advance all Redevelopment Project Costs as necessary to acquire the Property and to complete the Work, all subject to any Excusable Delay and the Developer's right to terminate this Agreement as set forth in **Section 8.04**.

Section 2.05. Funding of Administrative Costs.

A. Termination of Funding Agreement. The Developer has previously advanced, pursuant to a Funding Agreement between the City and the Developer, certain funds for Administrative Costs. Within thirty (30) days after execution of this Agreement, 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 payments by Developer are Reimbursable Project Costs and are eligible for reimbursement with TIF Revenue. 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 2.05(B) hereof and shall be treated as a Reimbursable Project Cost to Developer.

B. Initial Deposit. In addition to the Administrative Costs paid under the Funding Agreement, the City shall also be reimbursed for all Administrative Costs incurred in connection with the Redevelopment Plan, the Project and this Agreement. 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**"), and, if such amount is less than $15,000, then Developer shall make a payment to the City (all amounts in the Advanced Funds Account are the "**Advanced Funds**") so that the initial amount on deposit in the Advanced Funds Account, together with funds remaining from the Funding Agreement, is $15,000. If there are no funds on deposit with the City pursuant to the Funding Agreement on the Effective Date, then the Developer shall advance the sum of $15,000 to the City as Advanced Funds for deposit in the Advanced Funds Account. The City may invest the Advanced Funds in the same manner as other funds of the City are invested, and interest earnings shall remain in the Advanced Funds Account. All Advanced Funds shall be used to pay Administrative Costs, which shall not exceed the greater of $15,000 or 1% of the Payments in Lieu of Taxes and Economic Activity Taxes actually received into the Special Allocation Fund during such year. The City shall submit to the Developer an itemized statement of actual payments made from the Advanced Funds Account for such expenses on a regular periodic basis, but no more often than monthly and no less often than quarterly. The Developer shall advance to the City the amounts set forth on such statements within thirty days after receipt thereof, which shall be deposited in the Advanced Funds Account so that the balance of the Advanced Funds Account remains at $15,000. This arrangement shall continue until there are sufficient funds in the Special Allocation Fund to implement Section 2.05(C) hereof, at which time any remaining Advanced Funds in the Advanced Funds Account shall be returned to Developer. All such payments by Developer are Reimbursable Project Costs and will be eligible for reimbursement with TIF Revenue.

C. Future Administrative Costs on a Pay As You Go Basis. When sufficient funds are available in the Special Allocation Fund, the City may withdraw from the Special Allocation Fund to pay Administrative Costs an amount not to exceed in any year the greater of $15,000 or 1% of the Payments in Lieu of Taxes and Economic Activity Taxes actually received into the Special Allocation Fund during such year.

D. Future Administrative Costs if Bonds are Issued. If Bonds are issued and the Bond Proceeds are made available, the Developer shall have no further obligation to pay Administrative Costs and they shall be paid solely from the proceeds of the Bonds, or paid from the Special Allocation Fund in accordance with Section 2.05(C) hereof, at the City's election. In either case, Administrative Costs shall not exceed in any year the greater of $15,000 or 1% of the Payments in Lieu of Taxes and Economic Activity Taxes actually received into the Special Allocation Fund during such year.

Section 2.06. Developer's Ownership of the Redevelopment Area. At the time that this Agreement is executed, Developer represents that it has the Property under contract for purchase. The Parties do not anticipate that condemnation is needed to acquire any portion of the Property. However, it is anticipated that condemnation may be necessary outside the Redevelopment Area to acquire necessary access to the Redevelopment Area. As set forth in the Redevelopment Plan, in the event that the Developer is unable to acquire for fair market value, as determined by an independent appraiser, any property right necessary for access or utility service, including, but not limited to, sanitary sewer, storm water, or other utility services, the City shall utilize its powers of eminent domain to obtain such property right. There are no adverse or other parties in possession of the Redevelopment Area, or of any part thereof. No party has been granted any license, lease, or other right relating to the use or a possession of the Redevelopment Area or any part thereof, except as necessary to complete the Project. The Developer is not aware of any boundary, survey, or title questions or disputes with respect to the Property.

Section 2.07. Developer Designation and Development Rights. The City hereby selects the Developer to perform or otherwise cause the performance of the Work in accordance with the Redevelopment Plan and this Agreement. For the purpose of implementing the Redevelopment Plan and this Agreement, the City hereby grants to the Developer and its successors and assigns (as specified in **Section 7.06**) exclusive redevelopment rights over the Redevelopment Area, subject to and in accordance with the terms and conditions of this Agreement.

ARTICLE 3: REIMBURSEMENT OF DEVELOPER COSTS

Section 3.01. Limitation on Reimbursement to Developer. Regardless of the total amount of Reimbursable Project Costs requested by Developer or certified by the City in accordance with this Article, the City's obligation to reimburse Developer shall not exceed the Reimbursable Project Costs Cap. "**Reimbursable Project Costs Cap**" means Thirteen Million Eight Hundred and Twenty-Eight Thousand Five Hundred and Seventy-Two Dollars ($13,828,572), plus all actual Financing Costs and Administrative Costs.

Section 3.02. City's Obligation to Reimburse Developer.

A. Subject to the limitations set forth in this Agreement, the City shall reimburse the Developer for all verified Reimbursable Project Costs which do not exceed the Reimbursable Project Costs Cap under the conditions and restrictions set forth in this Agreement, plus all Administrative Costs and Financing Costs, which shall not count against the Reimbursable Project Costs Cap. The Parties agree that reimbursement will occur on a "pay as you go" basis as revenues are collected in the Special Allocation Fund or, from the proceeds of Obligations which may be issued by the City upon Developer's request, at the sole discretion of the City, in accordance with this Agreement. Subject to the terms of this Agreement, the City may issue one or more series of Obligations to reimburse the Developer for verified Reimbursable Project Costs, in an aggregate principal amount not to exceed the Reimbursable Project Costs Cap, plus all Administrative Costs and Financing Costs. The City shall have no obligation to reimburse Developer until funds are available in the Special Allocation Fund or until Obligations have

been issued for such purpose. In connection with the demolition, site preparation, development and construction associated with the Project, the Developer shall submit an Application for Reimbursable Project Costs in substantial compliance with **Exhibit G** for any Reimbursable Project Costs. The City will not reimburse the Developer for any cost that is not a "redevelopment project cost" under Section 99.805(15) of the TIF Act.

B. The City shall make reimbursements from the Special Allocation Fund or from Obligation proceeds in the order of priority set forth in **Section 4.09**.

C. The parties agree that developer fees were incorporated into the hard cost estimates set forth in the Project Budget. The Developer shall be entitled to receive, in accordance with the reimbursement process set forth in **Section 3.03**, reimbursement of a developer fee in an amount equal to 10% of hard construction costs for items that fall within the category of Public Infrastructure/Grading or Private Site Improvements in the Project Budget. The developer fees to be paid pursuant to this Section shall be a Reimbursable Project Cost and shall be subject to the Reimbursable Project Costs Cap.

D. Reimbursement of Developer's 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 this Article. In no event shall the interest on amounts loaned under this subsection exceed ten percent (10.0%) per annum. Developer shall use best commercially reasonable efforts to obtain annual interest rates on loans under this subsection which are less than or equal to the UMB prime rate plus one percent (1.0%).

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 Article. Such Financing Costs 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. In no event shall the interest on amounts loaned under this subsection exceed ten percent (10.0%) per annum. Developer shall use best commercially reasonable efforts to obtain annual interest rates on loans under this subsection which are less than or equal to the UMB prime rate plus one percent (1.0%).

3. Interest on Developer Equity. In the event Developer finances a portion of the Reimbursable Project Costs with equity (it being anticipated that equity of at least twenty percent (20%) will be required to fund construction of the Redevelopment Project in order to secure debt financing for the remaining portion), Developer shall receive as a Reimbursable Project Cost, in addition to the return of its equity, interest on said equity as and from the date the equity was advanced at a rate equal to the UMB prime rate of interest plus one percent (1.0%), but in no event shall such rate of interest exceed ten percent (10.0%).

E. In addition to reimbursement of interest accrued on Reimbursable Project Costs prior to the City's approval of an Application for such Reimbursable Project Costs, interest shall accrue as Reimbursable Project Cost at the rates set forth in **paragraph C** for all costs approved in an Application for Reimbursable Project Costs from the day that the City approves such Application in accordance with

Section 3.03 until such expenses are paid. The amortization schedule projects that the Reimbursable Project Costs Cap, plus all Financing Costs, will be reimbursed within approximately the nineteenth (19^{th}) year after commencement of the Redevelopment Project. Interest charges incurred by the Developer as Financing Costs shall not be reimbursable after the last day of the twentieth (20^{th}) year following activation of the Project.

Section 3.03. Reimbursement Process.

A. All requests for reimbursement of Reimbursable Project Costs shall be made in an Application for Reimbursable Project Costs in substantial compliance with **Exhibit G**. The Developer shall, at the City's request, provide itemized invoices, receipts or other information, if any, reasonably requested by the City to confirm that any such cost is so incurred and does so qualify. The Parties agree that Reimbursable Project Costs, to the extent actually incurred by Developer for the Project and certified by the City, up to the Reimbursable Project Costs Cap, are eligible for reimbursement in accordance with the TIF Act and this Agreement, although the City's obligation to reimburse Developer shall be as provided in **paragraph B** of this Section.

B. In no event will the City's total obligation for reimbursement exceed the total Reimbursable Project Costs Cap, plus any Administrative Costs and Financing Costs. The reimbursable amounts listed in the Project Budget do not represent caps on any individual expenditure or category of expenditures, as reimbursable amounts may be moved from one reimbursable line item or category to another, and between the "TIF Reimbursable" and "CID Reimbursable" columns of the Project Budget, to the full extent permitted by law, to reflect actual expenditures, subject to the Reimbursable Project Costs Cap. Any reimbursable amounts associated with Soft Costs in the Project Budget set forth in **Exhibit C** can be moved to non-Soft Cost line items and categories for purposes of reimbursement without obtaining the City's consent. The total reimbursement of Soft Costs may not exceed one hundred ten percent (110%) of the total amount of budgeted Soft Costs set forth on the Project Budget without written consent of the City, which shall not be unreasonably withheld or delayed.

C. The Developer may submit an Application for Reimbursable Project Costs to the City Administrator not more often than once each calendar month. The City shall either accept or reject each Application for Reimbursable Project Costs within thirty (30) days after the submission thereof. If the City determines that any cost identified as a Reimbursable Redevelopment Project Cost is not a "redevelopment project cost" under Section 99.805(15) of the TIF Act or is not "TIF Reimbursable" pursuant to the Project Budget, the City shall so notify the Developer in writing within said 30-day period, identifying the ineligible cost and the basis for determining the cost to be ineligible, whereupon the Developer shall have the right to identify and substitute other Redevelopment Project Costs as Reimbursable Project Costs with a supplemental application for payment, subject to the limitations of this Agreement. The City may also request such additional information from Developer as may be required to process the requested reimbursement, and the time limits set forth in this paragraph shall be extended by the duration of time necessary for Developer to respond to such request by the City. The City's identification of any ineligible costs shall not delay the City's approval of the remaining costs on the Application for Reimbursable Project Costs that the City determines to be eligible.

Section 3.04. Limitation on Source of Funds for City's Obligation to Reimburse. Notwithstanding any other term or provision of this Agreement, Obligations issued by the City for Reimbursable Project Costs are payable only from the Special Allocation Fund and Bond Proceeds and from no other source. In no event shall the City be required hereunder to appropriate funds from the City's general fund or from any fund other than the Special Allocation Fund to pay for Reimbursable Project Costs or to repay or prepay Obligations.

ARTICLE 4: TAX INCREMENT FINANCING

Section 4.01. Redevelopment Area and Project. The Redevelopment Area is legally described in **Exhibit B**. The Redevelopment Area will be developed in one (1) Redevelopment Project. The City will initiate tax increment financing by Ordinance for the Redevelopment Project prior to the date that the first store opens for business and on a date that maximizes the collection of Payments in Lieu of Taxes and Economic Activity Taxes, subject to all provisions of this Agreement. Subject to the terms and conditions of the Redevelopment Plan and this Agreement, including any Excusable Delays, the Developer shall construct or cause to be constructed the Developer Private Improvements and the Public Improvements.

Section 4.02. Project Budget. The Project shall be constructed in general accordance with the Project Budget, which costs are estimates based on the knowledge of the Project on the date of the Redevelopment Plan Ordinance, and the actual items and costs of items for implementing the Project may vary depending on market factors and conditions.

Section 4.03. Removal of Blight in the Redevelopment Area. The Redevelopment Area has been declared by the Board of Aldermen to be a "blighted area," as that term is defined in the TIF Act, and is detrimental to the public health, safety and welfare because of the several influences that may cause the Redevelopment Area to become a blighted area, as set forth in the Redevelopment Plan. By construction of the Redevelopment Project, the Developer shall clear the blighting influences, or eliminate the physical blight existing in the Redevelopment Area, or make adequate provisions reasonably satisfactory to the City for the clearance of such blighting influences. Upon construction of the Public Improvements and New Grocery Store as generally described in this Agreement, the Developer will be deemed to have satisfied the aforementioned obligation.

Section 4.04. Obligations.

A. Issuance of Obligations. The City may, upon Developer's request, at the City's sole discretion, issue Obligations at any time in an amount sufficient to pay or reimburse all or a selected portion of the Reimbursable Project Costs, up to the Reimbursable Project Costs Cap, plus Financing Costs and Administrative Costs, provided that the market condition for such Obligations are such that the payment terms of the Obligations are sufficiently favorable that reasonably prudent city financial officers would undertake the issuance of such Obligations.

B. Cooperation in the Issuance of Obligations.

1. If the Developer requests and the City elects to issue Obligations, Developer covenants to cooperate and take all reasonable actions necessary to assist the City and its Bond Counsel, underwriters and financial advisors in the preparation of the Financing Documents, offering statements, private placement memorandums or other disclosure documents and all other documents necessary to market, sell and issue Obligations, including (i) disclosure of Tenants of the Property and the non-financial terms of the leases between the Developer and such Tenants and (ii) providing sufficiently detailed estimates of Reimbursable Project Costs so as to enable Bond Counsel to render its opinion as to the tax-exemption of Obligations. The Developer will not be required to disclose to the general public or any investor the rent payable under any such lease or any proprietary or confidential financial information pertaining to the Developer, its Tenants or the leases with its Tenants, but upon the execution of a confidentiality agreement acceptable to the Developer, the Developer will provide such information to the City's financial

advisors, underwriters and their counsel to enable such parties to satisfy their due diligence obligations.

