

ORDINANCE #66670
Board Bill No. 411

AN ORDINANCE AFFIRMING ADOPTION OF A REDEVELOPMENT PLAN, REDEVELOPMENT AREA, REDEVELOPMENT PROJECT; AUTHORIZING THE EXECUTION OF A REDEVELOPMENT AGREEMENT BETWEEN THE CITY AND LOUGHBOROUGH COMMONS, LLC; PRESCRIBING THE FORM AND DETAILS OF SAID AGREEMENT; DESIGNATING LOUGHBOROUGH COMMONS, LLC, AS DEVELOPER OF THE REDEVELOPMENT AREA; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AUTHORIZING OTHER RELATED ACTIONS IN CONNECTION WITH THE REDEVELOPMENT OF CERTAIN PROPERTY WITHIN THE REDEVELOPMENT AREA; AND CONTAINING A SEVERABILITY CLAUSE.

WHEREAS, the City of St. Louis, Missouri (the “City”), is a body corporate and a political subdivision of the State of Missouri, duly created, organized and existing under and by virtue of its charter, the Constitution and laws of the State of Missouri; and

WHEREAS, on December 20, 1991, pursuant to Ordinance No. 62477, the Board of Aldermen of the City created the Tax Increment Financing Commission of the City of St. Louis, Missouri (the “TIF Commission”); and

WHEREAS, on December 1, 2004, after all proper notice was given, the TIF Commission held a public hearing in conformance with the TIF Act (hereinafter defined), and received comments from all interested persons and taxing districts affected by the Redevelopment Plan and the redevelopment project described therein; and

WHEREAS, pursuant to the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 through 99.865 of the Revised Statutes of Missouri (2000), as amended (the “Act” or “TIF Act”), and after due consideration of the TIF Commission’s recommendations, the Board of Aldermen of the City of St. Louis, Missouri adopted Ordinance No. _____ [Board Bill No. 410] on _____, 2005, which Ordinance (i) adopted and approved a redevelopment plan entitled the “I-55/Loughborough Tax Increment Financing (TIF) Redevelopment Plan” (the “Redevelopment Plan”), (ii) designated the I-55/Loughborough Redevelopment Area (as described in the Redevelopment Plan) as a “redevelopment area” as that term is defined in the TIF Act (the “Redevelopment Area”), (iii) adopted and approved the Redevelopment Project described in the Redevelopment Plan, (iv) adopted tax increment allocation financing within the Redevelopment Area, (v) established the City of St. Louis, Missouri “I-55/Loughborough Special Allocation Fund,” and (vi) made certain findings with respect thereto, all as set forth in such Ordinance and in accordance with the requirements of the Act; and

WHEREAS, the Redevelopment Plan proposes to redevelop the Redevelopment Area by rehabilitating and renovating the Area into commercial space (the “Redevelopment Project,” or “TIF Project” as further set forth in the Redevelopment Plan); and

WHEREAS, pursuant to Ordinance No. _____ [Board Bill No. 410], the Board of Aldermen has determined that completion of the Redevelopment Project is of economic significance to the City, will serve to benefit the general welfare, qualifies for the use of tax increment allocation financing to alleviate the conditions that qualify it as a “redevelopment area” as provided in the TIF Act, and further, that redevelopment of the Redevelopment Area in accordance with the Redevelopment Plan is not financially feasible without the adoption of tax increment allocation financing and would not otherwise be completed; and

WHEREAS, the Redevelopment Area qualifies for the use of tax increment allocation financing to alleviate the conditions that qualify it as a “blighted area” as provided in the TIF Act and as set forth herein; and

WHEREAS, it is necessary and desirable and in the best interest of the City to enter into the Redevelopment Agreement (as defined below) with Loughborough Commons, LLC, as “Developer,” in order that Developer may complete the Redevelopment Project which will provide for the promotion of the general welfare through redevelopment of the Redevelopment Area in accordance with the Redevelopment Plan which redevelopment includes, but is not limited to, assistance in the physical, economic, and social development of the City of St. Louis, providing for a stabilized population and plan for the optimal growth of the City of St. Louis, encouragement of a sense of community identity, safety and civic pride, preservation and restoration of property of historical and architectural value and significance, and the elimination of impediments to land disposition and development in the City of St. Louis; and

WHEREAS, pursuant to the provisions of the TIF Act, the City is authorized to enter into a redevelopment agreement with Loughborough Commons, LLC, as “Developer,” setting forth the respective rights and obligations of the City and Developer with regard to the redevelopment of the Redevelopment Area (the “Redevelopment Agreement”); and

WHEREAS, the Board of Aldermen hereby determines that the terms of the Redevelopment Agreement attached as **Exhibit A** hereto and incorporated herein by reference are acceptable and that the execution, delivery and performance by the City and the Developer of their respective obligations under the Redevelopment Agreement are in the best interests of the City and the health, safety, morals and welfare of its residents, and in accord with the public purposes specified in the TIF Act and the Redevelopment Plan.

BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:

Section One. The Board of Aldermen hereby ratifies and confirms its approval of the Redevelopment Plan, Redevelopment Area, and Redevelopment Project. The Board of Aldermen further finds and determines that it is necessary and desirable to enter into the Redevelopment Agreement with Loughborough Commons, LLC, as Developer of the Redevelopment Area, in order to implement the Redevelopment Project and to enable the Developer to carry out its proposal for development of the Redevelopment Project.

Section Two. The Board of Aldermen finds and determines that the assistance of tax increment financing is necessary and desirable in order to implement the Redevelopment Project and to enable Loughborough Commons, LLC, as “Developer” of the Redevelopment Area, to carry out its proposal for development of the Redevelopment Project.

Section Three. The Board of Aldermen hereby approves, and the Mayor and Comptroller of the City are hereby authorized and directed to execute, on behalf of the City, the Redevelopment Agreement between the City and the Developer, and the City Register is hereby authorized and directed to attest to the Redevelopment Agreement and to affix the seal of the City thereto. The Redevelopment Agreement shall be in substantially the form attached hereto as **Exhibit A**, with such changes therein as shall be approved by the officers of the city executing the same and as may be consistent with the intent of this Ordinance and necessary, desirable, convenient or proper in order to carry out the matters herein authorized.

Section Four. The Mayor and Comptroller of the City or their designated representatives are hereby authorized and directed to take any and all actions to execute and deliver for and on behalf of the City any and all additional certificates, documents, agreements or other instruments as may be necessary, desirable, convenient or proper in order to carry out the matters herein authorized.

Section Five. The Mayor and the Comptroller or their designated representatives are hereby further authorized and directed to make any changes to the documents and instruments approved and authorized by this Ordinance as may be consistent with the intent of this Ordinance and necessary, desirable, convenient or proper in order to carry out the matters herein authorized.

Section Six. It is hereby declared to be the intention of the Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part, section or subsection of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect, unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.

Section Seven. After adoption of this Ordinance by the Board of Aldermen, this Ordinance shall become effective on the 30th day after its approval by the Mayor or adoption over his veto; provided that, if the Developer has not executed a redevelopment agreement pertaining to the Redevelopment Project within ninety (90) days after the effective date of this Ordinance, the provisions of this Ordinance shall be deemed null and void and of no effect and all rights conferred by this Ordinance on Loughborough Commons, LLC shall terminate, provided further, however, that prior to any such termination the Developer may seek an extension of time in which to execute the Redevelopment Agreement, which extension may be granted in the sole discretion of the Board of Estimate and Apportionment of the City of St. Louis.

EXHIBIT A

Redevelopment Agreement by and between the City of St. Louis and
Loughborough Commons, LLC
(Attached hereto.)

REDEVELOPMENT AGREEMENT
Between the
CITY OF ST. LOUIS, MISSOURI
And
LOUGHBOROUGH COMMONS, LLC
Dated as of

_____, 2005

I-55/LOUGHBOROUGH REDEVELOPMENT PROJECT

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REDEVELOPMENT AGREEMENT

THIS REDEVELOPMENT AGREEMENT (this “*Agreement*”) is made and entered into as of this ____ day of _____, 2005, by and between the **CITY OF ST. LOUIS, MISSOURI** (the “*City*”), a city and political subdivision duly organized and existing under its charter and the Constitution and laws of the State of Missouri, and **LOUGHBOROUGH COMMONS, LLC.**, (the “*Developer*”), a limited liability company duly organized and existing under the laws of the State of Missouri. (All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in **Article I** of this

Agreement.)

RECITALS

A. Pursuant to Ordinance No. 62477, adopted and approved on December 20, 1991, the Board of Aldermen duly formed the Tax Increment Financing Commission of the City of St. Louis, Missouri (the "TIF Commission"), in accordance with the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 through 99.865 of the Revised Statutes of Missouri, (2000) (the "TIF Act"), and empowered the TIF Commission to transact business and exercise its powers as authorized by the TIF Act.

B. The City published a notice on _____ in the St. Louis Post-Dispatch, a newspaper of general circulation within the City, 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.

C. On October 8, 2004, in response to the City's solicitation of proposals, Developer presented to the TIF Commission its application entitled "I-55/Loughborough TIF Application" seeking to be named developer of the Redevelopment Area.

D. On December 1, 2004, following a public hearing held on December 1, 2004, in accordance with the TIF Act, the TIF Commission adopted a resolution approving the Redevelopment Plan titled "I-55/Loughborough Tax Increment Financing 'TIF' Redevelopment Plan" dated October 15, 2004, (the "Redevelopment Plan"), the Redevelopment Project described in the Redevelopment Plan (the "Redevelopment Project") and the Redevelopment Area, and recommending that the Board of Aldermen: (1) adopt tax increment financing with respect to the Redevelopment Area by passage of an ordinance complying with the terms of Section 99.845 of the Act; and (2) adopt an ordinance in the form required by the Act (a) approving the Redevelopment Plan, (b) approving and designating the Redevelopment Area as a "redevelopment area" as provided in the Act, (c) approving the Redevelopment Project, and (d) creating the I-55/Loughborough Special Allocation Fund.