2. The Developer further agrees (i) to provide a closing certificate in similar form attached as **Exhibit H** hereto (which shall include a certification regarding the accuracy of the information relating to the Developer and the Project), (ii) to cause its counsel to provide a legal opinion in similar form attached as **Exhibit H** hereto and (iii) to provide the following information to enable the underwriter of the Obligations to comply with Rule 15c2-12 of the Securities and Exchange Commission: all retail and commercial Tenants of the Project, the square footage occupied by each such Tenant, the purpose for which space is used by each retail Tenant, and the term of each commercial and retail lease. Developer shall provide information on an ongoing basis so that the City can comply with its continuing disclosure obligations, as requested by the City. The Obligations under this Section shall be a covenant running with the land, enforceable as if any subsequent transferee thereof were originally a party to and bound by this Agreement.

C. City to Select Bond Counsel, Financial Advisor and Underwriter; Term. The City shall have the right to select the designated Bond Counsel, financial advisor and underwriter (and such additional consultants as the City deems necessary for the issuance of the Obligations). The final maturity of Obligations shall not exceed the maximum term permissible under the TIF Act.

Section 4.05. Payments in Lieu of Taxes.

A. Initiation of Payment Obligations. Pursuant to the provisions of the Redevelopment Plan and the TIF Act, including, but not limited to, Section 99.845 thereof, when tax increment financing is established by the Project Ordinance, the Property 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. The obligation to make said Payments in Lieu of Taxes shall be a covenant running with the land and shall create a lien in favor of the City on each such tax parcel as constituted from time to time and shall be enforceable against the Developer and its successors and assigns in ownership of property in a Redevelopment Area.

B. Enforcement of Payments. Failure to pay Payments in Lieu of Taxes as to the Property or any portion thereof shall entitle any Collection Authority to proceed against the applicable portion of the Property as in other delinquent property tax cases or otherwise as permitted at law or in equity, and such failure shall entitle the Collection Authority to seek all other legal and equitable remedies it may have to insure the timely payment of all such sums or of the principal of and interest on any outstanding Obligations secured by such payments, including the initiation of appropriate lawsuits for such unpaid taxes; provided, however, that the failure of any portion of the Property 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. The City shall use all reasonable and diligent efforts to notify the County Collector and all other appropriate officials and persons and seek to fully implement the Payments in Lieu of Taxes and reimbursements of Reimbursable Project Costs as provided in this Agreement and in the Redevelopment Plan.

C. Protesting Tax Assessments. Nothing herein shall prohibit or inhibit the Developer's right to pay Payments in Lieu of Taxes under protest pending Developer's exhaustion of all informal and formal appeal rights relating to the County's valuation of the Property or a portion thereof or the calculation of the Payments in Lieu of Taxes owed thereon. However, Developer agrees that annual tax assessments on any particular building located on the Property shall not be formally or informally

protested or contested if such assessments for such building are equal to or less than 110% of the projected assessed values for such building as set forth in the Redevelopment Plan or the Cost Benefit Analysis submitted in support of the Redevelopment Plan (the "**Projected Assessed Value**") for any calendar year during the effective period of this Agreement. In the event that any tax assessment is greater than 110% of the Projected Assessed Value for such building and the Developer elects to formally or informally protest the tax assessment, Developer shall not protest, contest or seek in any manner to have the assessment for such building reduced to an amount that is less than 110% of the Projected Assessed Value. Subdivision of the Property in a manner that produces parcels of a different size or configuration than as set forth in the Redevelopment Plan shall not alter, affect or eliminate the limitation set forth in this paragraph, and this obligation shall be binding on all successors on the property in accordance with **Section 7.06**. Notwithstanding anything herein to the contrary,

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

E. Use of Payments in Lieu of Taxes. One hundred percent (100%) of the Payments in Lieu of Taxes shall be used to pay or repay Reimbursable Project Costs, a Capital Contribution, or Obligations.

F. Certification of Base for Payments in Lieu of Taxes. Within ninety (90) days after adoption of the Project Ordinance, the City shall use Best Efforts to provide to the Developer a certification of the County Assessor's calculation of the Total Initial Equalized Assessed Valuation of the taxable real property within the Redevelopment Area based upon the most recent equalized assessed valuation of each taxable lot, block, tract, or parcel of real property within the Redevelopment Area.

Section 4.06. Economic Activity Taxes.

A. Initiation of Payment Obligations. In addition to the Payments In Lieu of Taxes described above, and pursuant to Section 99.845 of the TIF Act, fifty percent (50%) of the total additional revenue from taxes which are imposed by the City or other Taxing Districts, and which are generated by economic activities within the Redevelopment Area which are in excess of the amount of such taxes generated by economic activities within the Redevelopment Area for the calendar year prior to the adoption of the Project Ordinance, while tax increment financing remains in effect, but excluding 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, licenses, fees or special assessments and personal property taxes, other than payments in lieu of taxes and any penalty and interest thereon, or taxes levied for the purpose of public transportation pursuant to Section 94.660, RSMo, shall be allocated to, and paid by the collecting officer to the designated financial officer of the City, who shall deposit such funds in a separate segregated account within the Special Allocation Fund for the purpose of paying Redevelopment Project Costs and Obligations incurred in the payment thereof.

B. Accounting. The City shall deposit the payments of Economic Activity Taxes received from the respective Taxing Districts in the Economic Activity Taxes Account in the Special Allocation Fund, to be utilized and expended in accordance with the TIF Act, the Redevelopment Plan and this Agreement.

C. Documentation of Economic Activity Taxes.

1. Intentionally Omitted – see Section 5.09

2. The City and the Developer agree to cooperate and take all reasonable actions necessary to cause the TIF Revenues to be paid into the Special Allocation Fund, including the City's enforcement and collection of all such payments through all reasonable and ordinary legal means of enforcement. Developer shall annually provide records on utility taxes to allow the City to annually appropriate utility taxes, and the City shall have no obligation to annually appropriate utility taxes unless such records are provided by Developer.

D. Certification of Base for Economic Activity Taxes. Within ninety (90) days after adoption of the Project Ordinance, the City shall use Best Efforts to provide to the Developer a certification of the amount of revenue from taxes, penalties and interest which are imposed by the City and other Taxing Districts and which are generated by economic activities within the Redevelopment Area for the preceding calendar year, but excluding those personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to Section 70.500 RSMo, taxes levied for the purpose of public transportation, or licenses, fees or special assessments identified as excluded in Section 99.845.3 of the TIF Act.

E. Grocery Store Base Sales. When calculating Economic Activity Tax revenue, the first Fifteen Million Dollars ($15,000,000), with adjustments as provided below, of the New Grocery Store's taxable sales shall be assumed to be the Grocery Store Base Sales within the Redevelopment Area, requiring the payment of the full sales taxes on such sales, including the CID Sales Tax if a CID is approved. In the event, however, that the Existing Grocery Store continues to operate either at its current location or at a different location within the City after the New Grocery Store opens for business, the Fifteen Million Dollars ($15,000,000) of Grocery Store Base Sales for purposes of calculating Economic Activity Taxes generated in the Redevelopment Project Area will be reduced by the amount of taxable sales generated by the Existing Grocery Store. The amount of the Grocery Store Base Sales shall be adjusted every year by the adjustments in the Consumer Price Index for All Urban Consumers for the United States, or its successor publications, as certified by the State Tax Commission pursuant to Section 137.073.4(1), RSMo, until such time as the total annual sales produced by development on the Property equal or exceed Twenty Million Dollars ($20,000,000), at which time the Grocery Store Base Sales shall be fixed at Fifteen Million Dollars ($15,000,000).

Section 4.07. Obligation to Report Maximum Sales Tax Revenue. To the fullest extent permitted by law, the Developer shall use all reasonable efforts to cause any Tenant to designate sales subject to sales taxes pursuant to Chapter 144, RSMo to be reported as originating from the Redevelopment Area. Notwithstanding the foregoing, failure of Developer to cause any Tenant to so designate such sales shall not constitute a Developer Event of Default.

Section 4.08. Special Allocation Fund. The City shall establish and maintain the Special Allocation Fund which shall contain the following separate segregated accounts: (1) Payments in Lieu of Taxes shall be deposited into the PILOT Account within the Special Allocation Fund; (2) Economic Activity Taxes shall be deposited into the Economic Activity Taxes Account within the Special Allocation Fund; (3) and such further accounts, including the CID Revenues Account, or sub-accounts as are required by this Agreement, the Indenture, or as the City's financial advisor and Trustee may deem appropriate in connection with the administration of the Special Allocation Fund. Subject to the requirements of the TIF Act and, with respect to Economic Activity Taxes, subject to annual appropriation by the Board of Aldermen, the City will promptly upon receipt thereof deposit or be

deemed to deposit all Payments in Lieu of Taxes into the PILOT Account and all Economic Activity Taxes into the Economic Activity Taxes Account.

Section 4.09. Disbursements From Special Allocation Fund. All disbursements from the Special Allocation Fund will be paid in such priority as the City shall determine from the separate segregated accounts maintained within the Special Allocation Fund for Payments in Lieu of Taxes and Economic Activity Taxes. The City hereby agrees for the term of this Agreement to apply available TIF Revenues in the following manner and order of preference:

A. Payment of Administrative Costs incurred by the City (subject to the limitations set forth in **Section 2.05**);

B. Payment of the Capital Contribution to the School District in accordance with **Section 4.11**;

C. Funding of CID expenditures on maintenance of the Storm Water Improvements or reimbursement of the City's costs of abatement in accordance with **Section 6.02.B**;

D. Reimbursement to any district providing emergency services within the Redevelopment Area, to the extent required by Section 99.847 of the TIF Act;

E. Payment of Debt Service on Obligations;

F. Prepayment of Obligations, to the extent permitted by the terms of such Obligations;

G. Payment of Debt Service on Private Loans, to the extent the proceeds of such Private Loans have been used to fund Reimbursable Project Costs which have been certified by the City in accordance with this Agreement;

H. To prepay Private Loans, to the extent permitted by the terms of such Private Loans, and to the extent the proceeds of such Private Loans have been used to fund Reimbursable Project Costs which have been certified by the City in accordance with this Agreement;

I. Payment of Reimbursable Project Costs which have been certified by the City in accordance with this Agreement; and

J. Following the completion of the Redevelopment Project and the payment of all Debt Service, all Reimbursable Project Costs, and any Financing Costs, funds remaining in the Special Allocation Fund shall be disbursed by the City Director of Finance to the appropriate Taxing Districts in accordance with the TIF Act.

This list of disbursement priorities may be changed or modified in the Indenture.

Section 4.10. Full Assessment.

A. Redevelopment Area. After all Reimbursable Project Costs have been paid and all outstanding Obligations have been paid in full, but not later than twenty-three (23) years from the adoption of the Project Ordinance, all property in the Redevelopment Area shall be subject to assessments and payment of all ad valorem taxes, including, but not limited to, City, State, and County

taxes, based on the full true value of the real property and the standard assessment ratio then in use for similar property by the County Assessor, and the Redevelopment Area shall be free from the conditions, restrictions and provisions of: (1) the TIF Act; (2) any rules or regulations adopted pursuant to the TIF Act; (3) the Redevelopment Plan Ordinance; (4) the Redevelopment Plan; and (5) the portions of this Agreement relating only to the TIF Act, the Redevelopment Plan Ordinance and the Redevelopment Plan.

B. Completion of Redevelopment Plan. Upon the payment of all Reimbursable Project Costs and all outstanding Obligations and the distribution of any excess moneys pursuant to Sections 99.845 and 99.850 of the TIF Act, the City shall adopt an Ordinance dissolving the Special Allocation Fund and terminating the designation of the Redevelopment Area as a "redevelopment area" under the TIF Act. Thereafter the rates of the Taxing Districts shall be extended and taxes levied, collected and distributed in the manner applicable in the absence of the adoption of tax increment financing, and the Redevelopment Area shall be free from the conditions, restrictions and provisions of the TIF Act, of any rules or regulations adopted pursuant thereto, of the Redevelopment Plan Ordinance and of the Redevelopment Plan.

Section 4.11. Capital Contribution to School District. Subject to the availability of TIF Revenues, there shall be an annual Capital Contribution payment made to the School District in the tax years beginning with the first full calendar year after adoption of the Project Ordinance and continuing until termination of tax increment financing, as follows:

A. Tax year 1 - $9,400

B. Tax year 2 - $10,980

C. Tax year 3 - $12,550

D. Tax year 4 - $15,690

E. Tax years 5 through termination of tax increment financing - $18,830

The annual Capital Contribution shall be made to the School District in the order of priority set forth in **Section 4.09** and shall only be required to the extent sufficient TIF Revenues have been collected during the year to make such payments. The City will not make the Capital Contribution payment set forth above in a particular year in the event insufficient TIF Revenues are collected in the relevant year. In no event will the Developer have any obligation to make any Capital Contribution payments to the School District. The annual Capital Contribution payment to the School District shall be used to pay the capital costs of the School District associated with the addition of new students resulting from the Project.

ARTICLE 5: CONSTRUCTION AND OPERATION OF THE PROJECT

Section 5.01. Project Schedule, Design and Construction.

A. Schedule. Absent an event of Excusable Delay, the Developer shall commence and complete the Developer Private Improvements, the Public Improvements and each of its obligations under this Agreement with respect to the acquisition, construction and completion of the Project in accordance with the Project Schedule attached as **Exhibit D**. The Developer shall obtain the approval of the Site Plan in accordance with the Project Schedule and Applicable Law and Requirements. The Project Schedule may be modified as necessary by the Developer, with the prior written consent of the City, which will not be unreasonably conditioned, delayed, or withheld.

B. Construction Plan Approval. The Developer shall submit to the City the Construction Plans for the Project after approval of the Site Plan by the City. Construction Plans may be submitted in phases or stages. If applicable, the Construction Plans shall incorporate the Design Standards as described in **Section 5.01(C)** hereof. The Construction Plans shall be prepared and sealed by a professional engineer or architect licensed to practice in the State of Missouri and the Construction Plans and all construction practices and procedures with respect to the Project shall be in conformity with all applicable state and local laws, ordinances and regulations, including, but not limited to, any performance, labor and material payment bonds required for the Project, subject to delay or adjustment as necessary to meet Tenant requirements. The Developer shall submit Construction Plans for approval by the City Engineer in sufficient time so as to allow for review of the plans in accordance with applicable City ordinances and procedures and in accordance with the Project Schedule attached as **Exhibit D**. The Construction Plans shall be in sufficient completeness and detail to show that construction will be in conformance with the Redevelopment Plan and this Agreement.

C. Design. In the event of an assignment pursuant to **Section 7.06(A)**, upon approval of the assignment by the City, the new Developer shall comply with and follow the design criteria relating to exterior improvements substantially as set forth in **Exhibit E** (the "**Design Standards**"), which regulate the exterior finishes, site appearance and signage allowed for Tenants as part of all zoning and subdivision approvals in order to create an integrated, unified design for the Project.

D. Construction. In accordance with the Project Schedule attached as **Exhibit D**, and absent an event of Excusable Delay, the Developer shall commence the construction of the Project in a good and workmanlike manner in accordance with the terms of this Agreement. Absent an event of Excusable Delay, the Developer shall cause the Project to be completed in accordance with the Project Schedule set forth in **Exhibit D**. Upon reasonable advance notice, the Developer and its project team shall meet with the City to review and discuss the design and construction of the Project in order to enable the City to monitor the status of construction and to determine that the Project is being performed and completed in accordance with this Agreement.

E. Periodic Review and Reports. Following the execution of this Agreement and continuing until the completion of the Project, the Developer agrees to provide to the City a written annual report regarding the status of the Project, including at a minimum the following, as applicable from time to time: lease negotiations, financing commitments, construction schedule, occupancy of the Project and configuration of the Project. Such report shall be submitted no later than the first day of February each year, but Developer's failure to submit such reports shall not constitute a Developer Event of Default. The City and the City Engineer shall have the right to review, in a monthly project team meeting, the design and construction of the Project to determine that the Project is being performed and completed in accordance with this Agreement, the Redevelopment Plan and all Applicable Law and Requirements. If the Project is not being designed or constructed in accordance with the approved Site Plan, the Redevelopment Plan and this Agreement, after consulting with the Developer, the City shall promptly deliver written notice to the Developer and the Developer shall promptly correct such deficiencies.

F. Continuation and Completion. Subject to Excusable Delays, once the Developer has commenced construction of a given phase of the Project, the Developer shall not permit cessation of work on such phase for a period in excess of twenty (20) consecutive days or fifty (50) days in the aggregate without prior written consent from the City, which shall not be unreasonably withheld.

G. Construction Contracts and Insurance. The Developer may enter into one or more construction contracts to complete the Work. All construction contracts shall provide that recourse

against the City is limited to the Special Allocation Fund. Prior to the commencement of construction of the Work, the Developer shall obtain or shall require that any such contractor obtains workers' compensation, comprehensive public liability and builder's risk insurance coverage in amounts required by the City and as provided in **Section 7.03** and shall, upon written request of the City, deliver evidence of such insurance to the City. The Developer shall require that the insurance required hereunder is maintained by any such contractor for the duration of the construction of the Work.

H. Prevailing Wages. The Developer shall comply with all laws regarding the payment of prevailing wages to contractors or subcontractors of the Developer, as applicable. Upon written request by the City, Developer shall provide or cause to be provided written proof that the requirements of this paragraph have been satisfied from and after the date that the Work has commenced. In the event such request is made, no reimbursement payment shall be made by the City from TIF revenues or Obligation Proceeds unless the Developer has provided or caused to be provided the written proof as required by this paragraph. Developer shall indemnify the City for any damage resulting to it from failure of either the Developer or any contractor or subcontractor to pay prevailing wages pursuant to applicable laws.

I. Competitive Bids and Other Construction Requirements. The Developer shall comply with all applicable State and local laws relating to the construction of the Project, including but not limited to all applicable laws relating to competitive bidding. The Redevelopment Plan submitted in response to the City's request for proposals is deemed to satisfy all competitive bidding requirements established by the City pursuant to the TIF Act.

J. Cooperation on Third Party Approvals. Developer shall obtain all approvals required by the Missouri Highways and Transportation Commission ("**MHTC**"), and any other entities or governmental departments specified by MHTC, for all necessary public road improvements as required by MHTC and any other third parties. The City agrees to cooperate in good faith to facilitate approval by MHTC and other third parties in the design, construction and approval of the Public Improvements.

K. Governmental Approvals. The City agrees to employ Best Efforts to cooperate with the Developer and to process and timely consider and respond to all applications for the Governmental Approvals as received, all in accordance with the Applicable Law and Requirements.

L. Timing of Public Improvements. The Public Improvements may be phased along with phases of the Project. The City shall issue no certificates of occupancy for any structures on the Property until the Developer has submitted and the City has approved a Certificate of Substantial Completion for the Priority Road Improvements.

M. Regency Drive Improvements. From time to time, upon written request of the City, the Developer shall provide funds in an amount reasonably estimated for the City to study, design, and construct traffic calming improvements on Regency Drive, from Drive A to 19th Street. In no event shall Developer's aggregate contribution exceed fifty thousand dollars ($50,000.00). Any amounts contributed by Developer shall be Reimbursable Project Costs.

N. Drive A Extension. In order to comply with the provisions of Section 9 of the Redevelopment Plan Ordinance, the City and the Developer agree that TIF Revenues which may be available in the future, after payment of all Reimbursable Project Costs anticipated by the Redevelopment Plan up to the Reimbursable Project Costs Cap, shall be used to assist in the funding of the design and construction of the extension of Drive A south from the southern boundary of the Redevelopment Area so that it connects with West 19th Street, as described in "The Shoppes at Kearney Traffic Study Review and Analysis" dated January 2010, prepared by Cook, Flatt & Strobel Engineers, P.A.

O. Access From 92 Highway. The parties agree that no Public Improvement which provides for a left turn access to the Property from Highway 92 at the intersection of Highway 92 and Drive B shall be approved by the City unless the Developer's engineering consultant and the City's engineering consultant agree that such Public Improvement can be designed and constructed in compliance with all Applicable Law and Requirements and the MHTC approves such Public Improvement.

Section 5.02. Land Uses and Land Use Restrictions.

A. In addition to the land use restrictions that are established pursuant to the City's zoning and subdivision regulations, unless approved in writing by the City prior to the execution of a lease or prior to the sale of land in the Redevelopment Area, the types of land uses set forth in the attached **Exhibit I** shall not occur as the primary use of Property in the Redevelopment Area.

B. Developer shall at all times while tax increment financing is in effect maintain leases with Tenants that meet the following criteria:

1. No less than eighty percent (80%) of the leasable square footage within the Redevelopment Area shall be occupied by Tenants operating retail stores, fast food or sit-down restaurants, hotels, pharmacies, gas stations, or other businesses whose primary revenue-generating activity generates sales tax revenues;

2. Beginning two (2) years after the City's adoption of the Project Ordinance, one anchor Tenant that operates a grocery store.

If an anchor Tenant that operates a grocery store in the Redevelopment Area ceases to operate the grocery store, the absence of such Tenant shall not constitute a Developer Event of Default during the period in which the Developer seeks another grocery store Tenant.

Section 5.03. Covenants, Conditions and Restrictions. Within sixty (60) days after the execution of this Agreement, Developer shall prepare and submit to the City redacted Covenants, Conditions and Restrictions evidencing a plan for maintenance of the Property and the list of restricted land uses as established by **Section 5.02** of this Agreement ("**CC&Rs**"). The CC&Rs shall be a permanent encumbrance covering the entirety of the Redevelopment Area. The form and substance of the maintenance portion of the CC&Rs shall be acceptable to the City, and the CC&Rs shall not be recorded until the City has approved the maintenance portion of the CC&Rs in writing. After approved by the City, Developer shall file the CC&Rs for record in the Clay County Recorder of Deeds and shall provide proof of such recording to the City.

Section 5.04. Certificate of Substantial Completion. Promptly after substantial completion of the Project or a portion thereof in accordance with the provisions of this Agreement, the Developer may submit a Certificate of Substantial Completion to the City. The Certificate of Substantial Completion shall be in substantially the form attached as **Exhibit F**. The Construction Inspector shall, within thirty (30) days following delivery of the Certificate of Substantial Completion, carry out such inspections as it deems necessary to verify to its reasonable satisfaction the accuracy of the certifications contained in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be deemed accepted by the City unless, prior to the end of such 30-day period after delivery, the City furnishes the Developer with specific written objections to the status of the Project, describing such objections and the measures required to correct such objections in reasonable detail. Upon acceptance of the Certificate of Substantial Completion or upon the lapse of thirty (30) days after delivery thereof without any written objections thereto, the Developer may record the Certificate of Substantial

Completion with the Clay County Recorder of Deeds, and the same shall constitute evidence of the satisfaction of the Developer's agreements and covenants to construct the Project.

Section 5.05. Relocation within the City. No Tenant may be relocated from other space located within the limits of the City unless the sales tax base for such Tenant is transferred as provided under the TIF Act. For purposes of this Section, "relocation" shall mean (a) the relocation of a store, office or business within the City or (b) the location of a store, office or business within the boundaries of the Redevelopment Area and the closing of the same store, office or business, or the same chain or name-brand of store (either corporate or franchise), within the City within three hundred sixty-five (365) days after such store is opened in the Redevelopment Area.

> Example of (b): Two "Brand Name" pharmacy stores exist in the City, both located outside the Redevelopment Area. A "Brand Name" pharmacy store opens in the Redevelopment Area. Within three hundred sixty-five (365) days after the opening of such "Brand Name" store in the Redevelopment Area, one of the two pre-existing "Brand Name" stores closes in the City. This will be treated as a "relocation" pursuant to this Section.

Section 5.06. Compliance with Laws and Requirements. The Project shall be designed, constructed, equipped and completed in accordance with all Applicable Law and Requirements of all federal, state and local jurisdictions. Notwithstanding any provision, regulation or Ordinance to the contrary, the Board of Aldermen reserves the right to review and approve the Site Plan and any modifications to the Site Plan submitted to the City Planning Commission for approval. In the event the Board of Aldermen should elect to review and approve a Site Plan modification, it shall do so by giving the Developer written notice of its intent to do so within twenty (20) days after the approval by the City Planning Commission and shall initiate said action by motion of the Board of Aldermen.

Section 5.07. Utilities and Fees. The City hereby agrees that the Developer shall have the right, subject to compliance with applicable City Ordinances, regulations and City code provisions, to connect any and all on-site water lines, sanitary and storm sewer lines and electric lines constructed in the Redevelopment Area to City utility lines existing at or near the perimeter of the Redevelopment Area. The City agrees that the Developer shall be obligated to pay, in connection with the development of the Redevelopment Area, those water, sanitary and storm sewer, building permit, engineering, inspection, and other fees which are of general applicability, and that such fees shall be Reimbursable Project Costs.

Section 5.08. Assistance to Developer. The City agrees to provide the Developer with assistance with respect to obtaining building permits from the City, and any permits or approvals required from any governmental agency, whenever reasonably requested to do so; provided, however, that all requests for assistance are in compliance with the City Ordinances, the Construction Plans, the Site Plan, Applicable Law and Requirements and this Agreement. As set forth in the Redevelopment Plan, in the event that the Developer is unable to acquire for fair market value, as determined by an independent appraiser, any property right necessary for access or utility service, including, but not limited to, sanitary sewer, storm water, or other utility services, the City shall utilize its powers of eminent domain to obtain such property right.

Section 5.09. Lease of Property. As restricted by this Agreement, including the Tenant restrictions in **Section 5.02.B**, the Developer may lease Property within the Redevelopment Area. To the extent practicable and using Best Efforts, the Developer, or any third party, shall insert in any such lease the following language, or language that is substantially similar to the following after being approved by the City Attorney, and shall have such lease signed by the lessee indicating acknowledgment and agreement to the following provision:

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

The Developer shall use reasonable efforts to enforce this lease provision. At the request of the City, the Developer shall provide a certification to the City confirming that the lease includes the provisions satisfying the Developer's obligation as set forth in this Section. Failure of the Developer to require that such restrictions be placed in any such lease shall not be a Developer Event of Default and in no way modify, lessen or diminish the obligations and restrictions set forth herein.

Section 5.10. Sale of Property. As restricted by this Agreement, including the land use restrictions in **Section 5.02**, the Developer may sell Property within the Redevelopment Area. To the extent practicable and using Best Efforts, the Developer, or any third party, shall insert in any such sale agreement the following language, or language that is substantially similar to the following after being approved by the City Attorney, and shall have such sale agreement signed by the buyer indicating acknowledgment and agreement to the following provision:

> **Economic Activity Taxes:** Buyer acknowledges that the property is a part of a Tax Increment Financing district ("**TIF District**") created by the City of Kearney, Missouri (the "**City**") and that certain taxes generated by Buyer's economic activities, including sales taxes, will be applied toward the costs of improvements for the Development. Upon the request of Seller or the City, Buyer shall forward to the City and Seller copies of Buyer's State of Missouri sales tax returns filed with the Missouri Department of Revenue for its property located in the TIF District, and, upon request, shall provide such other reports and returns regarding other local taxes generated by Buyer's economic activities in the TIF District as the City shall require, all in the format prescribed by them. Buyer 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.
>
> **PILOTS:** Buyer further acknowledges that the property will be subject to assessment for annual Payments in Lieu of Taxes ("PILOTs") when the Redevelopment Area is activated by the City. PILOTs are due on November 30 of each year and are considered delinquent if not paid by December 31 of each year. The obligation to make said PILOTs shall be a covenant running with the land and shall create a lien in favor of the City on the property and shall be enforceable against Buyer and its successors and assigns in ownership of the Property. Buyer acknowledges that in the event of the sale, lease, sublease, assignment, or other voluntary or involuntary

disposition of any or all of the property, PILOTs with respect to the property shall continue and shall constitute a lien against the property from which they are derived, and such obligations shall inure to and be binding upon the heirs, executors, administrators, successors and assigns of the respective parties as if they were in every case specifically named and shall be construed as a covenant running with the land and enforceable as if such purchaser, tenant, transferee or other possessor thereof were originally a party to and bound by the agreement.

The Developer shall use reasonable efforts to enforce this provision. At the request of the City, the Developer shall provide a certification to the City confirming that the sale agreement includes the provisions satisfying the Developer's obligation as set forth in this Section. Failure of the Developer to require that such restrictions be placed in any such sale agreement shall not be a Developer Event of Default and in no way modify, lessen or diminish the obligations and restrictions set forth herein relating to the Redevelopment Area or the Project and the City's rights of enforcement and remedies under this Agreement and the TIF Act.

ARTICLE 6: COMMUNITY IMPROVEMENT DISTRICT

Section 6.01. Formation and Operation of the CID.