E. On _____, 2005, after due consideration of the TIF Commission's recommendations, the Board of Aldermen adopted Ordinance No. _____ [Board Bill No. 410] designating the Redevelopment Area as a "redevelopment area" as provided in the TIF Act, approving the Redevelopment Plan, approving the Redevelopment Project described in the Redevelopment Plan, adopting tax increment allocation financing within the Redevelopment Area and establishing the Special Allocation Fund.

F. On _____, 2005, the Board of Alderman adopted Ordinance No. _____ [Board Bill No. 411] affirming adoption of the Redevelopment Area, Redevelopment Plan and Redevelopment Project, designating the Developer as developer of the Redevelopment Area, and authorizing the City to enter into this Agreement with Developer.

G. On _____, 2005, the Board of Alderman adopted Ordinance No. _____ [Board Bill No. 412] authorizing the issuance of TIF Notes as evidence of the City's obligation to pay certain Redevelopment Project Costs incurred in furtherance of the Redevelopment Plan and the Redevelopment Project and pledging TIF Revenues to the payment of the TIF Notes.

H. The Board of Aldermen hereby determines that the acceptance of the Redevelopment Proposal and the fulfillment generally of this Agreement are in the best interests of the City, and the health, safety and welfare of its residents, and in accord with the public purposes specified in the Redevelopment Plan.

I. Pursuant to provisions of the TIF Act and Ordinance Nos. _____, _____ and _____ [Board Bill Nos. 410, 411 and 412], the City is authorized to enter into this Agreement, to issue TIF Notes as evidence of the City's obligation to pay certain Redevelopment Project Costs incurred in furtherance of the Redevelopment Plan and the Redevelopment Project, and to pledge TIF Revenues to the payment of the TIF Notes.

AGREEMENT

Now, therefore, in consideration of the premises and 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 I.
DEFINITIONS**

1.1 Definitions. As used in this Agreement, the following words and terms shall have the following meanings:

“Acquisition Costs” means all costs of acquiring a fee simple interest in the Property, including, but not limited to the cost of land and improvements; brokerage commissions; costs of title commitments, reports or policies; surveys; engineering fees, environmental remediation, soil, hazardous waste and other site and property-related reports and expenses; appraisals; professional fees of any kind or nature, including attorneys’ fees, filing fees, recording fees, experts’ fees; and all litigation costs, including commissioners’ awards, judgments, payments in settlement of litigation, and all associated court costs, fees and expenses.

“Act” or “TIF Act” means the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 through 99.865 of the Revised Statutes of Missouri (2000), as amended.

“Agreement” means this Redevelopment Agreement, as the same may be from time to time modified, amended or supplemented in writing by the parties hereto.

“Approved Investors” means (a) the Developer or a Related Entity, (b) an “accredited investor” under Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, (c) a “qualified institutional buyer” under Rule 144A promulgated under the Securities Act of 1933 or (d) any general business corporation or enterprise with total assets in excess of \$50,000,000.

“Approving Ordinance” means Ordinance No. _____ [Board Bill No. 410] designating the Redevelopment Area, approving the Redevelopment Plan, approving the Redevelopment Project, adopting tax increment allocation financing within the Redevelopment Area, and establishing the Special Allocation Fund.

“Authority” means The Industrial Development Authority Of The City Of St. Louis, Missouri, a public corporation duly organized under Chapter 349 of the Revised Statutes of Missouri.

“Authorizing Ordinance” means Ordinance No. _____ [Board Bill No. 411] affirming approval and adoption of the Redevelopment Plan, Redevelopment Project, and designation of the Redevelopment Area, designating Developer as the developer of the Redevelopment Area, and authorizing the City to enter into a Redevelopment Agreement with Developer.

“Available Revenues” means all monies on deposit from time to time (including investment earnings thereon) in (a) the PILOTS Account, and (b) subject to annual appropriation, the EATS Account that have been appropriated to the repayment of the TIF Notes, excluding (i) any amount paid under protest until the protest is withdrawn or resolved against the taxpayer or (ii) any sum received by the City which is the subject of a suit or other claim communicated to the City which suit or claim challenges the collection of such sum.

“Board of Aldermen” means the Board of Aldermen of the City.

“Bond Counsel” means Armstrong Teasdale LLP, St. Louis, 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 TIF Bonds before payment of Issuance Costs, together with any interest earned thereon.

“Certificate of Commencement of Construction” means a document substantially in the form of **Exhibit C**, attached hereto and incorporated by reference herein, delivered by Developer to the City in accordance with this Agreement and evidencing commencement of construction of the Redevelopment Project.

“Certificate of Reimbursable Redevelopment Project Costs” means a document substantially in the form of **Exhibit D**, attached hereto and incorporated herein by reference, provided by the Developer to the City in accordance with this Agreement and evidencing Reimbursable Redevelopment Project Costs incurred by the Developer.

“Certificate of Substantial Completion” means a document substantially in the form of **Exhibit E**, attached hereto and

incorporated herein by reference, issued by the Developer to the City in accordance with this Agreement and evidencing the Developer's satisfaction of all obligations and covenants to construct the Redevelopment Project in accordance with the Redevelopment Plan and this Agreement.

"City" means the City of St. Louis, Missouri, a city and political subdivision duly organized and existing under its charter and the Constitution and laws of the State of Missouri.

"CID" means the I-55/Loughborough Community Improvement District created by the City and maintained pursuant to the CID Act and **Section 3.12** hereof.

"CID Act" means the Missouri Community Improvement District Act, Sections 67.1401 – 67.1571, Revised Statutes of Missouri (2000), as amended.

"CID Obligations" means bonds, notes or other obligations issued by the CID pursuant to the CID Act.

"CID Project" means those certain community improvement development projects to be completed by the CID which are hereafter identified by Developer incident to the formation of the CID.

"CID Revenues" means revenues of the CID created in accordance with the CID Act and as described in **Section 3.11** of this Agreement less (i) costs of collection of the Missouri Department of Revenue pursuant to applicable Missouri law, and (ii) that portion of revenues that constitutes an Economic Activity Tax. CID Revenues shall not include (i) any amount paid under protest until the protest is withdrawn or resolved against the taxpayer or (ii) any sum received by the CID which is the subject of a suit or other claim communicated to the CID which suit or claim challenges the collection of such sum.

"CID Sales Tax" means the community improvement district sales tax levied by the CID in accordance with the CID Act and **Section 3.12** of this Agreement.

"CID Trust Fund" means the "special trust fund" of the CID authorized under Section 67.1545 of the CID Act or any other fund or account into which CID Revenues attributable to the CID Sales Tax are then being deposited.

"Comptroller" means the Comptroller of the City.

"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 applicable law.

"Developer" means Loughborough Commons, LLC, a limited liability company duly organized and existing under the laws of the State of Missouri, or its permitted successors or assigns in interest.

"Economic Activity Taxes" or "EATs" shall have the meaning ascribed to such term in Section 99.805(4) of the TIF Act.

"Governmental Approvals" means all plat approvals, re-zoning or other zoning changes, site plan approvals, conditional use permits, variances, building permits, or other subdivision, zoning, or similar approvals required for the implementation of the Redevelopment Project related to the Redevelopment Area and consistent with the Redevelopment Plan and this Agreement.

"Issuance Costs" means the amount set forth in **Section 2.2(v)** of this Agreement incurred by the City in furtherance of the issuance of TIF Notes plus all costs reasonably incurred by the City in furtherance of the issuance of TIF Bonds, including without limitation the fees and expenses of financial advisors and consultants, the City's attorneys (including issuer's counsel and Bond Counsel), the City's administrative fees and expenses (including fees and costs of its planning consultants and the St. Louis Development Corporation), underwriters' discounts and fees, the costs of printing any TIF Bonds and any official statements relating thereto, the costs of credit enhancement, if any, capitalized interest, debt service reserves and the fees of any rating agency rating any TIF Bonds.

"MBE/WBE Compliance Officer" means the City's Assistant Airport Director, Department of MBE/WBE Certification and Compliance.

"MBE/WBE Subcontractor List" means the form of City of St. Louis MBE/WBE Utilization Plan published by the Board

of Public Service of the City, such form being attached hereto as **Exhibit I** and incorporated herein by this reference.

“*MBE/WBE Utilization Statement*” means the form of City of St. Louis MBE/WBE Utilization Statement prepared by the Board of Public Service of the City published by the Board of Public Service of the City, such form being attached hereto as **Exhibit J** and incorporated herein by this reference.

“*Maturity Date*” means the date that is twenty three (23) years after the date of adoption of the Approving Ordinance.

“*Note Ordinance*” means Ordinance No. _____ [Board Bill No. 412] adopted by the Board of Aldermen authorizing the TIF Note and TIF Obligations, any trust indenture relating thereto, and all related ordinances, resolutions and proceedings.

“*Notice of Acquisition*” means a written notification from the Developer to the City in the form of **Exhibit K**.

“*Original Purchaser*” means an Approved Investor.

“*Paying Agent*” means the Trustee and any other bank or trust institution organized under the laws of any state of the United States of America or any national banking association designated as paying agent for the TIF Bonds at which the principal of and interest on such TIF Bonds shall be payable.

“*Payments in Lieu of Taxes*” or “*PILOTs*” shall have the meaning ascribed to such term in Section 99.805(10) of the TIF Act.

“*Prime Rate*” means the prime rate reported in the “Money Rates” column or any successor column of The Wall Street Journal, currently defined therein as the base rate on corporate loans posted by at least seventy-five percent (75%) of the nation’s thirty (30) largest banks.

“*Project Fund*” means the Project Fund created in the Note Ordinance.

“*Property*” means the real property (including without limitation all options held by third parties, fee interests, leasehold interests, tenant-in-common interests and such other like or similar interests) and existing improvements in the Redevelopment Area as set forth in the Redevelopment Plan.