A. Developer and City agree to mutually cooperate in the formation of a CID which will be used to finance public improvements as authorized by the CID Act. The Parties agree that the term "public improvements" as used in this Section is more expansive than the defined term Public Improvements, and includes all costs that may be funded by a CID pursuant to the CID Act.

B. Formation of the CID shall be initiated by the Developer filing a petition with the City in accordance with the CID Act. The City and Developer agree to jointly cooperate with and participate in the formation process. The City's and the Developer's participation shall include, but is not limited to, the following:

1. include language in contracts for sale of real estate inside the CID boundaries which requires prospective purchasers to sign petitions and cooperate in the CID formation and operation;

2. prepare such petitions, pleadings, exhibits and other documents as necessary for formation and operation of the CID;

3. use good faith efforts to cause persons, as mutually agreed upon by the Parties, to serve on the board of directors for the CID;

4. construct or cause to be constructed those public improvements that qualify for reimbursement in accordance with the CID Act and this Agreement, including compliance with all competitive bidding, prevailing wage and other construction requirements;

5. use good faith efforts to cause lessees and purchasers of property within the boundaries of the CID to cooperate in the timely and full payment of all applicable sales taxes, and any other fees or assessments that may be imposed or charged by the CID;

6. cooperate and take all reasonable actions necessary to assist the City and its counsel, lenders and financial advisors in the disclosure and preparation of offering statements, private placement memorandums, loan documents and all other documents necessary to utilize a retail sales tax imposed by the CID in connection with Obligations;

7. take such other reasonable action as mutually agreed upon by the Parties to facilitate the formation, operation and good standing of the CID;

8. use good faith efforts to cause the approval of the CID Sales Tax; and

9. include the Redevelopment Area and the site of the Public Facility Project within the boundaries of the CID.

C. The Developer agrees to use all reasonable good faith efforts to insure that the CID will impose a CID Sales Tax in the amount of one percent (1.0%). The CID Revenues will fall into two categories:

1. Those CID Revenues consisting of (a) the portion of the CID Revenue captured as Economic Activity Taxes plus (b) one-half (1/2) of the portion of the CID Revenues that are attributable to Grocery Store Base Sales (which is not deposited in the Special Allocation Funds as Economic Activity Taxes but which will be treated as allocable with Economic Activity Taxes) (together, the "**Captured CID Revenue**"), will be used to finance certain Reimbursable Project Costs, including any costs of acquiring, owning, and maintaining the Storm Water Improvements, as permitted by law (use of Captured CID Revenue for maintaining the Storm Water Improvements will not count against the Reimbursable Project Costs Cap). The Developer will assist in the facilitation of a cooperative agreement between the City and the CID ("**Cooperative Agreement**") in which one-half (1/2) of the CID Revenues attributable to Grocery Store Base Sales, which are allocable with Economic Activity Taxes and treated as a portion of the Captured CID Revenue under this Agreement, are made available to reimburse the Developer for Reimbursable Project Costs, as permitted by law, subject to annual appropriation by the CID; and

2. The remaining CID Revenues consisting of that portion of the CID Revenues not considered hereunder as Captured CID Revenue ("**Non-Captured CID Revenue**") will be made available by the CID, as set forth in the Cooperative Agreement between the CID and the City, to finance certain routine administration costs of the CID, including the cost of legal and accounting services, and other services and costs necessary for operation and administration of the CID ("**CID Administrative Costs**") and costs associated with the Public Facility Project, as permitted by law, subject to annual appropriation.

D. The Non-Captured CID Revenues may be used to pay for CID Administrative Costs to provide for the operation of the CID in each year that the CID is in existence, and the estimated annual costs of the CID Administrative Costs shall be set forth in the CID petition. The Non-Captured CID Revenues may also be used to pay the reasonable attorneys' fees for the formation of the CID, in an amount not to exceed $30,000, which shall be considered CID Administrative Costs. However, except as otherwise provided in **Section 6.02**, the Non-Captured CID Revenues may not be used to pay for any other services, such as property maintenance, security and trash collection, until after the Redevelopment Plan has been terminated in accordance with this Agreement, unless otherwise approved by the City. The Parties acknowledge and agree that formation of a CID by the City is a legislative act, that the City cannot agree by contract to take future legislative action, and that the City will consider the CID Petition in good faith pursuant to the CID Act and the terms of this Agreement.

E. The Developer and City agree that the City, the Developer, and the CID shall enter into the Cooperative Agreement which will include the following provisions and obligations:

1. The City, in consideration of payment to the City of a designated portion of the amounts collected, administers the CID Sales Tax imposed by the CID as collected by the Missouri Department of Revenue;

2. The CID may retain up to Thirty Thousand Dollars ($30,000.00) during the year following its creation, and up to Fifteen Thousand Dollars ($15,000.00) in each subsequent year for CID Administrative Costs and attorneys' fees required for formation of the CID, as set forth in Sections 6.01(C) & (D) hereof;

3. The CID shall impose the CID Sales Tax in the amount of one percent (1.0%);

4. Non-Captured CID Revenue will be used to fund CID Administrative Costs and either the Public Facility Project or for the repayment of Obligations, to the extent Obligations are issued to fund the Public Facility Project;

5. The CID, subject to annual appropriation, shall pledge the Non-Captured CID Revenue net of the CID Administrative Costs to the City to be used to fund the Public Facility Project or to repay Obligations;

6. Captured CID Revenue may be used to fund the Reimbursable Project Costs, including costs of maintaining the Storm Water Improvements, or for the repayment of Obligations, to the extent Obligations are issued to fund Reimbursable Project Costs;

7. The CID shall be used to pay for public improvements and services as authorized by the CID Act and as described in the Cooperative Agreement;

9. After the Redevelopment Plan has been terminated, the CID may remain in existence and continue to fund eligible improvements and services, maintenance of the Project (including maintenance of the Storm Water Improvements), and maintenance of the Public Facility Project;

10. The number of members of the Board of Directors shall be five (5) and for so long as the CID is in existence, three (3) of the members of the Board of Directors shall be City officials or City employees, and the remainder of the Board members may be persons designated by and representing Developer. The CID bylaws shall provide that, in the event that a City official or employee sitting on the Board of Directors ceases to hold his or her position with the City, such director shall be deemed automatically resigned from the Board of Directors without further action of that director; and

11. The CID shall be responsible for the long-term maintenance of the Storm Water Improvements in accordance with **Section 6.02**.

Section 6.02. CID Responsible for Maintenance of Storm Water Improvements.

A. The CID shall be required to own and maintain the Storm Water Improvements in accordance with this Section. The CID shall be responsible for such maintenance for the term of existence of the CID and shall maintain the Storm Water Improvements to meet the requirements of the Site Plan, the Construction Plans, and Applicable Law and Requirements, including Section 5600 of the Kansas City APWA standards, as adopted by City ordinance. In the event of the failure of the CID to maintain the Storm Water Improvements to such standards, abatement by the City shall be authorized,

and the costs of abatement incurred by the City pursuant to this Section shall be paid or reimbursed from Captured CID Revenue withheld in accordance with **paragraph B** of this Section.

B. If the City incurs any such costs of abatement, the City may thereafter withhold the amount of Captured CID Revenues necessary to reimburse the City for the costs of abatement.

ARTICLE 7: GENERAL COVENANTS

Section 7.01. Indemnification of the City.

A. Developer agrees to indemnify and hold the City, its employees, agents, independent contractors and consultants (collectively, the "**City Indemnified Parties**") harmless from and against any and all suits, claims, costs of defense, damages, injuries, liabilities, costs and/or expenses, including court costs and attorneys fees, resulting from, arising out of, or in any way connected with:

1. the Developer's actions and undertaking in implementation of the Redevelopment Plan and this Agreement;

2. the negligence or willful misconduct of Developer, its employees, agents, independent contractors and consultants in connection with the management, design, development, redevelopment and construction of the Project; or

3. any litigation filed against the Developer by any member of the Developer, or any prospective investor, prospective partner or joint venture partner, lender, co-proposer, architect, contractor, consultant or other vendor which is not based in whole or in part upon any negligence or willful misconduct of the City or the City's breach of this Agreement.

B. In the event any suit, action, investigation, claim or proceeding (collectively, an "**Action**") is initiated or made as a result of which the Developer may become obligated to one or more of the City Indemnified Parties hereunder, any one of the City Indemnified Parties shall give prompt notice to the Developer of the occurrence of such event. After receipt of such notice, the Developer may elect to defend, contest or otherwise protect the City Indemnified Parties against any such Action, at the cost and expense of the Developer, utilizing counsel of the Developer's choice. The City Indemnified Parties shall assist, at Developer's sole discretion, in the defense thereof. In the event of such defense against any Action by Developer for the City, Developer shall provide to the City regular periodic reports on the status of such Action. In the event that the Developer shall fail timely to defend, contest or otherwise protect any of the City Indemnified Parties against such Action, the City Indemnified Parties shall have the right to do so, and, if such defense is undertaken by the City Indemnified Parties after notice to the Developer asserting the Developer's failure to timely defend, contest or otherwise protect against such Action, the cost of such defense shall be at the expense of the Developer, including the right to offset against amounts of Reimbursable Redevelopment Costs payable to the Developer.

C. Any one of the City Indemnified Parties shall submit to the Developer any settlement proposal that the City Indemnified Parties shall receive which may only be accepted with the approval of the Developer. The Developer shall be liable for the payment of any amounts paid in settlement of any Action to the extent that and only with respect to any part the Developer expressly assumes in writing as part of such settlement. Neither the Developer nor the City Indemnified Parties will unreasonably withhold its consent to a proposed settlement.

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

Section 7.02. Indemnification of the Developer.

A. To the fullest extent permitted by law, the City agrees to indemnify and hold the Developer, its employees, agents and independent contractors and consultants (collectively, the "**Developer's Indemnified Parties**") harmless from and against any and all suits, claims, costs of defense, damages, injuries, liabilities, costs and/or expenses, including court costs and attorneys fees, resulting from, arising out of, or in any way connected with the City's power and authority to undertake and approve the Redevelopment Plan and this Agreement, except that this indemnification shall not apply to any Action to the extent that it relates to the procedures used by the City to introduce and adopt the Redevelopment Plan Ordinance.

B. In the event any Action is begun or made as a result of which the City may become obligated to one or more of the Developer's Indemnified Parties hereunder, any one of the Developer's Indemnified Parties shall give prompt notice to the City of the occurrence of such event. After receipt of such notice, the City may elect to defend, contest or otherwise protect the Developer's Indemnified Parties against any such Action, at the cost and expense of the City, utilizing counsel subject to the reasonable approval of Developer. The Developer's Indemnified Parties shall assist, at City's sole discretion, in the defense thereof. In the event that the City shall fail timely to defend, contest or otherwise protect any of the Developer's Indemnified Parties against such Action, the Developer's Indemnified Parties shall have the right to do so, and, if such defense is undertaken by the Developer's Indemnified Parties after notice to the City asserting the City's failure to timely defend, contest or otherwise protect against such Action, the cost of such defense shall be at the expense of the City.

C. Any one of the Developer's Indemnified Parties shall submit to the City any settlement proposal that the Developer's Indemnified Parties shall receive which may only be accepted with the approval of the City. The City shall be liable for the payment of any amounts paid in settlement of any Action to the extent that and only with respect to any part the City expressly assumes in writing as part of such settlement. Neither the City nor the Developer's Indemnified Parties will unreasonably withhold its consent to a proposed settlement.

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

Section 7.03. Insurance.

A. Prior to the commencement of construction of any portion of the Work that falls within the category of Public Infrastructure/Grading or Private Site Improvements as set forth on **Exhibit C** attached hereto, the Developer shall obtain or shall require that its contractors obtain workers' compensation, comprehensive public liability and builder's risk insurance coverage in amounts customary in the industry for similar type projects. The Developer shall require that such insurance be maintained by any of its contractors for the duration of the construction of such portion of the Work.

B. As used in this Section, "**Replacement Value**" means an amount sufficient to prevent the application of any co-insurance contribution on any loss but in no event less than **100%** of the actual replacement cost of the improvements in the Project, including additional administrative or managerial costs that may be incurred to effect the repairs or reconstruction, but excluding costs of excavation, foundation and footings. Replacement Value shall be determined periodically after the completion date of the Project by an appraisal, a report from an Insurance Consultant, or if the policy is on a blanket form,

such other means as is reasonably acceptable to the Insurance Consultant. If an appraisal or report is conducted, a copy of such appraisal or report shall be furnished to the Trustee, if any, and the City.

C. While any Obligations are outstanding, the Developer shall keep the Project continuously insured with property insurance for full Replacement Value, with such deductible provisions as are customary in connection with the operation of facilities of the type and size comparable to the Project.

D. The City does not represent in any way that the insurance specified herein, whether in scope, overall coverage or limits of coverage, is sufficient to protect the business or interests of the Developer.

E. Upon written request, any policies, or a certificate or certificates of the insurers that such insurance is in full force and effect, shall be provided to the City and the Trustee and, prior to expiration of any such policy, the Developer shall furnish the City and the Trustee with satisfactory evidence that such policy has been renewed or replaced or is no longer required by this Agreement; provided, however, the insurance so required may be provided by blanket policies now or hereafter maintained by the Developer if the Developer provides the City and the Trustee with a certificate from an Insurance Consultant to the effect that such coverage is substantially the same as that provided by individual policies. All policies evidencing such insurance required to be obtained under the terms of this Agreement shall provide for thirty (30) days prior written notice to the Developer, the Trustee and the City of any cancellation (other than for nonpayment of premium), reduction in amount or material change in coverage.

F. In the event the Developer shall fail to maintain, or cause to be maintained, the full insurance coverage required by this Agreement, the Trustee shall promptly notify the City of such event and the City or the Trustee may (but shall be under no obligation to) contract for the required policies of insurance and pay the premiums on the same; and the Developer agrees to reimburse the City or the Trustee to the extent of the amounts so advanced, with interest thereon at the Default Rate. Notwithstanding the foregoing, if the City shall advance to the Trustee the amounts necessary to contract for such insurance the Trustee shall promptly cause such insurance to be maintained or restored.

G. All policies of insurance required by this Section shall become utilized as required by this Agreement.

H. Notwithstanding any provision in this Section 7.03 to the contrary, any references to the Work or the Project in this Section shall only apply to any portion of the Work or Project that falls within the category of Public Infrastructure/Grading or Private Site Improvements as set forth on **Exhibit C** attached hereto.

Section 7.04. Obligation to Restore.