“*Redevelopment Area*” means the real property described in **Exhibit A**, attached hereto and incorporated herein by reference.

“*Redevelopment Plan*” means the plan titled “I-55/Loughborough Tax Increment Financing ‘TIF’ Redevelopment Plan” as approved by the City pursuant to the Approving Ordinance, as such plan may from time to time be amended in accordance with the TIF Act.

“*Redevelopment Project*” means the redevelopment of the Redevelopment Area as described in the Redevelopment Proposal, the Redevelopment Plan and this Agreement, including the CID Project, if any, and TDD Project, if any.

“*Redevelopment Project Costs*” shall have the meaning ascribed to such term in Section 99.805(14) of the TIF Act.

“*Redevelopment Proposal*” means the document on file with the City and incorporated herein by reference, titled “I-55/Loughborough TIF Application,” dated October 8, 2004 and submitted by the Developer to the City.

“*Reimbursable Redevelopment Project Costs*” means those Redevelopment Project Costs as described in **Exhibit B-1**, attached hereto and incorporated herein by reference, for which the Developer is eligible for reimbursement in accordance with this Agreement.

“*Related Entity*” means any party or entity related to the Developer by one of the relationships described in Section 267(b) of the Internal Revenue Code of 1986, as amended.

“*Relocation Plan*” means the relocation plan of the City for the Redevelopment Area as contained in the Redevelopment Plan, which relocation plan was adopted on December 20, 1991, pursuant to Ordinance No. 62481.

“*SLDC*” means the St. Louis Development Corporation, a non-profit corporation organized and existing under the laws of the State of Missouri.

“*Special Allocation Fund*” means the I-55/Loughborough Special Allocation Fund, created by the Approving Ordinance in accordance with the TIF Act, and including the accounts and sub-accounts for the Redevelopment Project into which TIF Revenues are from time to time deposited in accordance with the TIF Act and this Agreement.

“*TDD*” or “*District*” means the I-55/Loughborough Transportation Development District created and operated pursuant to the TDD Act and **Section 3.9** of this Agreement.

“*TDD Act*” means the Missouri Transportation Development District Act, Sections 238.200 through 238.275 of the Revised Statutes of Missouri (2000), as amended.

“*TDD Obligations*” means bonds, notes or other obligations issued by the TDD pursuant to the TDD Act.

“*TDD Project*” means those certain transportation development district projects to be completed by the TDD which are hereafter identified by Developer incident to the formation of the TDD.

“*TDD Revenues*” means revenues of the TDD created in accordance with the TDD Act and as described in **Section 3.9** of this Agreement less (i) costs of collection, not to exceed 1% of the actual amount collected by the TDD; (ii) that portion of revenues that constitutes an Economic Activity Tax; (iii) the TDD’s reasonable operating costs, not to exceed \$10,000 per year; and (iv) actual costs of the TDD associated with its Cleaning & Maintenance Obligations in an amount not to exceed \$50,000. TDD Revenues shall not include (i) any amount paid under protest until the protest is withdrawn or resolved against the taxpayer or (ii) any sum received by the TDD which is the subject of a suit or other claim communicated to the TDD which suit or claim challenges the collection of such sum.

“*TDD Sales Tax*” means the transportation development district sales tax levied by the TDD in accordance with the TDD Act and **Section 3.9** of this Agreement.

“*TDD Trust Fund*” means the “special trust fund” of the TDD authorized under Section 238.235.5 of the TDD Act or any other fund or account into which TDD Revenues attributable to the TDD Sales Tax are then being deposited.

“*TIF Bonds*” means tax increment revenue bonds, if any, authorized and issued by the Authority in accordance with the TIF Act and this Agreement.

“*TIF Commission*” means the Tax Increment Financing Commission of the City of St. Louis, Missouri.

“*TIF Monitor*” means an urban planner, urban consultant or certified public accountant, or firm of urban planners, urban consultants or certified public accountants selected by the City with the approval of the Authority who periodically reviews the method of calculating and the calculations regarding TIF Revenues on deposit in the Special Allocation Fund and verifies deposits to the Special Allocation Fund from the TIF Revenues records of the City.

“*TIF Notes*” means tax increment revenue notes issued by the City pursuant to and subject to this Agreement and the Note Ordinance in substantially the form set forth in **Exhibit F**, to evidence the City’s limited obligation to repay Reimbursable Redevelopment Project Costs incurred by the Developer on behalf of the City in accordance with the TIF Act and this Agreement. “*TIF Obligations*” means TIF Bonds, TIF Notes or other obligations, singly or in series, issued by the City or by the Authority, as the case may be, pursuant to the TIF Act and in accordance with this Agreement.

“*TIF Revenues*” means: (1) payments in lieu of taxes (as that term is defined in Section 99.805(10) of the TIF Act) attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property located within the Redevelopment Area over and above the initial equalized assessed value (as that term is used and described in Sections 99.845.1 and 99.855.1 of the TIF Act) of each such unit of property, as paid to the City Treasurer by the City Collector of Revenue during the term of the Redevelopment Plan and the Redevelopment Project, and (2) subject to annual appropriation by the Board of Aldermen, fifty percent (50%) of the total additional revenues from taxes which are imposed by the City or other taxing districts (as that term is defined in Section 99.805(16) of the TIF Act) and which are generated by economic activities within the Redevelopment Area over the amount of such taxes generated by economic activities within the Redevelopment Area in the calendar year ending December 31, 2004 (subject to annual appropriation by the City as provided in the TIF Act), as defined and described

in Sections 99.805(4) and 99.845 of the TIF Act, but excluding therefrom 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 of the Revised Statutes of Missouri, as amended, taxes levied for the purpose of public transportation pursuant to Section 94.660 of the Revised Statutes of Missouri, as amended, and licenses, fees or special assessments other than payments in lieu of taxes and penalties and interest thereon, all as provided in Section 99.845 of the TIF Act. Notwithstanding the foregoing, TIF Revenues shall not include the operating levy for school purposes imposed by or any sales tax imposed by the Transitional School District of the City of St. Louis.

“Trustee” means the trustee or fiscal agent for any issue of TIF Obligations.

“Work” means all work necessary to prepare the Redevelopment Area and to construct that portion of the Redevelopment Project necessary for the issuance of the Certificate of Substantial Completion, including but not limited to: (1) all or any portion of the CID Project and/or the TDD Project; (2) property acquisition; (3) demolition and removal of all existing buildings, structures and other improvements within the Redevelopment Area; (4) site preparation, including clearing and grading of the Redevelopment Area; (5) construction of the commercial buildings and structures totaling not less than 200,000 square feet of retail space; (6) construction of parking fields, and screening and site landscaping; (7) construction, reconstruction, renovation and/or rehabilitation of related infrastructure and/or public improvements, including without limitation surrounding roads, sidewalks, utilities and installation of lighting; (8) environmental remediation; (9) preparation of three “pad ready” sites sufficient to accommodate approximately 8,000 square feet of additional commercial space; and (10) all other work described in the Redevelopment Proposal, Redevelopment Plan and this Agreement, or reasonably necessary to construct the retail center described herein.

ARTICLE II. ACCEPTANCE OF PROPOSAL

2.1 Developer Designation. The City hereby selects the Developer to perform or cause the performance of the Work in accordance with the Redevelopment Plan and this Agreement and all Governmental Approvals. To the extent of any inconsistency among the foregoing, the parties agree that the Redevelopment Plan shall govern.

2.2 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 the Developer’s right to abandon the Redevelopment Project and to terminate this Agreement as set forth in **Section 7.1** of this Agreement. Additionally, and not by way of limitation:

(i) the City acknowledges payment by the Developer of a Five Thousand Dollar and no/100 (\$5,000.00) TIF Application Fee;

(ii) the City acknowledges that, prior to the execution of this Agreement, the Developer paid the sum of Thirty Three Thousand Dollars and no/100 (\$33,000.00) (which sum represents 0.3% of the maximum amount of TIF Notes allowed to be issued by the City pursuant to **Section 4.1** of this Agreement), which monies have been paid one half to the Comptroller and one half to the SLDC to reimburse the Comptroller and the SLDC for their administrative costs in reviewing the Redevelopment Plan and the Redevelopment Proposal;

(iii) the Developer shall, within ten (10) days after the date of execution of this Agreement, pay the sum of Thirty Three Thousand Dollars and no/100 (\$33,000.00) (which sum represents 0.3% of the maximum amount of TIF Notes allowed to be issued by the City pursuant to **Section 4.1** of this Agreement), which monies shall be paid one half to the Comptroller and one half to the SLDC to reimburse the Comptroller and the SLDC for their administrative costs in reviewing the Redevelopment Plan and the Redevelopment Proposal;

(iv) the Developer shall pay to the Comptroller an additional amount to reimburse the Comptroller for its actual legal expenses incurred in connection with the review of the Redevelopment Proposal, the review and adoption of the Redevelopment Plan and the negotiation, execution and implementation of the Redevelopment Agreement, which amount shall be paid as follows: (i) all such costs incurred through the date of execution of the Redevelopment Agreement shall be paid within ten (10) days after the execution of the Redevelopment Agreement, and (ii) all such costs incurred after the date of execution of the Redevelopment Agreement and prior to the date upon which the City receives from Developer a Certificate of Reimbursable Redevelopment Project Costs shall be paid concurrently with the initial issuance of the TIF Notes; and

(v) the Developer shall, concurrently with the initial issuance of the TIF Notes, pay to the City a flat fee of Fifteen Thousand Dollars (\$15,000.00) for the City’s Issuance Costs of such TIF Notes; and

(vi) any amounts advanced to the City shall represent Reimbursable Redevelopment Project Costs to be reimbursed exclusively from the proceeds of TIF Obligations as provided in and subject to **Articles IV and V** of this Agreement.