A. Restoration of Developer Private Improvements by Developer. The Developer hereby agrees that if any portion of the Developer Private Improvements owned by Developer at the time shall be materially damaged or destroyed, in whole or in part, by fire or other casualty (whether or not covered by insurance), or by any taking in condemnation proceedings or the exercise of any right of eminent domain, the Developer shall promptly restore, replace or rebuild the same, or shall promptly cause the same to be restored, replaced or rebuilt, to as nearly as possible the value, quality and condition it was in immediately prior to such fire or other casualty or taking, with such alterations or changes as may be approved in writing by the City, which approval shall not be unreasonably withheld. The Developer agrees that it shall include in any documents for Developer private financing a requirement that, in the

event insurance covering fire or other casualty results in payment of insurance proceeds to a Lender, the Lender shall be obligated to restore the Project improvements in accordance with this Section. The Developer shall give prompt written notice to the City of any material damages or destruction to any of the Project improvements owned by it by fire or other casualty, but in such circumstances the Developer shall make the property safe and in compliance with all applicable laws as provided herein.

B. Restoration of Developer Private Improvements by Third Parties. The Developer further agrees that it shall use commercially reasonable efforts to include in each contract, lease or sublease relating to the development, ownership or use of any portion of the Project not owned or controlled by the Developer shall include a provision to the effect that if any portion of the Project controlled by such owner, lessee or sublessee shall be materially damaged or destroyed, in whole or in part, by fire or other casualty (whether or not covered by insurance), or by any taking in condemnation proceedings or the exercise of any right of eminent domain, such owner, lessee or sublessee shall promptly restore, replace or rebuild the same (or shall promptly cause the same to be restored, replaced or rebuilt) to as nearly as possible the value, quality and condition it was in immediately prior to such fire or other casualty or taking, with such alterations or changes as may be approved in writing by the Developer and the City, which approval shall not be unreasonably withheld. The Developer agrees that it shall use commercially reasonable efforts to include in each contract, lease or sublease relating to the development, ownership or use of any portion of the Project shall include a requirement that, in the event insurance covering fire or other casualty results in payment of insurance proceeds to a Lender, the Lender shall be obligated to restore the Project improvements in accordance with this Section. Each owner, lessee or sublessee shall also be required to give prompt written notice to the Developer and the City of any material damages or destruction to any of the Project improvements owned by such person by fire or other casualty. In the event any contract, lease, or sublease does not include the obligation to rebuild as described above, it shall not constitute a Developer Event of Default.

C. Enforcement. The restrictions set forth in this Section are for the benefit of the City and may be enforced by the City by a suit for specific performance or for damages, or both.

D. Notwithstanding any provision in this Section 7.04 to the contrary, any references to the Work or the Project in this Section shall only apply to any portion of the Work or Project that falls within the category of Public Infrastructure/Grading or Private Site Improvements as set forth on **Exhibit C** attached hereto.

Section 7.05. Notice of Restoration after Casualty. The Developer hereby agrees that if any portion of the Developer Private Improvements owned by Developer at the time shall be materially damaged or destroyed, in whole or in part, by fire or other casualty (whether or not covered by insurance), or by any taking in condemnation proceedings or the exercise of any right of eminent domain, the Developer shall, within one hundred eighty (180) days, provide notice to the City to explain whether Developer will restore, replace or rebuild the same, or cause the same to be restored, replaced or rebuilt to the value, quality and condition it was in immediately prior to such fire or other casualty or taking, along with a description of any alterations or changes planned by Developer.

Section 7.06 Assignment of Developer's Rights and Obligations and Transfer of Property.

A. Restrictions on Assignment of Rights and Obligations. The qualifications and identity of the Developer are of particular concern to the City. It is because of the Developer's qualifications and identity that the City approved the Redevelopment Plan and entered into this Agreement. Except as otherwise set forth herein, the Developer's rights and obligations hereunder may not be assigned, in whole or in part, to another entity, without the prior approval of the Governing Body of the City by

resolution. The Governing Body shall provide such consent unless in the City's reasonable determination, a proposed assignee does not have qualifications and financial responsibility necessary and adequate to fulfill the obligations of the Developer under the Redevelopment Plan and this Agreement.

B. Related Entities, Collateral Assignment, and Certificate of Completion.

1. Related Entities. Nothing in this Section shall prevent the Developer from assigning, without the City's consent, all rights and/or obligations under this Agreement to a Related Entity (as defined below), provided that prior to such assignment Developer furnishes City with the name of any such Related Entity, together with a certification from Developer, and such other proof as City may reasonably request, that such assignee is a Related Entity of Developer. **"Related Entity"** means any entity in which the ownership or membership of such entity is controlled by Developer or the majority owners or members of Developer. For purposes hereof, "control" shall mean the power to direct or cause the direction of the management or policies of such entity.

2. Collateral Assignment. Developer and its successors and assigns shall also have the right, without the City's consent, to collaterally assign to any Secured Lender (as defined below) as collateral any and all of Developer's rights and/or obligations under this Agreement, and such Secured Lender shall have the right to perform any term, covenant, condition or agreement and to remedy, in accordance with the terms of this Agreement, any default by Developer under this Agreement, and City shall accept such performance by any such Secured Lender with the same force and effect as if furnished by Developer. No Secured Lender shall be personally liable or obligated to perform the obligations of Developer under the Agreement unless and until such Secured Lender takes possession of the property as a mortgagee or by a receiver appointed at the request of mortgagee or becomes the owner of the fee estate under this Agreement by foreclosure, or deed in lieu of foreclosure or otherwise. For purposes of this Section, "**Secured Lender**" means a bank, financial institution or other person or entity from which Developer has borrowed funds to finance all or a portion of the Project and in whose favor Developer has agreed to provide a security interest as collateral for such loan.

Before a Secured Lender may exercise any rights of the Developer under the Agreement, the City shall receive: (a) within thirty (30) days following the date of such collateral assignment, a notice from the Developer that it has entered into a collateral assignment with a Secured Lender in connection with the Property, which shall specify the name, address and telephone number of the Secured Lender, as well as the title, date and parties to the collateral assignment agreement; and (b) not less than ten (10) days' notice of the Secured Lender's intent to exercise its right to become the assignee of the Developer under the Agreement, which notice shall include the effective date of the collateral assignment, and the title, date and parties to such collateral assignment agreement. The City is entitled to rely upon representations made in the notices described in this paragraph without further investigation or inquiry.

Provided that the Developer has provided the City with notice of a collateral assignment as described in this Section, the City agrees to provide the Secured Lender with the same notice of default at the same time such notice is given to the Developer, and the Secured Lender shall have the same rights (but shall have no obligation) to cure, correct or remedy a default as are provided to the Developer.

3. Certificate of Completion. Following the City's issuance of a Certificate of Substantial Completion for a particular portion of the Project, Developer and its successors and

assigns shall have the right, without the City's consent, to assign any and all of its obligations as Developer under this Agreement with respect to such portion of the Project to any person or entity.

C. Assignment & Assumption Agreement. Any assignee under subsections (A) or (B) above shall, by instrument in writing, for itself and its successors and assigns, and expressly for the benefit of the City, assume all of the obligations of the Developer being assigned. The Developer shall be relieved from any assigned obligations upon a determination by the Governing Body of the City that, in the case of an assignment under subsection (A), the assignee has the qualifications and financial responsibility adequate to fulfill the obligations of the Developer being assigned and, in the case of both subsections (A) and (B), the proposed assignee has provided the City with the written assignment and assumption agreement mentioned above.

D. Lease of Property. Nothing in this section shall apply to Developer's lease of portions of the Property to other persons or entities. This Agreement shall not obligate, provide rights, or otherwise apply to any such lessees, and any such leases shall not relieve Developer of its obligations under this Agreement, including but not limited to its obligations with respect to the leased property.

E. Sale of Property. Nothing in this section shall limit the Developer's right to sell or otherwise transfer the Property or portions thereof to other persons or entities, but such sale shall not relieve Developer of its obligations under this Agreement, including but not limited to its obligations with respect to the sold or transferred property.

F. Right to Receive TIF Revenues. Only the Developer, or a Related Entity or Secured Party, pursuant to subsection (B) hereof, and not any subsequent purchaser or tenant, unless expressly consented to in writing by the City in accordance with the provisions of this Agreement, shall be entitled to receive TIF Revenues for any purpose.

G. No Assignment if in Default. Notwithstanding anything in this section to the contrary, no assignment or transfer of this Agreement is permitted if the Developer is in default in the performance of any of the material terms, covenants, conditions and agreements of this Agreement.

H. City's Reasonable Consideration. If, from time to time, the City's consent to any assignment and transfer under the terms of this Agreement is required, or if confirmation that such consent is not required is requested, such consent or confirmation, as the case may be, shall not be unreasonably withheld or delayed.

Section 7.07. Intentionally Omitted

Section 7.08. Mutual Assistance. The City and the Developer agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications as may be necessary or appropriate to carry out the terms, provisions and intent of this Agreement and to aid and assist each other in carrying out said terms, provisions and intent.

Section 7.09. Time of Essence. Time is of the essence of this Agreement. The Parties will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation.

Section 7.10. Amendments. This Agreement may be amended only by the mutual consent of the Parties, by the adoption of an ordinance of the City approving said amendment, as provided by law, and by the execution of said amendment by the Parties or their successors in interest.

ARTICLE 8: DEFAULTS AND REMEDIES

Section 8.01. Developer Event of Default. Subject to **Section 8.05**, a "**Developer Event of Default**" means a default in the performance of any obligation or breach of any covenant or agreement of the Developer in this Agreement (other than a covenant or agreement, a default in the performance or breach of which is specifically dealt with elsewhere in this Section), and continuance of such default or breach for a period of thirty (30) days after City has delivered to Developer a written notice specifying such default or breach and requiring it to be remedied; provided, that if such default or breach cannot be fully remedied within such 30-day period, but can reasonably be expected to be fully remedied and the Developer is diligently attempting to remedy such default or breach, such default or breach shall not constitute an event of default if the Developer shall immediately upon receipt of such notice diligently attempt to remedy such default or breach and shall thereafter prosecute and complete the same with due diligence and dispatch.

Section 8.02. City Event of Default. Subject to **Section 8.05**, a "**City Event of Default**" means default in the performance of any obligation or breach of any other covenant or agreement of the City in this Agreement (other than a covenant or agreement, a default in the performance or breach of which is specifically dealt with elsewhere in this Agreement), and continuance of such default or breach for a period of thirty (30) days after there has been given to the City by the Developer a written notice specifying such default or breach and requiring it to be remedied; provided, that if such default or breach cannot be fully remedied within such 30-day period, but can reasonably be expected to be fully remedied and the City is diligently attempting to remedy such default or breach, such default or breach shall not constitute an event of default if the City shall immediately upon receipt of such notice diligently attempt to remedy such default or breach and shall thereafter prosecute and complete the same with due diligence and dispatch.

Section 8.03. Remedies Upon a Developer Event of Default.

A. Upon the occurrence and continuance of a Developer Event of Default, the City shall have the following rights and remedies, in addition to any other rights and remedies provided under this Agreement or by law:

1. The City shall have the right to remove the Developer as the developer of record under the Redevelopment Plan Ordinance and the Redevelopment Plan and/or terminate this Agreement or terminate the Developer's rights under this Agreement.

2. The City may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce and compel the performance of the duties and obligations of the Developer as set forth in this Agreement, to enforce or preserve any other rights or interests of the City under this Agreement or otherwise existing at law or in equity and to recover any damages incurred by the City resulting from such Developer Event of Default. Provided, however, that the Parties agree that certain obligations of the Developer are dependent on the willingness of retailers to locate within the Redevelopment Area.

B. Upon termination of this Agreement for any reason, the City shall have no obligation to (i) reimburse the Developer for any amounts advanced under this Agreement, except for the outstanding amounts advanced to the City for Administrative Costs hereunder that were not used by the City to pay

for or reimburse such costs, or costs otherwise incurred or paid by Developer or (ii) make any payments with respect to Obligations held by the Developer or any assignee of the Developer.

C. If the City has instituted any proceeding to enforce any right or remedy under this Agreement by suit or otherwise, and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the City, then and in every case the City and the Developer shall, subject to any determination in such proceeding, be restored to their former positions and rights hereunder, and thereafter all rights and remedies of the City shall continue as though no such proceeding had been instituted.

D. The exercise by the City of any one remedy 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 the City shall apply to obligations beyond those expressly waived.

E. Any delay by the City in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Section shall not operate as a waiver of such rights or limit it in any way. No waiver in fact made by the City of any specific default by the Developer 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.

Section 8.04. Remedies Upon a City Event of Default.

A. Upon the occurrence and continuance of a City Event of Default, the Developer shall have the following rights and remedies, in addition to any other rights and remedies provided under this Agreement or by law:

1. The Developer shall have the right to terminate the Developer's obligations under this Agreement;

2. The Developer may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce and compel the performance of the duties and obligations of the City as set forth in this Agreement, to enforce or preserve any other rights or interests of the Developer under this Agreement or otherwise existing at law or in equity and to recover any damages incurred by the Developer resulting from such City Event of Default.

B. If the Developer has instituted any proceeding to enforce any right or remedy under this Agreement by suit or otherwise, and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Developer, then and in every case the Developer and the City shall, subject to any determination in such proceeding, be restored to their former positions and rights hereunder, and thereafter all rights and remedies of the Developer shall continue as though no such proceeding had been instituted.

C. The exercise by the Developer of any one remedy 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 the Developer shall apply to obligations beyond those expressly waived.

D. Any delay by the Developer 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 it in any way. No waiver in fact made by the Developer of any specific default by the City 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.

Section 8.05. Excusable Delays. The parties understand and agree that neither the City nor the Developer shall be deemed to be in default of this Agreement because of an Excusable Delay.

ARTICLE 9: GENERAL PROVISIONS

Section 9.01. Term. Unless earlier terminated as provided herein, this Agreement shall remain in full force and effect so long as tax increment allocation financing shall apply to any portion of the Redevelopment Project and at the dissolution of the Redevelopment Area this Agreement shall terminate and become null and void. The City shall not, under any circumstances without the written consent of the Developer, amend or terminate the Redevelopment Area, Redevelopment Plan, or Redevelopment Project Area.

Section 9.02. Conflict of Interest. No member of the City's governing body or of any branch of the City's government that has any power of review or approval of any of the Developer's undertakings shall participate in any decisions relating thereto which affect such person's personal interests or the interests of any corporation or partnership in which such person is directly or indirectly interested. Any person having such interest shall immediately, upon knowledge of such possible conflict, disclose, in writing, to the City the nature of such interest and seek a determination with respect to such interest by the City and, in the meantime, shall not participate in any actions or discussions relating to the activities herein proscribed.