**ARTICLE III.
CONSTRUCTION OF REDEVELOPMENT PROJECT**

3.1 Acquisition of Property.

3.1.1 The Developer represents to the City that as of the date of this Agreement, Developer owns, or has entered into land purchase options or contracts for the purchase of, the Property described in **Exhibit A-1** attached hereto and incorporated by this reference, which is necessary for the Developer to implement the Work. Developer represents to the City that it will use its reasonable good faith efforts to acquire by negotiated purchase, donation, option, easement or lease, those parcels of the Property described in **Exhibit A-2** which it does not own but which are necessary for the implementation of the Work. With respect to the Property set forth on **Exhibit A-1 and Exhibit A-2**, the Developer shall obtain all title commitments, inspections, tests, surveys and reports, hire and retain all experts, professionals, including attorneys or engineers, and staff, and advance all Acquisition Costs as necessary to acquire the Property and any other properties necessary to complete the Work (subject to the Developer's rights as set forth in **Section 7.1** of this Agreement). The Developer shall have the right to encumber its interest in the Property concurrent with closing of the Property and payment of the Acquisition Costs. Any other properties acquired by the Developer for completion of the Work shall be held in the name of the Developer and shall be subject to the terms, conditions and covenants contained herein and in the Redevelopment Plan immediately upon acquisition. Subject to the Developer's right to terminate under **Section 7.1** of this Agreement, the Developer may obtain purchase options on any other properties necessary to complete the Work, but shall not be required to take title to any such properties except on such terms and conditions as it shall reasonably find acceptable.

3.2 Condemnation. With respect to any portion of the Property or any interest therein (including without limitation, any tenant's or lessee's interest in any lease affecting the Property acquired by the Developer which Developer desires to acquire) not acquired by negotiated purchase, donation, option, easement or lease in accordance with **Section 3.1** of this Agreement, the Developer shall notify the City, in writing, that the City should initiate eminent domain proceedings to acquire such parcel or parcels of the Property or interest therein at the sole expense of the Developer; provided that the City shall not and will not acquire title to any parcel or parcels of the Property by condemnation or eminent domain (through payment of a commissioners' award into any court registry or otherwise) until such time as the Developer provides a written consent to proceed with such proceeding. The City shall convey legal title to any real property acquired in its name by condemnation pursuant to this Agreement by quit claim deed following receipt of a written consent to do so as set forth below. Except as set forth in subparagraph (C) below, this Section shall not apply to the Property specifically described on **Exhibit A-1**, unless any seller named thereon shall breach or fail to perform any of its representations, warranties and covenants set forth in the land purchase contract applicable thereto, in which case, Developer shall be permitted to proceed with eminent domain proceedings consistent with the procedures set forth in this Agreement.

(a) Prior to requesting the initiation of condemnation proceedings with respect to any parcel of the Property, the Developer shall:

(i) Make a written request for the initiation of condemnation proceedings not later than fifteen (15) days prior thereto (which request may be made either before or after the City's authorization of this Agreement by ordinance). Said request shall include a legal description of the parcel or parcels of Property to be taken by such proceedings, together with all other information reasonably required by the City to proceed.

(ii) Satisfy all jurisdictional prerequisites to the initiation of eminent domain proceedings, including having negotiated for the purchase of the parcels in good faith.

(iii) With respect to any parcel or parcels of Property proposed to be acquired by eminent domain, obtain (at the Developer's expense) and deliver to the City a recent appraisal, prepared by an independent third party MAI appraiser reasonably acceptable to the City, and make an offer (as verified by the City) of at least ninety percent (90%) of the appraised value to the owner of such parcel or parcels of Property.

(iv) Make available to the City any documentation relating to Developer's good faith efforts to

acquire by negotiation the parcel or parcels of Property to be part of the proceeding.

(b) With respect to any request for initiation of condemnation proceedings, the City shall approve or reject such request within fifteen (15) days after receiving from the Developer all information required above, provided that the City shall be required to approve any such request only if such information demonstrates to the City's reasonable satisfaction that the Developer (i) has made good faith efforts to acquire such parcel or parcels by negotiation based upon such facts, circumstances or claims, and (ii) the Developer has provided the City with a bond, letter of credit or other security instrument naming the City as beneficiary, which bond, letter of credit or other security instrument shall be in an amount equal to fifty percent (50%) of the difference, if any between the appraised value and the amount of damages reasonably claimed by the owner of such Property or any portion thereof. The bond, letter of credit or other security instrument shall be in a form and substance reasonably acceptable to the City. The provisions of this paragraph shall be solely for the benefit of the City and are not intended by the parties to be for the benefit of or enforceable by anyone other than the parties to this Agreement.

(c) As and when Developer acquires legal title to all of the Property set forth on **Exhibit A-1** and **Exhibit A-2**, whether by voluntary purchase or by payment of a commissioner's award, Developer may, as the City's agent, institute a blanket condemnation proceeding against all of the Property to eliminate any known or unknown easements, gaps, gores or other rights adversely affecting the Property or Developer's ownership rights therein. Developer may file such proceeding solely upon giving written notice to the City, and Developer shall not be required to obtain any appraisal incident thereto.

(d) Within thirty (30) days after the acquisition by the Developer of either (a) legal title by negotiation and contract, (b) the contractual right to acquire legal title by negotiation and contract, with all contingencies either met or waivable at closing, in the Developer's sole discretion, or (c) a commissioner's award in condemnation, notwithstanding the pendency of any exceptions to such award, to all of the rights, title and interests comprising the Property, the Developer shall provide to the City a Notice of Acquisition in the form of **Exhibit K**, which shall serve as notice to the City that the City shall proceed with the issuance of the TIF Notes in accordance with **Article IV** and **Article V** of this Agreement.

3.2.1 Condemnation Procedures. The City shall initiate condemnation proceedings promptly after the request by the Developer and in any event within fifteen (15) days from the date of the City's receipt of the Developer's request, provided that the Developer has provided the City with all of the information and documents required by **Section 3.2** of this Agreement. Except as otherwise provided herein, the Developer, as the City's agent, shall control all condemnation proceedings, including selection of attorneys, appraisers and other professionals, provided, however, that selection of any attorney or attorneys to prosecute the eminent domain proceedings shall be subject to SLDC's prior written approval, which approval shall not be unreasonably withheld; and provided further that the City hereby approves Greensfelder, Hemker & Gale, P.C. to serve as counsel with respect to the prosecution of eminent domain proceedings under this **Section 3.2**. The City and Developer agree to cooperate in all such proceedings and to take all necessary or other reasonable action in such proceedings and to execute all pleadings and other documents which may be reasonably necessary and/or required during the prosecution of such proceedings. During the condemnation proceedings, the Developer shall provide to the City copies of all pleadings and other documents filed or prepared in conjunction with the prosecution of the condemnation proceedings. Developer shall consult with the City regarding recommendations by counsel to the Developer as to the fair settlement value of each such case. Advice and consultation among the City and the Developer shall continue throughout such proceedings. The City may, upon initiation of the condemnation proceedings, designate in writing to the Developer an individual who is authorized to represent the City in consultations with the Developer and its counsel. The City, acting through any such designated representative, shall have the right to inspect and to receive copies of any documentation relating to the efforts to acquire the parcel or parcels of the Property which are part of the proceedings and to make suggestions based upon any appraisals regarding the price or settlement to be paid therefor.

(a) Without limiting the generality of the Developer's rights in connection with such condemnation proceedings, it is acknowledged that (i) the Developer may conduct such due diligence as the Developer deems appropriate, (ii) the Developer may prepare and direct the filing of motions providing for the inspection of any parcel subject to the condemnation proceedings, (iii) the Developer may prepare and direct the filing of exceptions to any commissioner's report, (iv) the Developer may elect at any time to abandon any or all of the condemnation proceedings, provided, however, that it shall first notify the City in writing of such election, and (v) the Developer may take such other action and prepare and direct the filing of such other motions and pleadings as the Developer deems appropriate.

(b) Within ninety (90) days after any commissioners' award, the Developer shall either: (i) notify the City that it is terminating this Agreement pursuant to **Section 7.1** of this Agreement; or (ii) pay the amount of any commissioners' award issued in conjunction with any such condemnation proceeding either directly to the Clerk of the Circuit Court or to the City for payment of such commissioners' award by the City; (iii) settle the proceeding; or (iv) terminate the condemnation proceeding, in which case this Agreement shall continue and the City and the Developer shall continue to diligently prosecute any other condemnation proceedings pending at such time and shall cooperate to identify alternative means to accomplish the Work without acquiring that portion of the Property that was the subject of the terminated condemnation proceeding.

(c) Notwithstanding anything to the contrary herein, the Developer covenants that it will indemnify and hold harmless the City in the amount that the sum of all jury awards exceeds the sum of all commissioners' awards for all parcels, or interests therein, which have been taken by eminent domain, and the breach of this covenant shall, in addition to any other remedy that the City may have at law or in equity, give rise to the City's right of termination pursuant to **Section 7.2** of this Agreement, and upon such termination, the City shall have no obligation to reimburse the Developer for any amounts advanced under this Agreement or for Reimbursable Redevelopment Project Costs incurred or paid by the Developer, and any TIF Notes issued pursuant to this Agreement shall be deemed canceled.

3.2.2 Abandonment or Termination of Condemnation Proceedings; Indemnity. If the Developer elects to abandon condemnation proceedings instituted under this Agreement following entry of a commissioners' award and any such condemnation proceeding is abandoned thereafter by the City, the Developer shall indemnify and hold the City harmless of and from any statutory award of interest the City is compelled by the Court to pay pursuant to Section 523.045 of the Revised Statutes of Missouri, as amended.

(a) If this Agreement is terminated in accordance with **Article VII** of this Agreement, the City may elect to terminate all pending condemnation proceedings or may elect to continue condemnation proceedings at the City's sole risk and expense, including any resulting commissioners' or jury awards. In either event, the City shall have no obligation to reimburse the Developer for any costs incurred by the Developer. If the City elects to continue condemnation proceedings, the City shall have the further right to receive and to utilize at no cost to the City all reports, surveys, appraisals and work product obtained by the Developer or by or on behalf of the Developer in the acquisition of such real property for which the City proceeds to acquire by condemnation or negotiated purchase.

(b) The Developer shall indemnify and hold the City harmless from and against any and all claims, suits, damages, expenses or liabilities, including court costs and reasonable attorneys' fees, arising out of (1) any eminent domain action filed pursuant to this Agreement, including any action which is abandoned, but excepting therefrom any claim, suit, damage, expense, or liability caused by any intentional or wanton misconduct by the City of any of its officials, employees, agents or representatives, and any condemnation proceeding continued by the City under **Section 3.2.2(a)** of this Agreement; (2) the operation of all or any part of the Property, or the condition of the Property, including without limitation, any environmental cost or liability; and (3) negotiations, inspections, acquisitions, preparations, construction, leasing, operations and other activities of Developer or its agents in connection with or relating to the Work.

3.3 Relocation. The Developer shall identify any Displaced Person (as defined in Ordinance No. 62481 of the City) that is entitled to relocation payments or relocation assistance under the Relocation Plan. The Developer shall relocate any Displaced Persons from any portion of the Property acquired by the Developer in accordance with the Relocation Plan, except insofar as otherwise agreed in writing by such Displaced Person and approved in writing by the Developer; it being understood and agreed that any Displaced Person may waive his/her/their rights to statutory and other relocation benefits under the Relocation Plan or otherwise. To the extent that any Displaced Person does not waive relocation benefits, the Developer shall, at its sole cost and expense and subject to reimbursement as a Reimbursable Redevelopment Project Cost in accordance with **Article IV** of this Agreement, engage the services of a firm that is mutually acceptable to the Developer and the City to carry out the Developer's obligations under this Section. The Developer shall provide or shall cause such firm to provide monthly reports starting, with respect to each parcel, when the Developer has each parcel under contract, to the City regarding the status of relocation efforts under this Section.

3.4 Developer to Construct the Work. The Developer shall commence or cause the commencement of the construction of the Work on or before January 1, 2006, which Work shall be constructed in a good and workmanlike manner in

accordance with the terms of this Agreement and the Redevelopment Plan. The Developer shall substantially complete or cause the Work to be substantially complete not later than January 1, 2007 absent an event of Force Majeure. In the event of any delay caused by an event of Force Majeure as defined in **Section 7.5** of this Agreement, Developer shall be granted additional time to complete the Work, but under no circumstance shall such time to complete the Work extend beyond December 31, 2007.

The Developer may enter into or cause to be entered into one or more construction contracts to complete the Work. Prior to the commencement of construction of any portion of the Work, the Developer shall obtain or shall require that any of its contractors obtain workers' compensation, comprehensive public liability and builders' 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. To the extent that laws pertaining to prevailing wage and hour apply to any portion of the Work, including City Ordinance #65597, the Developer agrees to take all actions necessary to apply for the wage and hour determinations and otherwise comply with such laws.

3.5 Governmental Approvals. The City and, at its direction, the SLDC agree to employ reasonable and good faith efforts to cooperate with the Developer and to process and timely consider and respond to all applications for the Governmental Approvals as received, including but not limited to the vacation of Blow Street, to the extent it runs through the Property, and termination of the existing property tax abatement covering a portion of the Property as more particularly set forth in Ordinance No. 63442, all in accordance with the applicable City ordinances and laws of the State of Missouri.

The City acknowledges that the Developer may apply for and receive New Market Tax Credits and/or Brownfields Tax Credits incident to the Redevelopment Project. The City and, at its direction, the SLDC agree to employ reasonable and good faith efforts to cooperate with the Developer and to process and timely consider and respond to all applications and/or other documents reasonably requested by Developer in connection therewith.

3.6 Construction Plans; Changes. The Construction Plans shall be prepared 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 Work shall be in conformity with all applicable state and local laws, ordinances and regulations. During the progress of the Work, the Developer may make such reasonable changes, including without limitation modification of the construction schedule, subject to the provisions of **Section 3.4**, including but not limited to, dates of commencement, modification of the areas in which the Work is to be performed, relocation, expansion or deletion of items, revisions to the areas and scope of Work, and any and all such other changes as site conditions or orderly development may dictate or as may be necessary or desirable, in the sole determination of the Developer, to enhance the economic viability of the Redevelopment Project and as may be in furtherance of the general objectives of the Redevelopment Plan; provided that (a) the Developer shall comply with all laws, regulations and ordinances of the City and (b) prior to any material changes, the Developer shall obtain the advance written consent of the SLDC, which consent shall not be unreasonably withheld or delayed. For purposes of this **Section 3.6**, "material changes" shall mean (i) any change that could reasonably be expected to result in a decrease in the aggregate amount of TIF Revenues generated within the Redevelopment Area to an amount less than 90% of the aggregate amount of TIF Revenues as projected in the Redevelopment Plan; or (ii) any change that would reduce the final total square footage of commercial retail space by more than ten percent (10%) of the square footage set forth in this Agreement, the Redevelopment Proposal, the Redevelopment Plan and the Construction Plans.

3.7 Certificate of Commencement of Construction. The Developer shall furnish to the SLDC, with a copy to the Comptroller, a Certificate of Commencement of Construction, which certificate shall be submitted for the Redevelopment Project in accordance with the schedule set forth in **Section 3.4** of this Agreement and in the form of **Exhibit C** attached hereto and incorporated herein by reference. The Certificate of Commencement of Construction shall be deemed accepted by the SLDC upon receipt of the same.

3.8 Certificate of Substantial Completion. The Developer shall furnish to the City and the SLDC a Certificate of Substantial Completion for the Redevelopment Project promptly after substantial completion of the Work. The Mayor or his designee and the SLDC shall, within thirty (30) days following delivery of each 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. Each Certificate of Substantial Completion shall be deemed accepted by the City and the SLDC unless, within thirty (30) days following delivery of the Certificate of Substantial Completion of the Redevelopment Project, the Mayor or his designee or SLDC furnishes the Developer with specific written objections to the status of the Work in the Redevelopment Project, describing such objections and the measures required to correct such objections in reasonable detail. In the case where the Mayor or his designee or SLDC, within thirty (30) days following delivery of the Certificate of Substantial Completion for the Developer with specific written objections to the status of the Work for the Redevelopment Project, the Developer shall have such

amount of time as is reasonably necessary to address such objections and when addressed shall re-submit the Certificate of Substantial Completion to the Mayor or his designee or the SLDC in accordance with this Section. Upon acceptance of the Certificate of Substantial Completion by the Mayor or his designee and the SLDC for the Redevelopment Project, or upon the lapse of thirty (30) days after delivery thereof to the Mayor or his designee and the SLDC without any written objections thereto, the Developer may record a Certificate of Substantial Completion with the City's Recorder of Deeds, and the same shall constitute evidence of the satisfaction of the Developer's agreements and covenants to perform the Work required to complete the Redevelopment Project. The Certificate of Substantial Completion shall be in substantially the form attached as **Exhibit E**, attached hereto and incorporated by referenced herein.

3.9 Transportation Development District. The Developer may petition the Circuit Court of the City of St. Louis, Missouri, for the creation of the TDD pursuant to the TDD Act, to be known as the I-55/Loughborough Transportation Development District. The TDD, if created, would be created solely for the purpose of providing tax revenues for funding costs paid or incurred in connection with the TDD Project. In the event the Developer desires to pursue the creation of a TDD, the Developer shall cause the TDD to be created and to operate in accordance with the following:

- (i) The TDD's boundaries shall consist of the Redevelopment Area in its entirety.
- (ii) The TDD shall be authorized to impose a TDD Sales Tax in an amount not to exceed one percent (1%) on taxable sales (provided that combined total TDD Sales Tax and CID Sales Tax shall not exceed one percent (1%) on taxable sales), within the TDD pursuant to Section 238.235 of the TDD Act, the net proceeds of which TDD Sales Tax shall be applied to debt service on TDD Obligations issued in connection with the TDD Project. The TDD shall impose no other tax, assessment, toll or charge whatsoever without the written consent of the City.
- (iii) The TDD's board of directors shall consist of five members, a minimum of three of whom shall be elected by the Developer and subsequent property owners and, to the extent permitted by law, one of whom shall be appointed by the Mayor of the City and one of whom shall be appointed by the Finance Officer of the City.
- (iv) All TDD Revenues shall be deposited into the TDD Trust Fund to provide for the payment of principal of and interest on TDD Obligations issued in connection with the TDD Project.
- (v) 100% of TDD Revenues shall be used to pay debt service on the TDD Obligations for the TDD Project in accordance with this Agreement.
- (vi) The TDD shall keep accurate records of TDD Revenues received and costs incurred, and such records shall be open to inspection by the City at all reasonable times.
- (vii) The TDD shall maintain its existence until all TIF Obligations and all TDD Obligations and/or CID Obligations have been paid in full, at which time the TDD shall dissolve and the TDD Sales Tax shall no longer be levied unless a subsequent project has been authorized by the TDD and approved by the City in accordance with the TDD Act.
- (viii) The TDD shall not exercise any powers or undertake any action authorized under the TDD Act other than those powers and actions expressly set forth in this Section or otherwise agreed upon by the City and the Developer in writing.

3.10 City and Developer Actions with Respect to the TDD. The City acknowledges that, if the Developer seeks to create a TDD, the City will be the local transportation authority required to approve the TDD Project in accordance with the TDD Act. The City further acknowledges the general economic benefit and the overall value to the community that would be created by the construction of the TDD Project. To that end, to the extent that the Developer desires to create a TDD, the City and the Developer agree as follows:

- (i) The City and Developer shall use their best efforts and cooperate with each other in good faith in all proceedings relating to the creation and certification of the TDD, including the execution of all consents, approvals, authorizations or other documents required to create and certify the TDD or cause the City to be designated as the local transportation authority within the meaning of the TDD Act. The form of the petition for creation of the District shall be subject to approval by the City Counselor's Office, which approval shall not be unreasonably withheld, conditioned or delayed and shall be deemed granted if written approval or denial of the form petition is not received by the Developer within fifteen (15) days from receipt thereof.