Section 9.03. Nondiscrimination. The Developer agrees that, as an independent covenant running with the land, there shall be no discrimination upon the basis of race, creed, color, national origin, sex, age, marital status, or physical handicap in the sale, lease, rental, occupancy or use of any of the facilities under its control in the Developer Private Improvements.

Section 9.04. Inspections and Audits. Developer shall, upon reasonable advance notice, allow the City and the City's agents (including the City Engineer) access to the Project from time to time for reasonable inspection of the Project, including the Public Improvements and Developer Private Improvements. For up to one (1) year following the City's issuance of a Certificate of Substantial Completion relating to certain Reimbursable Project Costs, the City shall have the right at its own cost and expense to audit (either through employees of the City or a firm engaged by the City) the books and records of the Developer relating to the payment of such Reimbursable Project Costs.

Section 9.05. Required Disclosures. The Developer shall immediately notify the City of the occurrence of any material event which would cause any of the information furnished to the City by the Developer in connection with the matters covered in this Agreement to contain any untrue statement of any material fact or to omit to state any material fact required to be stated therein or necessary to make any statement made therein, in the light of the circumstances under which it was made, not misleading.

Section 9.06. Actions Contesting the Redevelopment Plan. At any time after approval of the Redevelopment Plan Ordinance and during the effective period of this Agreement, if a third party brings an action against the City or the City's officials, agents, employees or representatives contesting the validity or legality of the Redevelopment Area, the Project, a Redevelopment Project, the Redevelopment Plan, the Redevelopment Plan Ordinance and the findings therein, the Project Ordinance, the Obligations, or the Ordinance approving this Agreement, the Developer may, at its option, assume the defense of such claim or action with counsel of the Developer's choosing and pay the costs and attorney's fees of such counsel, but 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. 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 its 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, to the extent permitted by law, and will not count against the Reimbursable Project Costs Cap.

Section 9.07. Authorized Parties.

A. Whenever under the provisions of this Agreement and other related documents, instruments or any supplemental agreement, a request, demand, approval, notice or consent of the City or the Developer is required, or the City or the Developer is required to agree or to take some action at the request of the other Party, such approval or such consent or such request shall be given for the City, unless otherwise provided herein, by the City Administrator and for the Developer by any officer of Developer so authorized; and any person shall be authorized to act on any such agreement, request, demand, approval, notice or consent or other action and neither Party shall have any complaint against the other as a result of any such action taken. The City Administrator may seek the advice, consent or approval of the Board of Aldermen before providing any supplemental agreement, request, demand, approval, notice or consent for the City pursuant to this Section.

B. Any action that is required by this Agreement to be performed by the City within a specified time period shall be extended for such additional reasonable time as may be necessary for the City to act or provide a response, as the case may be, in order to account for holidays, weekends, work stoppages, regular meeting schedules, meeting agendas, agenda management, delays or continuances of meetings and City staff availability. The City shall, within the time period specified in this Agreement, provide notice to Developer of such additional time needed to respond.

Section 9.08. No Other Agreement. The Parties agree that, as required by the TIF Act, the Plan contains estimated Redevelopment Project Costs, the anticipated sources of funds to pay for Redevelopment Project Costs, the anticipated type and term of the sources of funds to pay Reimbursable Project Costs, and the general land uses that apply to the Redevelopment Area. The Parties further agree that the Plan will be implemented as agreed in this Agreement. This Agreement specifies the rights, duties and obligations of the City and Developer with respect to constructing the Project, the payment of Redevelopment Project Costs, Reimbursable Project Costs, Financing Costs, payments from the Special Allocation Fund, and all other methods of implementing the Redevelopment Plan. The Parties further agree that this Agreement contains provisions that are in greater detail than as set forth in the Redevelopment Plan and that expand upon the estimated and anticipated sources and uses of funds to implement the Redevelopment Plan. Nothing in this Agreement shall be deemed an amendment of the Redevelopment Plan. Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations and discussions relative to the subject matter hereof and is a full integration of the agreement of the Parties. In the event of a conflict between this Agreement and the Funding Agreement, the Redevelopment Plan Ordinance, the Construction Plans, the Site Plan, the Redevelopment Plan or any other document pertaining to the Project, this Agreement shall control.

Section 9.09. Severability. If any provision, covenant, agreement or portion of this Agreement, or its application to any person, entity or property, is held invalid, such invalidity shall not

affect the application or validity of any other provisions, covenants or portions of this Agreement and, to that end, any provisions, covenants, agreements or portions of this Agreement are declared to be severable.

Section 9.10. Missouri Law. This Agreement shall be construed in accordance with the laws of the State of Missouri.

Section 9.11. Notices. All notices and requests required pursuant to this Agreement shall be sent as follows:

To the City:	To the Developer:
City of Kearney City Hall 100 East Washington Street Kearney, Missouri 64060 Attn: City Administrator	Star Acquisitions, Inc. 244 W. Mill Street Liberty, Missouri 64068 Attn: Tim Harris
With a copy to:	With a copy to:
Gilmore & Bell, P.C. 2405 Grand Blvd., Suite 1100 Kansas City, Missouri 64108 Attn: Richard Wood	Polsinelli Shughart PC 700 W. 47th Street, Suite 1000 Kansas City, Missouri 64112 Attn: Curt Petersen

or at such other addresses as the Parties may indicate in writing to the other either by personal delivery, courier, or by registered mail, return receipt requested, with proof of delivery thereof. Mailed notices shall be deemed effective on the third day after mailing; all other notices shall be effective when delivered.

Section 9.12. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

Section 9.13. Recordation of Memorandum of Agreement. The Parties agree to execute and deliver a Memorandum of this Agreement in proper form for recording and/or indexing in the appropriate land or governmental records. Such Memorandum shall be recorded by the Developer, and proof of recording shall be provided to the City.

Section 9.14. Consent or Approval. Except as otherwise provided in this Agreement, whenever the consent, approval or acceptance of either Party is required hereunder, such consent, approval or acceptance shall not be unreasonably withheld or unduly delayed.

Section 9.15. Tax Implications. The Developer acknowledges and represents that (1) neither the City nor any of its officials, employees, consultants, attorneys or other agents has provided to the Developer any advice regarding the federal or state income tax implications or consequences of this Agreement and the transactions contemplated hereby, and (2) the Developer is relying solely upon its own tax advisors in this regard.

Section 9.16. Preserving the Tax-Exempt Status of Obligations. The City may irrevocably waive any requirement of this Agreement that imposes requirements on the Developer, any Tenant or any taxpayer, related to the payment, collection, administration or guaranty of Economic Activity Taxes or

Payments in Lieu of Taxes, to the extent the City determines in its sole discretion that the waiver is necessary or appropriate in order to facilitate the tax-exempt financing. The City shall evidence such waiver by providing to the Developer written notice specifically listing any requirements waived by the City and this Agreement shall be deemed to have been amended to delete the waived provisions as provided therein.

[Remainder of page intentionally blank.]

IN WITNESS WHEREOF, the Parties have duly executed this Agreement pursuant to all requisite authorizations as of the date first above written.

CITY OF KEARNEY, MISSOURI

By:_____
Bill Dane
Mayor

[SEAL]

ATTEST:

_____
Joan Updike
City Clerk

STATE OF MISSOURI)
) ss.
COUNTY OF CLAY)

BE IT REMEMBERED, that on this _____ day of _____, 20___, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Bill Dane, Mayor of the City of Kearney, Missouri, a city duly incorporated and existing under and by virtue of the laws of the State of Missouri, who is personally known to me to be the same person who executed, as such official, the within instrument on behalf of and with the authority of said City, and such person duly acknowledged the execution of the same to be the free act and deed of said City.

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

_____
[SEAL] NOTARY PUBLIC

My Commission Expires:

_____

STAR ACQUISITIONS, INC.

By:_____
Tim Harris
Member

STATE OF MISSOURI)
) ss.
COUNTY OF _____)

BE IT REMEMBERED, that on this _____ day of _____, 20___, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Tim Harris, Member of Star Acquisitions, Inc., a Missouri Subchapter S corporation, who is personally known to me to be the same person who executed the within instrument on behalf of Star Acquisitions, Inc., and such person duly acknowledged the execution of the same to be the free act and deed of Star Acquisitions, Inc.

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

_____
[SEAL] NOTARY PUBLIC

My Commission Expires:

_____

EXHIBIT A

SITE MAP

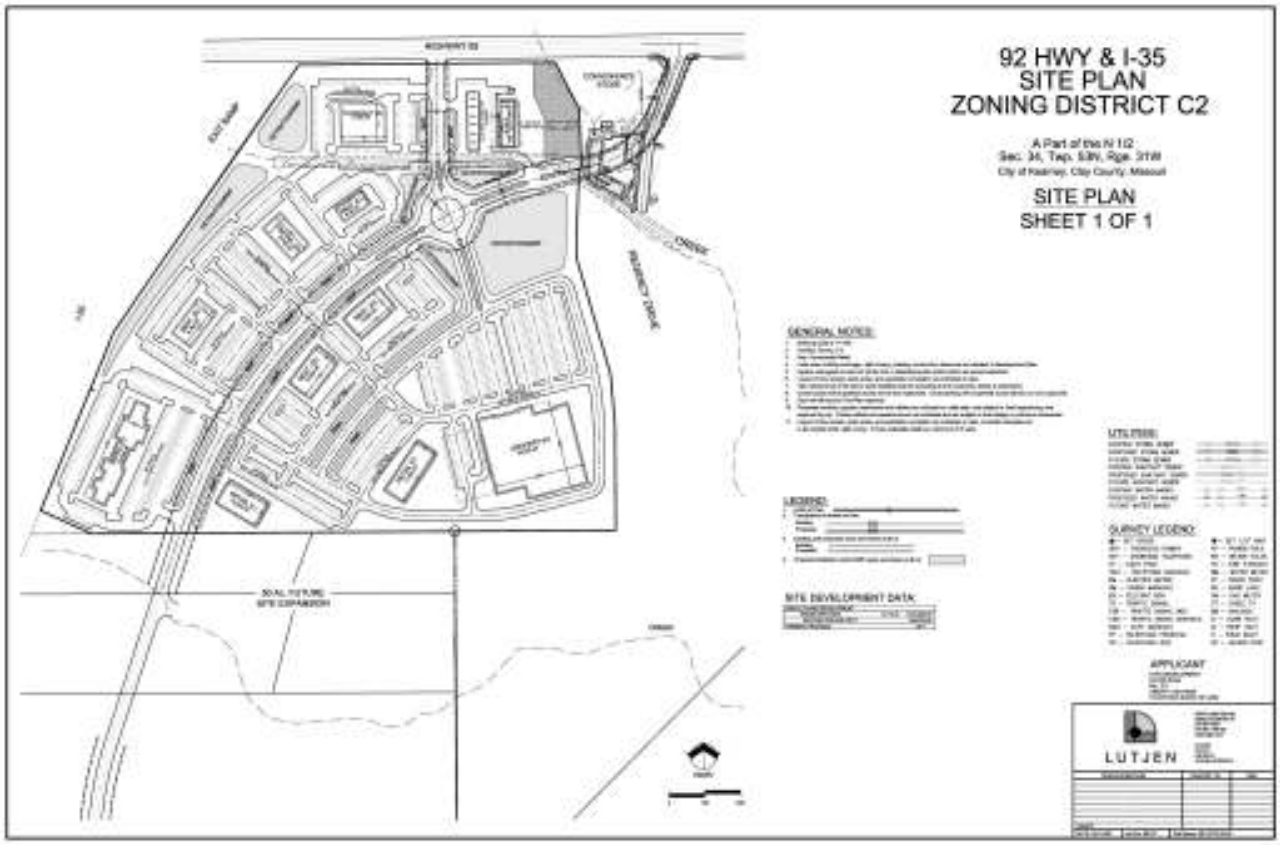

EXHIBIT B

LEGAL DESCRIPTION OF REDEVELOPMENT AREA

A tract of land in the Northwest Quarter and the Northeast Quarter, both in Section 34, Township 53 North, Range 31 West of the 5th Principal Meridian, in Kearney, Clay County, Missouri, being bounded and described as follows: Commencing at the Northwest corner of the Northeast Quarter of said Section 34; thence South 00°15'49" East, along the West line of said Northeast Quarter, 74.98 feet to a point on the Southerly right-of-way line of Missouri Highway 92, as now established, said point being the Point of Beginning of the tract of land to be herein described; thence North 89°29'34" East, along said right-of-way line, 426.12 feet; thence South 00°30'26" East, continuing along said right-of-way line, 15.00 feet; thence North 89°29'34" East, continuing along said right-of-way line, 47.21 feet to a point on the Westerly line of Somerset Plaza, a subdivision of land in said Clay County; thence South 26°54'48" East, along said Westerly line, 59.75 feet; thence South 27°03'20" East, continuing along said Westerly line, 38.61 feet; thence South 01°50'44" East, continuing along said Westerly line, 142.10 feet; thence South 06°53'12" West, continuing along said Westerly line, 69.66 feet to the Northwest corner of Lot 1, Shadowbrook – First Plat, a subdivision in said Clay County; thence South 01°59'38" West, along the Westerly line of said Shadowbrook – First Plat, 198.43 feet; thence South 16°08'28" East, continuing along said Westerly line, 340.00 feet; thence South 05°08'28" East, continuing along said Westerly line, 138.00 feet; thence South 00°08'28" East, 300.00 feet; thence South 89°51'32" West, continuing along said Westerly line and its Westerly pronlongation, 1,636.37 feet to a point on the Easterly right-of-way line of Interstate 35, as now established; thence North 22°34'34" East, along said right-of-way line, 614.06 feet; thence North 34°49'31" East, continuing along said right-of-way line, 777.70 feet; thence North 64°58'55" East, continuing along said right-of-way line, 162.91 feet to a point on the Southerly right-of way line of said Missouri Highway 92, thence North 89°29'34" East, along said right-of-way line, 193.88 feet to the Point of Beginning. Containing 1,598,887 square feet or 36.71 acres, more or less.

Prepared by: Lutjen (No. 08182)
Date: April 15, 2009

EXHIBIT C

PROJECT BUDGET

Kearney - SE Corner I-35 and 92 Highway
Preliminary Engineers Construction Cost Estimate
TIF/CID Cost Projections

Lutjen, Inc.
Civil Engineers--Land Surveyors
Landscape Architects

Project Name:
Kearney Commercial Proposal
SE Cor I-35 and 92 Highway

Date: September 8, 2008
Rev: September 11, 2009

Available Bld Area (SF): 169,025
Available Site Area (Ac): 37.15
Available Site Area (SF): 1,618,254

** Engineer's estimate includes only public and private infrastructure and soft costs (except leasing/marketing).*
Building construction costs as estimated by Clay County Assessor's Office using Marshall & Swift data.
All other costs estimated by Developer.