- (ii) The City, may, through the Board of Estimate and Apportionment, appoint at least one advisor to its board of directors having the authority and rights set forth in Section 238.220.4 of the TDD Act.
- (iii) The Developer shall not object to the City's designation as a "local transportation authority" within the meaning of Section 238.202 of the TDD Act.
- (iv) The Developer shall in good faith cooperate and assist in obtaining approval for and levying of the TDD Sales Tax contemplated by the Agreement by voting to approve the TDD Sales Tax at an election held in accordance with Section 238.216 of the TDD Act.
- (v) The Developer shall use its best efforts to ensure that every retailer shall add the TDD Sales Tax to the retailer's sales price and when so added such TDD Sales Tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price, all as provided for in Section 238.235 of the TDD Act.
- (vi) The City and the Developer shall waive the right to file suit to set aside the TDD Sales Tax or otherwise question the validity of the proceedings relating thereto.
- (vii) Developer shall pay or cause to be paid all costs incurred by the City in connection with the creation of the TDD.
- (viii) In the event a TDD is created, all TDD Obligations under this Section shall be the exclusive responsibility of the TDD payable solely out of TDD Revenues and other TDD property as provided in Section 238.200 to 238.275 of the TDD Act and shall not constitute a debt or liability of the State of Missouri or any agency or political subdivision of the State. The City is not obligated to pledge any funds to repayment of the TDD Obligations.

3.11 Community Improvement District. Developer may, following acquisition of more than fifty percent (50%) by assessed value of all the Property within the Redevelopment Area, pursue the creation of a community improvement district. In the event that the Developer chooses to create a CID, the CID shall be created solely for the purpose of providing tax revenues for funding costs paid or incurred in connection with the CID Project. Should a Developer choose to create a CID, the Developer shall use its best efforts to cause the CID to be created and to operate in accordance with the following:

- (i) The CID's boundaries shall consist of the Redevelopment Area in its entirety.
- (ii) The CID shall be formed as a political subdivision of the State of Missouri.
- (iii) The CID shall be authorized to impose a community improvement district sales tax (the "CID Sales Tax") in an amount not to exceed one percent (1%) on taxable sales (provided that combined total TDD Sales Tax and CID Sales Tax shall not exceed one percent (1%) on taxable sales) within the CID pursuant to Section 67.1545 of the CID Act, the net proceeds of which CID Sales Tax shall be applied to debt service on the CID Obligations. The CID shall impose no other tax, assessment, toll or charge whatsoever without the written consent of the City.
- (iv) The CID's board of directors shall consist of five members, a minimum of three of whom shall be elected by the Developer and subsequent property owners and, to the extent permitted by law, one of whom shall be appointed by the Mayor of the City and one of whom shall be appointed by the Finance Officer of the City.
- (v) The CID shall maintain accurate records of revenues received, which records shall be open to inspection by the City at all reasonable times.
- (vi) The CID shall maintain its existence until all TIF Obligations and all TDD Obligations and/or CID Obligations have been paid in full, at which time the CID shall dissolve and the CID Sales Tax shall no longer be levied unless a subsequent project has been authorized by the CID and approved by the City in accordance with the CID Act.
- (vii) All CID Revenues shall be deposited into the CID Trust Fund to provide for the payment of principal of and interest on CID Obligations issued in connection with the CID Project.
- (viii) 100% of CID Revenues shall be used to pay debt service on the CID Obligations for the CID Project

in accordance with this Agreement.

(ix) The CID shall not exercise any powers or undertake any action authorized under the CID Act other than those powers and actions expressly set forth in this Section or otherwise agreed upon by the City and the Developer in writing.

3.12 City and Developer Actions with Respect to the CID. The City acknowledges that the Developer, at its sole cost and expense, intends to advance all costs necessary to design, develop and construct the CID Project, should it desire to create a CID to finance the CID Project. The City further acknowledges the general economic benefit and the overall value to the community created by the construction of the CID Project, if so created. To that end, to the extent that the Developer desires to create a CID, the City and the Developer agree as follows:

(i) The City and Developer shall use their reasonable efforts and cooperate with each other in good faith in all proceedings relating to the creation and certification of the CID, including the execution and filing of all petitions, consents, approvals, authorizations or other documents required to create and certify the CID. The form of the petition for creation of the CID shall be subject to approval by the City Counselor's Office, which approval shall not be unreasonably withheld, conditioned or delayed and shall be deemed granted if written approval or denial of the form petition is not received by the Developer within fifteen (15) days from receipt thereof.

(ii) The Developer, shall in good faith cooperate and assist in obtaining approval for and levying of the CID Sales Tax contemplated by the Agreement by voting to approve the CID Sales Tax at an election held in accordance with Section 67.1545 of the CID Act.

(iii) The Developer shall use its best efforts to ensure that every retailer shall add the CID Sales Tax to the retailer's sales price and when so added such CID Sales Tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price, all as provided for in Section 67.1545 of the CID Act and by causing any transferee of Developer of property within the CID to vote to approve the CID Sales Tax at an election held in accordance with Section 67.1545 of the CID Act.

(iv) The City and the Developer shall waive the right to file suit to set aside the CID Sales Tax or otherwise question the validity of the proceedings relating thereto.

(v) Developer shall pay or cause to be paid all costs incurred by the City in connection with the creation of the CID.

(vi) All CID's obligations under this Section shall be the exclusive responsibility of the CID payable solely out of the CID's funds and property as provided in Section 67.1501 to 67.1551 of the CID Act and shall not constitute a debt or liability of the State of Missouri or any agency or political subdivision of the State. The City is not obligated to pledge any funds to repayment of the CID Obligations.

ARTICLE IV. REIMBURSEMENT OF DEVELOPER COSTS

4.1 City's Obligation to Reimburse Developer. Subject to the terms of the Note Ordinance and this Agreement, the City agrees to reimburse Developer for the verified Reimbursable Redevelopment Project Costs in a total amount not to exceed Eleven Million Dollars (\$11,000,000) plus Issuance Costs to be allocated to the Redevelopment Project.

Subject to the terms of the Note Ordinance and this Agreement, the City agrees to issue TIF Obligations to Developer to evidence the City's obligation to reimburse Developer for verified Reimbursable Redevelopment Project Costs in an amount not to exceed Eleven Million Dollars (\$11,000,000), plus Issuance Costs and interest as provided in **Section 5.2** of this Agreement, subject to the limitations of **Article IV** of this Agreement.

4.2 Reimbursements Limited to Reimbursable Redevelopment Project Costs; Developer's Right to Substitute. Nothing in this Agreement shall obligate the City to issue TIF Obligations or to reimburse the Developer for any cost that is not incurred pursuant to Section 99.820.1 of the TIF Act or that does not qualify as a "redevelopment project cost" under Section 99.805(14) of the TIF Act. The Developer shall provide to the City (a) itemized invoices, receipts or other information evidencing such costs; and (b) a Certificate of Reimbursable Redevelopment Project Costs constituting certification by the Developer that such

cost is eligible for reimbursement under the TIF Act. Within thirty (30) days of the City's receipt from the Developer of a Certificate of Reimbursable Redevelopment Project Costs, the City shall review and act upon such Certificate of Reimbursable Redevelopment Project Costs. The parties agree that each of the categories of costs set forth in **Exhibit B-1**, attached hereto and incorporated herein by this reference, shall constitute Reimbursable Redevelopment Project Costs which are eligible for reimbursement in accordance with the TIF Act and this Agreement. The Developer shall be entitled to reimbursement for Redevelopment Project Costs from any of the categories set forth in **Exhibit B-1** up to the maximum aggregate amount established in **Section 4.1** of this Agreement; provided, however, that no substitution with respect to transferring any Reimbursable Project Costs falling under Category (a) to any other Category of **Exhibit B-1** shall be permitted, and Reimbursable Project Costs with respect to said Category (a) are expressly limited to the amount set forth for said Category (a); and provided further, that the Developer shall be obligated to advance to the City the full amounts identified in **Section 2.2, clauses (i)-(iv)**, of this Agreement. If the City determines that any cost identified as a Reimbursable Redevelopment Project Cost is not a "redevelopment project cost" under Section 99.805(14) of the TIF Act, the City shall so notify the Developer in writing within the 30-day period referenced in this **Section 4.2**, 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 Redevelopment Project Costs with a supplemental application for payment. If the City fails to approve or disapprove any Certificate of Reimbursable Redevelopment Project Costs within thirty (30) days after receipt thereof, the Certificate of Reimbursable Redevelopment Project Costs shall be deemed approved.

4.3 City's Obligations Limited to Special Allocation Fund and Bond Proceeds. Notwithstanding any other term or provision of this Agreement, TIF Notes issued by the City to the Developer for Reimbursable Redevelopment Project Costs are payable only from the Special Allocation Fund and from Bond Proceeds, if any, and from no other source. The City has not pledged its full faith and credit relative to the City's obligation to issue the TIF Obligations or to pay any Reimbursable Redevelopment Project Costs. The TIF Obligations shall be special, limited obligations of the City, and shall not constitute debt to the City within any constitutional or statutory meaning of the word "debt."

ARTICLE V. TIF OBLIGATIONS

5.1 Conditions Precedent to the Issuance of TIF Notes. No TIF Notes shall be issued for the Redevelopment Project until such time as the City has received the following from the Developer: (i) a Notice of Acquisition in substantially the form of **Exhibit K**, attached hereto and incorporated herein by reference; (ii) a Certificate of Commencement of Construction in substantially the form of **Exhibit C**, attached hereto and incorporated herein by reference; (iii) a Certificate of Reimbursable Redevelopment Project Costs in substantially the form of **Exhibit D**, attached hereto and incorporated herein by reference evidencing Developer's payment of Reimbursable Redevelopment Project Costs of at least \$500,000 of hard costs related to categories (b) and (c) of **Exhibit B-1**; (iv) an opinion of Bond Counsel regarding the taxable nature of the TIF Notes; (v) the full payment of all advances required to be paid under **Section 2.2** of this Agreement; and (vi) such other documentation as the City shall reasonably require of Developer in order for the City to obtain an opinion of Bond Counsel as required by this **Section 5.1**.

5.2 Issuance of TIF Notes. Within ten (10) business days of Developer's satisfaction of the conditions of **Section 5.1** of this Agreement, the City agrees to issue one or more TIF Notes as provided in the Note Ordinance to reimburse the Developer for Reimbursable Redevelopment Project Costs up to the maximum amount established in **Section 4.1** of this Agreement, subject to the limitations of **Article IV** of this Agreement. The TIF Notes shall be in a form substantially similar to **Exhibit F**, attached hereto and incorporated herein by reference.

5.2.1 Terms.

5.2.1.1 Prior to substantial completion, each TIF Note shall bear simple interest at a variable rate per annum equal to (i) the Prime Rate plus one and one-half percent (1½%) if the interest on such TIF Note, in the opinion of Bond Counsel, is not exempt from Federal income taxation; or (ii) the Prime Rate if the interest on such TIF Note, in the opinion of Bond Counsel, is exempt from Federal income taxation. All TIF Notes shall have a stated maturity of the Maturity Date.

5.2.1.2 Upon the City's acceptance of the Certificate of Substantial Completion the interest rate shall become fixed and from that date forward each TIF Note shall bear simple interest at a fixed rate per annum equal to the interest rate on each TIF Note that is in effect as of the date of the City's acceptance of the Certificate of Substantial Completion.

5.2.2 Procedures for Issuance of TIF Notes. Within ten (10) business days of Developer's satisfaction of the conditions of **Section 5.1** of this Agreement the City shall issue a TIF Note evidencing an advance for the reimbursement of Reimbursable Redevelopment Project Costs ("Construction Advance"). After the initial issuance of a TIF Note, upon receipt of subsequent Certificates of Reimbursable Redevelopment Project from Developer, the City shall, within thirty (30) days of its receipt of such Certificate of Reimbursable Redevelopment Project Costs issue an endorsement to the TIF Note evidencing Construction Advances. In lieu of an endorsement to the TIF Note, the City shall, upon written request by the Developer, issue additional TIF Notes in denominations of One Hundred Thousand Dollars (\$100,000) and in increments of One Thousand Dollars (\$1,000) in excess thereof, to evidence the City's obligation to pay such advances of Redevelopment Project Reimbursement Costs ("Additional Notes").

After the initial issuance of a TIF Note, if the City accepts the Certificate of Reimbursable Redevelopment Project Costs within thirty (30) days after submission by the Developer, the resulting Construction Advance or Additional Notes shall be deemed to have been issued on the date that the City accepts the Certificate of Reimbursable Redevelopment Project Costs. If the City accepts the Certificate of Reimbursable Redevelopment Project Costs more than thirty (30) days after submission by Developer (or rejects it more than thirty (30) days after submission by Developer and provides the Developer the right to identify and substitute eligible Reimbursable Redevelopment Project Costs in accordance with Section 4.2 of this Agreement), the resulting Construction Advance or Additional Notes shall be deemed to have been issued on the thirty-first (31st) day after submission of the Certificate of Reimbursable Redevelopment Project Costs by the Developer.

Notwithstanding anything contained in this Agreement to the contrary, upon the acceptance by the City of a Certificate of Reimbursable Redevelopment Project Costs and the issuance by the City of a Construction Advance or Additional Notes as provided in Section 5.2.2 of this Agreement, the Developer shall be deemed to have advanced funds necessary to purchase such TIF Notes and the City shall be deemed to have deposited such funds in the Project Fund and shall be deemed to have reimbursed the Developer in full for such costs from the amounts deemed to be on deposit in the Project Fund from time to time.

5.2.3 Special Mandatory Redemption of TIF Notes. The TIF Notes for the Redevelopment Project are subject to special mandatory redemption by the City, in whole at any time or in part on each March 1 and September 1 (each, a "Payment Date") occurring after the acceptance by the City of a Certificate of Substantial Completion for the Redevelopment Project, at a redemption price equal to 100% of the principal amount being redeemed, together with the accrued interest thereon to the date fixed for redemption.

5.3 Issuance of TIF Bonds.

5.3.1 The City may, in its sole and absolute discretion, issue, or cause to be issued, TIF Bonds at any time in an amount sufficient to refund all or a portion of the outstanding TIF Notes.

5.3.2 Upon receipt of a written request by Developer and upon the City's underwriter's recommendation in favor of issuing TIF Bonds and recommendation of the principal amount thereof based on the criteria set forth below, the City shall use its best efforts to cause to be issued, TIF Bonds as described in this Section. The aggregate gross cash proceeds from the sale of the TIF Bonds before payment of Issuance Costs, together with any interest accrued thereon ("Bond Proceeds") of such TIF Bonds will be finally determined by the City after receiving the underwriter's recommendation based on the criteria set forth below. The Authority shall not be obligated to issue or cause to be issued such TIF Bonds unless the underwriter determines that all of the following criteria are satisfied as of the date of issuance of such bonds, unless such criteria are waived by the City's underwriter. Developer shall not have any liability for any costs associated with the issuance of TIF Bonds but shall bear its own costs and expenses, including any attorneys' fees and expenses, that Developer may incur in complying with this Section. Notwithstanding anything in this Section to the contrary, Developer shall be liable for all costs incurred by the Authority in the event the Developer has requested the issuance of bonds and the City's underwriter has determined that such bonds cannot be issued at such time.

5.3.2.1 Criteria for Issuance. The underwriter's recommendation for issuance of TIF Bonds and the principal amount thereof shall be based on the following criteria:

- (i) Acceptance by the City of the Certificate of Substantial Completion;
- (ii) Creation of a TDD and/or a CID, if so desired by the Developer.

- (iii) Review of projections of TIF Revenues available for debt service as proposed by an independent qualified consultant. Such projections must show that (A) if all available TIF Revenues, TDD Revenues, if applicable, and CID Revenues, if applicable, were to be applied to the immediate repayment of the TIF Bonds, the TIF Bonds would reasonably be anticipated to be retired within twenty-three years from the date of adoption of the Approving Ordinance, and (B) based on a maturity date twenty-three years from the date of adoption of the Approving Ordinance, the TIF Bonds are reasonably likely to achieve debt service coverage ratio reasonably acceptable to the City's underwriter; and
- (iv) The aggregate net projected debt service on the TIF Bonds (taking into account the principal portion of the TIF Bonds that are issued to establish a reserve fund and to pay Issuance Costs, and including any reserve fund earnings) will be lower than the net average annual debt service on the outstanding TIF Notes, unless the Developer voluntarily elects to defer or forgive principal of and/or interest on the TIF Notes in an amount necessary to make the aggregate net projected debt service on the TIF Bonds lower than the net average annual debt service on the outstanding TIF Notes.

5.4 Application of TIF Bond Proceeds. Proceeds of any TIF Bonds shall be applied:

5.4.1 To the payment of costs relating to the issuance of the TIF Bonds;

5.4.2 To the payment of outstanding principal of and interest on the TIF Notes to be refunded;

5.4.3 To the payment of capitalized interest on the TIF Bonds; and

5.4.4 To the establishment of a debt service reserve fund for the TIF Bonds in a reasonable amount of the principal amount of TIF Bonds to be issued, as to be determined by the City's underwriter.

5.5 Application of Available Revenues to Repayment of TIF Bonds. The City hereby agrees for the term of this Agreement to apply the Available Revenues and any taxes, fees or assessments subsequently enacted and imposed in substitution therefor and allocable to the Special Allocation Fund under the TIF Act or this Agreement to the repayment of TIF Bonds issued under **Article V** of this Agreement. As long as any TIF Bonds are outstanding, Available Revenues shall be applied to such payment (either by the Comptroller or other financial officer or, at the option of the City, by the Trustee on behalf of the City), first from the EATS Sub-Account and then from the PILOTS Sub-Account of the Revenue Fund as established by the Note Ordinance as follows:

First, payment of arbitrage rebate, if any, owed with respect to the TIF Bonds under Section 148 of the Internal Revenue Code of 1986, as amended, including any costs of calculating arbitrage rebate;

Second, payment to (a) the City Comptroller's Office and SLDC (on each interest payment date) an amount equal to 0.2% of the then outstanding principal amount of the TIF Bonds (one half to Comptroller and one half to SLDC), and (b) the TIF Monitor, the Trustee or any Paying Agent, an amount sufficient for payment of any reasonable fees and expenses which are due and owing to such person upon delivery to the Trustee (with a copy to the Authority and the City) of an invoice for such amounts;

Third, payment of an amount sufficient to pay the interest on the TIF Bonds on the next succeeding interest payment date;

Fourth, replenishment of any deficiency in any debt service reserve fund or account securing any TIF Bonds;

Fifth, payment of an amount sufficient to pay the interest on the TIF Bonds on the second succeeding interest payment date, if required by the underwriter; and

Sixth, payment of all remaining amounts, which shall be applied to the payment of the principal of and accrued interest on all TIF Bonds which are subject to redemption on the next succeeding interest payment date.

If the moneys available in the Revenue Fund are insufficient to reimburse the City as provided above on any interest payment date, then the unpaid portion shall be carried forward to the next interest payment date, with interest thereon at the same rate as the tax-exempt TIF Bonds.

The City agrees that the officer of the City at any time charged with the responsibility of formulating budget proposals will be directed to include in the budget proposal submitted to the City Board for each fiscal year that TIF Bonds are outstanding a request for an appropriation of all moneys on deposit in the Special Allocation Fund for application to the payment of the principal amount, premium, if any, and interest of the TIF Bonds.