PROPERTY ACQUISITION

ITEM	TOTAL COST	TIF Reimbursable	CID Reimbursable
Shanks Property	$ 3,900,000.00	$ -	$ -
TOTAL - Property Acquisition	**$ 3,900,000**	**$ -**	**$ -**

PUBLIC INFRASTRUCTURE/GRADING

ITEM	TOTAL COST	TIF Reimbursable	CID Reimbursable
Roadway/Highway Improvements			
Mo Route 92 Hwy/I-35 Off Ramp (Acel/Decel and Turn Lanes)	$ 505,500	$ 505,500	$ -
Platte-Clay Way/Regency Drive (92 Hwy to South PL)	$ 2,226,650	$ 2,226,650	$ 2,226,650
Public Road - Rin/Rout from 92 Hwy (92 Hwy to Traffic Circle)	$ 183,100	$ 183,100	$ 183,100
TOTAL	**$ 2,915,250**	**$ 2,915,250**	**$ 2,409,750**
Mass Grading Operations			
Mass Grading (Public)	$ 453,700	$ 453,700	$ 453,700
Mass Grading (Private)	$ 745,300	$ 745,300	$ -
Building and Parking Demo	$ 250,000	$ 250,000	$ 250,000
TOTAL	**$ 1,449,000**	**$ 1,449,000**	**$ 703,700**
Utility Relocations			
Utility Relocations	$ 302,000	$ 302,000	$ 302,000
TOTAL	**$ 302,000**	**$ 302,000**	**$ 302,000**
Sanitary Sewer			
Sanitary Sewer - Off site relocations/upgrades	$ 69,500	$ 69,500	$ -
Sanitary Sewer Main Extension	$ 295,000	$ 295,000	$ 295,000
TOTAL	**$ 364,500**	**$ 364,500**	**$ 295,000**
Water			
Water Main Upgrades - Tower Feed Relocation	$ 67,500	$ 67,500	$ 67,500
Water Main Extension - Looped Connection	$ 220,500	$ 220,500	$ 220,500
TOTAL	**$ 288,000**	**$ 288,000**	**$ 288,000**
Storm Sewer			
Concrete Box Culvert Extension	$ 1,012,500	$ 1,012,500	$ 1,012,500
Storm Sewer Extension - Onsite (Bi-Swale/Treatment)	$ 150,000	$ 150,000	$ 150,000
TOTAL	**$ 1,162,500**	**$ 1,162,500**	**$ 1,162,500**
Detention Allowance			
Detention Basin - Onsite	$ 384,750	$ 384,750	$ 384,750
Channel Remediation - Offsite	$ 195,000	$ 195,000	$ -
TOTAL	**$ 579,750**	**$ 579,750**	**$ 384,750**
Landsape/Hardscape/Signage			
Landsape/Hardscape	$ 330,000	$ 330,000	$ 330,000
Signage	$ 300,000	$ 300,000	$ 300,000
TOTAL	**$ 630,000**	**$ 630,000**	**$ 630,000**
Contingency			
Public Improvement Hard Cost - Subtotal	$ 7,691,000	$ 7,691,000	$ 6,175,700
Public Improvement Hard Cost - Contingency	$ 769,100	$ 769,100	$ 617,570
TOTAL	**$ 769,100**	**$ 769,100**	**$ 617,570**
Soft Costs			
Legal/Zoning/Entitlments	$ 423,005	$ 423,005	NE
Engineering/Survey	$ 592,207	$ 592,207	NE
Misc Professional Services (Env/Geo/Appr/Etc)	$ 423,005	$ 423,005	NE
R/W/Easement Acquisitions	$ 169,202	$ 169,202	NE
Soft Cost Contingency	$ 423,005	$ -	NE
TOTAL	**$ 2,030,424**	**$ 1,607,419**	**NE**
TOTAL - Public Infrastructure/Grading	**$ 10,490,524**	**$ 10,067,519**	**$ 6,175,700**

***NE = Not Estimated (some amount may be reimburseable under the CID Act, but no estimate is provided)**

PRIVATE SITE IMPROVEMENTS

ITEM	TOTAL COST	TIF Reimbursable	CID Reimbursable
Hard Costs			
Building Pad Stabilization	$ 254,550	$ 254,550	$ -
Fine Grade	$ 595,000	$ 595,000	$ -
Asphalt Paving	$ 2,185,000	$ 2,185,000	$ -
Concrete Paving	$ 75,000	$ 75,000	$ -
Curb and Gutter	$ 467,500	$ 467,500	$ -
Site Lighting	$ 305,000	$ 305,000	$ -
Private Utilities-Main Lines (Storm/Water/San)	$ 465,000	$ 465,000	$ -
Private Service Line (Water/San/Elec/Gas/Comm)	$ 147,500	$ 147,500	$ -
Landscaping	$ 220,000	$ 220,000	$ -
Bonds and Permits	$ 377,164	$ 377,164	$ -
TOTAL	**$ 5,091,714**	**$ 5,091,714**	
Contingency			
Private Improvement Hard Cost - Contingency	$ 509,171	$ 509,171	
TOTAL	**$ 509,171**	**$ 509,171**	
Soft Costs			
Legal/Leasing/Marketing	$ 970,440	$ 970,440	
Engineering/Architecture	$ 509,171	$ 509,171	
Soft Costs Contingency	$ 254,586	$ -	
TOTAL	**$ 1,734,197**	**$ 1,479,611**	
TOTAL - Private Site Improvements	**$ 7,335,083**	**$ 7,080,497**	**$ -**

BUILDING CONSTRUCTION

ITEM	TOTAL COST**	TIF Reimbursable	CID Reimbursable
Building A (Pharmacy)	$ 962,000	$ -	$ -
Building B (Gas Station)	$ 701,250	$ -	$ -
Building C (Restaurant)	$ 617,500	$ -	$ -
Building D (Retail)	$ 700,000	$ -	$ -
Building E (Restaurant)	$ 875,000	$ -	$ -
Building G (Restaurant)	$ 1,080,000	$ -	$ -
Building F (Hotel)	$ 5,400,000	$ -	$ -
Building J (Retail)	$ 833,000	$ -	$ -
Building H (Restaurant)	$ 1,080,000	$ -	$ -
Building L (Retail)	$ 756,000	$ -	$ -
Building K (Grocery)	$ 4,810,000	$ -	$ -
TOTAL - Building Construction	**$ 17,814,750**	**$ -**	**$ -**

TOTAL PROJECT COSTS & AMOUNTS ELIGIBLE FOR REIMBURSEMENT	$39,540,357	$17,148,016	$6,175,700

AS LIMITED BY CAPPED AMOUNT OF REIMBURSABLE PROJECT COSTS OF $13,828,572
[excluding Financing Costs]

***This Plan does not allow for reimbursement of the cost of acquiring the land constituting the Redevelopment Area, or for the cost of building construction. However, this Plan authorizes reimbursement of any other project costs to the full extent permitted under the TIF Act (defined in the Plan as "Reimbursable Project Costs"), except as limited below.**

As explained in the Plan, the reimbursable amounts listed in this budget do not represent caps on any individual expenditure or category of expenditures, as reimbursable amounts may be moved from one reimbursable line item or category to another, and between the TIF reimbursable and CID reimbursable columns, to the full extent permitted by law, to reflect actual expenditures, subject to the Capped Amount of Reimbursable Project Costs of $13,828,572, which does not include Financing Costs. Provided, however, that the total reimbursement of Soft Costs may not exceed one hundred and ten percent (110%) of the total amount of budgeted Soft Costs set forth above without written consent of the City. Any reimbursable amounts associated with Soft Costs in the budget set forth above can be moved to non-Soft Cost line items and categories for purposes of reimbursement without obtaining the City's consent.

^For new development, the County Assessor's Office uses cost data from Marshall & Swift (www.marshallswift.com) to estimate building costs and private site improvement costs, and then estimates the market value of building and private site improvements at 100% of such costs. Because the proposed buildings are not designed yet, the Developer has adopted the same methodology as the County Assessor's Office to estimate building costs.

ASSUMING PAY-AS-YOU-GO FINANCING		
		(Approximate Values Only)
Total TIF Reimbursement (without captured CID)	$	10,700,000
Total Captured CID Reimbursement (1/2 of CID 1% Sales Tax)	$	3,100,000
Total TIF/CID Reimbursement*	**$**	**13,800,000**

* TIF/CID revenues estimated to be used for reimbursement are net of Non-Captured CID Revenues, which are dedicated to community center, and certain annual payments to school district using PILOTs.

EXHIBIT D

PROJECT SCHEDULE

Action	**Schedule**
Commence Site Work, Priority Road Improvements, and Other Infrastructure	November 1, 2012
Complete Site Work, Priority Road Improvements, and Other Infrastructure	December 31, 2013

EXHIBIT E

DESIGN STANDARDS

All buildings in the Shopping Center shall be constructed with high quality materials and finishes. Structural masonry buildings shall utilize split faced concrete masonry units and banding with alternate colors is encouraged; this design standard shall not be deemed to preclude banding with smooth faced and/or center scored block for aesthetic character. Concrete (tilt up or precast panel) buildings not having an exposed aggregate finish shall be integrally colored, stained or painted and shall have reveals, projections or other architectural accents cast into the concrete for aesthetic character. Framed buildings are encouraged to utilize textured stucco or EIFS, however wood or cementations paneling may be deemed acceptable by Declarant. Vinyl siding or metal wall panels shall be strictly prohibited, however this shall not preclude canopies, awnings, soffits, sign bands or entry elements from utilizing prefinished metal paneling. The front elevation of every building in the Shopping Center shall utilize first class architectural finishes such as brick, precast banding, cultured stone or real stone as a prominent element of design for aesthetic character, however this design standard shall not be deemed to require the entire front elevation to utilize such finishes (i.e. wainscots or pilasters finished with said materials may be deemed to satisfy this requirement). Roofing materials readily visible to the public (sloped roofs, mansards and the like) are encouraged to utilize lightweight concrete roof tiles, however architectural style asphalt shingles or prefinished standing seam metal roof panels may be deemed acceptable by Declarant. All mechanical and electrical equipment, trash refusal areas and roof-mounted equipment must be screened from public view and, when practical, located on the rear elevation of a building. All building elevations which face other buildings in the Shopping Center, or are readily visible from surrounding public streets and thoroughfares, shall incorporate reasonable amounts of the same first class architectural finishes as are required on the front elevation (i.e. “four sided architecture” is encouraged and may be required to adhere to the intent of foregoing provision).

EXHIBIT F

(FORM OF CERTIFICATE OF SUBSTANTIAL COMPLETION)

CERTIFICATE OF SUBSTANTIAL COMPLETION
OF
STAR ACQUISITIONS, INC.

The undersigned, Star Acquisitions, Inc. (the "**Developer**"), pursuant to that certain Tax Increment Financing Redevelopment Agreement dated as of _____ _____, 20___, between the City of Kearney, Missouri (the "**City**") and the Developer (the "**Agreement**"), hereby certifies to the City as follows:

1. That as of _____, 20___, the Project (as such term is defined in the Agreement) or the following portion thereof: _____ has been substantially completed in accordance with the Agreement.

2. The Project or the portion thereof set forth in **Section 1** has been completed in a good and workmanlike manner and in accordance with the Construction Plans (as those terms are defined in the Agreement).

3. Lien waivers for applicable portions of the Project in excess of $5,000 have been obtained.

4. This Certificate of Substantial Completion is accompanied by the project architect's certificate of substantial completion on AIA Form G-704 (or the substantial equivalent thereof), a copy of which is attached hereto as **Appendix A** and by this reference incorporated herein, certifying that the Project or the portion thereof set forth in **Section 1** has been substantially completed in accordance with the Agreement.

5. This Certificate of Substantial Completion is being issued by the Developer to the City in accordance with the Agreement to evidence the Developer's satisfaction of all obligations and covenants with respect to the Project or the portion thereof set forth in **Section 1**.

6. The City's acceptance (below) or the City's failure to object in writing to this Certificate within thirty (30) days of the date of delivery of this Certificate of Substantial Completion to the City (which written objection, if any, must be delivered to the Developer prior to the end of such 30-day period), and the recordation of this Certificate of Substantial Completion with the Clay County Recorder of Deeds, shall evidence the satisfaction of the Developer's agreements and covenants to construct the Project.

This Certificate of Substantial Completion shall be recorded in the office of the Clay County Recorder of Deeds. This Certificate of Substantial Completion is given without prejudice to any rights against third parties which exist as of the date hereof or which may subsequently come into being.

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

IN WITNESS WHEREOF, the undersigned has hereunto set his/her hand this _____ day of _____, _____.

STAR ACQUISITIONS, INC.,
a Missouri Subchapter S corporation

By:_____

Name:_____

Title:_____

ACCEPTED:

CITY OF KEARNEY, MISSOURI

By:_____

Name: _____

Title: _____

[Insert Notary Form(s) and Legal Description]

EXHIBIT G

(FORM OF APPLICATION FOR REIMBURSABLE PROJECT COSTS)

APPLICATION FOR REIMBURSABLE PROJECT COSTS

TO: City of Kearney, Missouri
Attention: City Administrator

Re: Shoppes at Kearney Redevelopment Project Area

*Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Tax Increment Financing Redevelopment Agreement dated as of _____ ____, 20___ (the "**Agreement**") between the City of Kearney, Missouri (the "**City**") and Star Acquisitions, Inc. (the "**Developer**"). In connection with said Agreement, the undersigned hereby states and certifies that:*

1. Each item listed on *Schedule 1* hereto is a Reimbursable Project Cost and was incurred in connection with the construction of the Project.

2. These Reimbursable Project Costs have been paid by the Developer and are reimbursable under the Redevelopment Plan Ordinance and the Agreement.

3. Each item listed on *Schedule 1* has not previously been paid or reimbursed from money derived from the Special Allocation Fund or any money derived from any project fund established pursuant to an Ordinance authorizing the issuance of Obligations, and no part thereof has been included in any other Application previously filed with the City.

4. There has not been filed with or served upon the Developer any notice of any lien, right of lien or attachment upon or claim affecting the right of any person, firm or corporation to receive payment of the amounts stated in this request, except to the extent any such lien is being contested in good faith.

5. All necessary permits and approvals required for the Work for which this application relates have been issued and are in full force and effect.

6. All Work for which payment or reimbursement is requested has been performed in a good and workmanlike manner and in accordance with the Agreement.

7. If any cost item to be reimbursed under this application is deemed not to constitute a Redevelopment Project Cost within the meaning of the TIF Act and the Agreement, the Developer shall have the right to substitute other eligible Reimbursable Project Costs for payment hereunder.

8. The Developer is not in default or breach of any term or condition of the Agreement, and no event has occurred and no condition exists which constitutes a Developer Event of Default under the Agreement.

9. All of the Developer's representations set forth in the Agreement remain true and correct as of the date hereof.

10. Construction of the Project is in compliance with the Project Schedule set forth in **Exhibit D** to the Agreement, subject to any amendment or Excusable Delay.

Dated this _____ day of _____, 20____.

STAR ACQUISITIONS, INC.
a Missouri Subchapter S corporation

By:_____

Name:_____

Title:_____

Approved for Payment this ____ day of _____, 20___:

CITY OF KEARNEY, MISSOURI

By:_____

Name: _____

Title: _____

Reimbursable Project Costs (RPC) Request For Payment

RPC Request Detail:

Vendor Name	Date of Service	Date Paid by Developer	Project Budget Item (Exhibit C)	Requested Amount

Total RPC Request $ _____

The portion above is to be filled out by Developer.

The portion below is to be filled out by the City.

RPC Approved - This Request _____

RPC Approved/Paid To Date _____

Total Approved/Paid RPC To Date $ _____

Actual Redevelopment Project Costs (Exhibit J) Submitted on _____, 20___ _____

_____

Total Project Cost Cap _____

(less) Total Approved/Paid RPC To Date _____

TOTAL RPC to be reimbursed _____

_____ _____

Approving Signature by City | Date

EXHIBIT H

(FORMS OF DEVELOPER'S CLOSING CERTIFICATE AND LEGAL OPINION)

DEVELOPER'S CLOSING CERTIFICATE

Relating to

City of Kearney, Missouri
Tax Increment Financing Revenue Bonds
Series _____

I, the undersigned, hereby certify that I am a duly authorized officer of Star Acquisitions, Inc. (the "**Developer**") and as such am familiar with the affairs, books and records of the Developer. In connection with the issuance of the above-described bonds (the "**Bonds** ") by the City of Kearney, Missouri (the "**City**"), I hereby further certify as follows:

1. ORGANIZATION AND AUTHORITY

1.1. Due Organization. The Developer is a limited liability company duly organized and is in good standing under the laws of the State of Missouri and qualified to do business under the laws of the State of Missouri.

1.2. Organizational Documents. The copy of the organizational documents of the Developer contained in the Transcript of Proceedings relating to the authorization of the issuance of the Bonds (the "**Transcript**") is a true, complete and correct copy of said Organizational Documents, as amended, and said Organizational Documents have not been further amended and are in full force and effect as of the date hereof.

1.3. Incumbency of Officers. The person named below was on the date or dates of the execution of the documents listed in **Section 2.2** below, and is on this date, the duly appointed or elected, qualified and acting managing member of the Developer, holding the office set opposite his name:

Name	**Title**

2. BOND TRANSCRIPTS AND LEGAL DOCUMENTS

2.1. Transcript of Proceedings. The Transcript furnished to the Original Purchaser of the Bonds and on file in the official records of the City includes a true and correct copy of the proceedings had by the Developer and other records, proceedings and documents relating to the issuance of the Bonds; said Transcript is, to the best of my knowledge, information and belief, full and complete; such proceedings of the Developer shown in said Transcript have not been modified, amended or repealed and are in full force and effect as of the date hereof.

2.2. Execution of Documents. The following document has been executed and delivered in the name and on behalf of the Developer by the person identified in **Section 1.3** above, pursuant to and in

full compliance with a Resolution adopted by the members of the Developer by consent in lieu of meeting as shown in the Transcript; the copy of said document contained in the Transcript is a true, complete and correct copy or counterpart of said document as executed and delivered by the Developer; and said document has not been amended, modified or rescinded and is in full force and effect as of the date hereof:

(a) Tax Increment Financing Agreement dated as of _____, 20___(the "**Redevelopment Agreement**"), between the City and the Developer.

2.3. Representations. Each of the representations of the Developer set forth in the Redevelopment Agreement are true and correct in all material respects as of the date hereof, as if made on the date hereof, and all covenants and conditions to be complied with and obligations to be performed by the Developer under the Redevelopment Agreement have been complied with and performed.

2.4. Authorized Developer Representative. The Developer hereby appoints _____ as the Authorized Developer Representative as defined in the Indenture.

2.5 Litigation. There is (i) no litigation, proceeding or investigation pending against the Developer or its Affiliates or, to the knowledge of the Developer, threatened which would (A) contest, affect, restrain or enjoin the issuance, validity, execution, delivery or performance of the documents related to the Bonds, or (B) in any way contest the existence or powers of the Developer or its Affiliates regarding the Project, (ii) no litigation, proceeding or investigation is pending or, to the knowledge of the Developer, threatened against the Developer or its Affiliates regarding the Project except litigation, proceedings or investigations in which the probable ultimate recoveries and the estimated costs and expenses of defense, in the opinion of counsel to the Developer, will not have a material adverse effect on the operations or condition, financial or otherwise, of the Developer and its Affiliates and would not restrain, enjoin or otherwise adversely affect the payment of Payments in Lieu of Taxes and Economic Activity Tax Revenues (as defined in the Indenture), and (iii) no event of default which has occurred and is continuing and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a breach of or an event of default under the documents related to the Bonds to which it is a party.

2.6. Preliminary Official Statement and Official Statement. The information in the Preliminary Official Statement dated _____, 20__ and in the Official Statement dated _____, 20__ (collectively, the "**Official Statement**") under the captions **"THE PROJECT"** and **"SUMMARY OF LEASES; OCCUPANTS"** does not contain an untrue statement of a material fact or omit to state a material fact necessary in order to make the statements made therein, in the light of the circumstances under which they were made, not misleading.

2.7 Continuing Disclosure. The Developer shall provide the City and the Trustee with reasonable access to the books of records and accounts and all documents in the Developer's possession relating to the leases of retail space in the Project and such other information as the Trustee or the City may reasonably request, including cooperation by the Developer with the City in fulfilling the City's continuing disclosure undertaking pursuant to the Continuing Disclosure Agreement.

IN WITNESS WHEREOF, the undersigned has caused this Certificate to be executed this _____ day of _____, 20___.

STAR ACQUISITIONS, INC.
a Missouri Subchapter S corporation

By:_____

Name:_____

Title:_____

(FORM OF OPINION OF COUNSEL TO DEVELOPER)

[FORM IS STILL SUBJECT TO REVIEW AND REVISION BY POLSINELLI'S OPINION LETTER REVIEW COMMITTEE]

[Closing Date]

Mayor and Board of Aldermen
Kearney, Missouri

[Underwriter]
Kansas City, Missouri

[Bond Trustee], as Trustee
Kansas City, Missouri

Gilmore & Bell, P.C.
Kansas City, Missouri

Re: $_____ City of Kearney, Missouri, Tax Increment Refunding [refunding?] Revenue Bonds (_____ Project), Series 20___

Ladies and Gentlemen:

We have acted as counsel to Star Acquisitions, Inc. (the "**Developer**"), in connection with the issuance and sale by the City of Kearney, Missouri (the "**City**") of the above-captioned bonds (the "**Bonds**") pursuant to a Trust Indenture dated as of _____, 20___ (the "**Indenture**"), between the City and [Bond Trustee], as trustee. In our capacity as counsel for the Developer, and in preparation for the delivery of the opinions set forth herein, we have examined the following:

(a) Articles of Organization of the Developer with all amendments thereto;

(b) Operating Agreement of the Developer with all amendments thereto;

(c) Certificate of Good Standing;

(d) Tax Increment Financing Redevelopment Agreement dated as of _____, 20___ (the "**Agreement**"), between the City and the Developer; and

(e) such other corporate and organizational records, certificates and other statements of governmental officials and officers and other representatives of the Developer as we have deemed necessary or appropriate for the purposes of this opinion.

Words and terms used herein have the respective meanings ascribed to them in the Agreement unless some other meaning is plainly indicated.

In rendering the opinions set forth herein, we have assumed, without undertaking to verify the same by independent investigation, (a) as to questions of fact, the accuracy of all representations of the City and the Developer set forth in the Agreement, and all other certifications of officers and

representatives of the Developer, the City and others examined by us, (b) the conformity to original documents of all documents submitted to us as copies and the authenticity of such original documents and all documents submitted to us as originals, (c) except with respect to the Developer, the genuineness of all signatures and the due authority of the parties executing such documents, (d) except with respect to the Developer, the execution, delivery and performance of all relevant documents by the parties executing such documents and the due authorization and validity of such documents, and that such parties have the full power, authority and legal right to perform their obligations under such documents, and (e) that all such documents to which the Developer is a party accurately describes and contains the mutual understanding of the parties, that there are no oral or written statements that modify, amend or vary, or purport to modify, amend or vary any of the terms of the agreements or any documents related thereto, and that as to factual matters all representations and warranties made in the agreements and all documents related thereto are correct and accurate.

Our use of the term "to our knowledge" and "to the best of our knowledge" means that, during the course of representation as described herein, no information has come to the attention of the attorneys involved in the transactions described herein which gave such attorneys actual knowledge of the existence of the matter as so qualified.

Based upon the foregoing and upon such other information and documents as we believe necessary to enable us to render this opinion, we are of the opinion that:

1. Based on the Articles of Organization and Certificate of Good Standing, the Developer is a limited liability company duly organized, validly existing and in good standing under the laws of the State of Missouri. The Developer has all requisite power and authority to (a) conduct its business as contemplated by the Agreement, (b) execute and deliver the Agreement, and (c) carry out the terms of the Agreement and to perform its obligations thereunder.

2. The Agreement has been duly authorized, executed and delivered by the Developer.

3. No authorization, consent or approval of any governmental body or agency not already obtained is required in connection with the valid execution and delivery of the Agreement by the Developer or in connection with the performance by the Developer of its obligations under the Agreement.

4. The execution, delivery and performance by the Developer of the Agreement will not violate any provisions of law nor, to the best of our knowledge after inquiry of officers and other representatives of Developer, any applicable judgment, order or regulation of any court or of any public or governmental body, agency or authority and will not conflict with, or result in the breach of any of the provisions of, or constitute a default under its Articles of Organization or Operating Agreement or, to the best of our knowledge after inquiry of officers and other representatives of Developer, of any indenture, mortgage, deed of trust or other agreement or instrument to which the Developer is a party or by which the Developer is bound.

In the course of our representation of the Developer, nothing has come to our attention which causes us to believe that the information contained in the Official Statement dated _____, under the captions "THE REDEVELOPMENT PROJECT" and "SUMMARY OF LEASES; OCCUPANTS" (with the exception of any financial or statistical data, as to which no view is expressed) contains any untrue statement of a material fact or omits to state a material fact necessary in order to make the statements made, in light of the circumstances under which they were made, not misleading.

*[**For purposes of this paragraph, it is assumed that the information under the captions referenced will be similar in scope to the information contained in the Official Statement.**]*

This opinion is limited solely to the matters set forth herein and no other opinion is to be inferred or implied beyond the matters expressly stated herein.

The foregoing opinions are subject to the qualifications stated therein and to the following assumptions, limitations and qualifications:

(a) These opinions are based upon existing laws, ordinances and regulations in effect as of the date hereof and as they presently apply;

(b) We have assumed that the Agreement has been duly authorized, executed and delivered by the City to the extent applicable, is within its powers, constitutes its legal, valid and binding obligation and that the City is in compliance with all applicable laws, rules and regulations governing the conduct of its business;

(c) The undersigned is licensed to practice law in the State of Missouri, and we express no opinion with respect to the applicability of the laws of any jurisdiction other than the State of Missouri or governmental subdivisions thereof, and all federal substantive laws to the extent applicable.

This opinion may not be used or relied upon by or published or communicated to any party other than the addressees hereof for any purpose whatsoever without our prior written approval in each instance.

Very truly yours,

EXHIBIT I

RESTRICTED LAND USES IN THE REDEVELOPMENT AREA

Adult entertainment

Adult bookstore

Automobile dealers, body shops, and storage/ATV / Boat sales or repair, service or leasing

Bars or tavern as a primary use (this restriction shall not apply to restaurants that sell alcohol)

Cellular or other towers which are not stealth or fully integrated (this restriction shall not apply to satellite dishes or similar equipment used by tenants in their operations where such equipment is not otherwise prohibited under the City's Zoning Code)

Day Care

Dry Cleaners that clean on-site and Laundromats

Manufacturing or assembly use

Pawn shop

Residential Uses

Title loan, check cashing or pay-day loan services

EXHIBIT J

Intentionally Omitted

EXHIBIT K

PRIORITY ROAD IMPROVEMENTS

1. Route 92 and Northbound I-35 – Construct a second northbound right-turn lane on the exit ramp. The dual right-turn lanes should be approximately 250 feet in length, plus taper.

2. Route 92 and Northbound I-35 – Modify the traffic signal, as appropriate, to support the revised lane configurations.

3. Route 92 and "Drive B" – Construct an eastbound right-turn lane on Route 92. The turn lane should be approximately 150 feet in length, plus taper.

4. Route 92 and "Drive B" – Construct an island on the "Drive B" approach which restricts northbound (or outbound) movements to a right-turn only.

5. Route 92 and Platte Clay Way/"Drive A" – Construction of a third northbound lane on Regency Drive at Route 92, providing for an exclusive left-turn lane, a shared left and through lane and en exclusive right-turn lane. The two left-turn lanes should provide approximately 250 feet of storage and the right-turn lane approximately 150 feet, plus taper.

6. Route 92 and Platte Clay Way/"Drive A" – Construct an eastbound right-turn lane, approximately 200 feet in length, plus taper.

7. Route 92 and Platte Clay Way/"Drive A" – Modify the existing traffic signal to support the new lane configurations.

8. Regency Drive and "Drive A" – Provide two southbound lanes on "Drive A" from Route 92 to Regency Drive. Drop one of the southbound lanes as a left-turn lane, turning onto Regency Drive.

9. Regency Drive and "Drive A" – Provide an exclusive left-turn lane and right-turn lane on Regency Drive for traffic turning onto "Drive A".

10. Construction of Drive A to the southern boundary of the Property.