5.6 Cooperation in the Issuance of TIF 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 offering statements, private placement memorandum or other disclosure documents and all other documents necessary to market and sell the TIF Obligations, including disclosure of tenants of the Redevelopment Area and the non-financial terms of the leases between Developer and such tenants. Developer will not be required to disclose to the general public or any investor any proprietary or confidential information, including financial information, pertaining to Developer, but upon the execution of a confidentiality agreement acceptable to Developer, 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. Developer shall make such compliance obligation a covenant running with the land, enforceable as if any subsequent transferee thereof were originally a party to and bound by this Agreement.

5.7 Subordinate Notes. If the amount of TIF Bonds issued pursuant to the Note Ordinance and this Agreement is insufficient to refund all of the outstanding TIF Notes, the TIF Notes remaining outstanding shall be redeemed by the issuance of notes subordinate to the TIF Bonds (the "Subordinate Notes"). Each Subordinate Note shall have the same maturity and have the same outstanding principal amount and the same interest rate as the TIF Note it redeems. All such Subordinate Notes shall be payable as to principal and interest according to the terms set forth in **Sections 5.4 and 6.3** of this Agreement.

5.8 City to Select Underwriter and Financial Advisor; Term and Interest Rate. The City shall have the right to select the designated underwriter (and such financial advisors and consultants as the underwriter and the City deem necessary for the issuance of the TIF Bonds) and underwriter's counsel. The final maturity of the TIF Bonds shall not exceed the maximum term permissible under the TIF Act. The TIF Bonds shall bear interest at such rates, shall be subject to redemption and shall have such terms as the City shall determine in its sole discretion.

ARTICLE VI. SPECIAL ALLOCATION FUND; COLLECTION AND USE OF TIF REVENUES

6.1 Creation of Special Allocation Fund. The City agrees to cause its Comptroller or other financial officer to maintain the Special Allocation Fund, including a "PILOTs Account," an "EATs Account," if applicable, and such further accounts or sub-accounts as are required by this Agreement or as the Comptroller may deem appropriate in connection with the administration of the Special Allocation Fund pursuant to this Agreement. 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 all Payments in Lieu of Taxes into the PILOTs Account and all Economic Activity Taxes into the EATs Account.

6.2 Certification of Base for PILOTS and EATS.

6.2.1 Within sixty (60) days after execution of the Redevelopment Agreement, Developer shall provide to the Comptroller or its authorized representative any documents necessary for the City to calculate the base for PILOTs and EATs including, but not limited to: (i) the address and locator number of all parcels of real property located within the Redevelopment Area; and (ii) information related to payment of utility taxes by any businesses, owners or other occupants of the Redevelopment Area in the calendar year ending December 31, 2004.

6.2.2 Within ninety (90) days after execution of the Redevelopment Agreement, the City shall provide to the Developer a true, correct and complete copy of the City Assessor's calculation of the total initial equalized assessed valuation of the taxable real property within the Redevelopment Area based upon the most recently ascertained equalized assessed value of each taxable lot, block, tract, or parcel of real property within the Redevelopment Area; and (ii) 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 calendar year ending

December 31, 2004, 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 of the Revised Statutes of Missouri, 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.

6.3 Application of Available Revenues to Repayment of TIF Notes. The City hereby agrees for the term of this Agreement to apply the Available Revenues and any taxes, fees or assessments subsequently enacted and imposed in substitution therefor and allocable to the Special Allocation Fund under the TIF Act or this Agreement to the repayment of TIF Notes issued under **Article V** of this Agreement as provided in the Note Ordinance and this Agreement. As long as any TIF Notes are outstanding, Available Revenues shall be applied to such payment each March 1 and September 1 (each, a "Payment Date") occurring after acceptance by the City of the Certificate of Substantial Completion (either by the Comptroller or other financial officer or, at the option of the City, by the Trustee on behalf of the City), first from the EATS Sub-Account and then from the PILOTS Sub-Account of the Revenue Fund as established by the Note Ordinance as follows:

6.3.1 to the Comptroller of the City and the SLDC, an amount equal to the lesser of i) Twenty Two Thousand Dollars and no/100 (\$22,000.00), or ii) 0.2% of the Notes outstanding on each Payment Date, plus any accumulated deficiency from previous years, plus an amount sufficient to pay all or any portion of the fees and expenses incurred by the City pursuant to **Section 7.15** of this Agreement that have not otherwise been reimbursed to the City through the issuance of TIF Notes purchased by the Original Purchaser);

6.3.2 an amount sufficient to pay all or any portion of the past due interest owing as a result of prior deficiencies of moneys to pay interest due on any TIF Notes on each Payment Date;

6.3.3 an amount sufficient to pay all or any portion of the accrued interest becoming due and payable on any TIF Notes on each Payment Date;

6.3.4 an amount sufficient to pay the principal of any TIF Notes that are subject to redemption pursuant to the Note Ordinance on each Payment Date;

6.3.5 all other remaining money in the Special Allocation Fund shall annually be declared as surplus and distributed in the manner provided in the TIF Act.

Upon the payment in full of the principal of and interest on all TIF Obligations (or provision has been made for the payment thereof as specified in the Note Ordinance), payment in full of the fees and expenses of the Comptroller and the SLDC, and payment in full of any other amounts required to be paid under the Note Ordinance, all amounts remaining on deposit in the Revenue Fund shall be declared as surplus and distributed in the manner provided in the Act.

If monies available in Special Allocation Fund are insufficient to reimburse the City or the Developer as provided above on any Payment Date, then the unpaid portion shall be carried forward to the next Payment Date, with interest thereon.

The City agrees that the officer of the City at any time charged with the responsibility of formulating budget proposals will be directed to include in the budget proposal submitted to the Board of Aldermen, for each fiscal year that TIF Obligations are outstanding, a request for an appropriation of all Available Revenues on deposit in the Special Allocation Fund for application to the payment of the principal of (including, but not limited to, payment of a premium, if any) and interest on the TIF Obligations.

6.4 Cooperation in Determining TIF Revenues. 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, but not limited to, the City's enforcement and collection of all such payments through all reasonable and ordinary legal means of enforcement. The Developer (or its successor(s) in interest as an owner or owner(s) of the affected portion(s) of the Property) shall require each "seller" (as that term is defined in Section 144.010(11) of the Missouri Revised Statutes, as amended) located in, or owner of any portion of, the Property to provide to the Comptroller of the City the following information:

6.4.1 Each "seller's" federal and state tax identification numbers.

6.4.2 Within thirty (30) days of the end of each calendar quarter, copies of a completed Tax Increment Financing District Quarterly Information Form for each "seller's" business located within the Redevelopment Area along

with:

6.4.2.1 copies of all sales tax returns filed with the Missouri Department of Revenue (on Form 53-S.F. Missouri Department of Revenue or such successor form) with respect to the sales taxes originating from businesses located within the Redevelopment Area for such quarter. In the event that a “seller” has multiple business operations within the City, such “seller” shall file separate sales tax returns for the sales taxes originating from the business located within the Redevelopment Area.

6.4.2.2 copies of all earnings tax returns filed with the City (on Business Return Form 234 or such successor form) with respect to earnings taxes originating from the business located within the Redevelopment Area for such quarter. In the event that a business has multiple operations within the City, such business shall file separate earnings tax returns for the earnings taxes originating from the business located within the Redevelopment Area.

6.4.2.3 copies of all earnings tax withholding reports filed with the City (on Form W-10 or such successor form) with respect to earnings tax withholdings originating from the business located within the Redevelopment Area for such quarter. In the event that a business has multiple operations within the City, such business shall file separate earnings tax withholding reports for the earnings tax withholdings originating from the business located within the Redevelopment Area.

6.4.2.4 Within thirty (30) days of receipt, copies of monthly invoices received for utility services provided to the property on which the business within Redevelopment Area is located, including without limitation electric, water, natural gas, and telephone services, for such quarter.

The Developer (or its successor(s) in interest as an owner or owner(s) of any portion(s) of the Property) shall also request any purchaser or transferee of real property and any lessee or other user of real property located within the Redevelopment Area to designate sales subject to sales taxes pursuant to Chapter 144 of the Revised Statutes of Missouri, as amended, to be reported as originating from the Redevelopment Area to the fullest extent permitted by law (including reasonable efforts to negotiate for the inclusion of a clause so providing in the leases of the Property).

The Developer shall satisfy the requirements of this **Section 6.4** by including the obligations set forth in this Section within any deed conveying a portion of the Property to or any lease entered into with any “seller” or purchaser.

6.5 Obligation to Report TIF Revenues. The Developer shall cause any purchaser or transferee of real property located within the Property, and any lessee or other user of real property located within the Property required to pay TIF Revenues, shall use all reasonable efforts to timely fulfill such obligations as are required by **Section 6.4** of this Agreement. So long as any of the TIF Obligations are outstanding, the Developer shall cause such obligations to be covenants running with the land, which covenants shall be enforceable as if such purchaser, transferee, lessee or other user of such real property were originally a party to and bound by this Agreement.

6.6 Notice to City of Transfer. The Developer agrees to notify the City in writing of any sale, transfer or other disposition of the Property or any interest therein as permitted by **Section 7.3.2** of this Agreement at least fifteen (15) days prior to such sale, transfer or other disposition. Said notice shall specify the name and address of the person so acquiring any or all of the Property or any interest therein and shall identify the Property to be sold, transferred or otherwise disposed, whether by voluntary transfer or otherwise. Developer hereby notifies the City of, and the City hereby acknowledges Developer’s intent to convey a portion of the Property to Lowe’s Home Centers, Inc. (“Lowe’s”) or another entity related to Lowe’s by one of the relationships described in Section 267(b) of the United States Internal Revenue Code of 1986, as amended.

ARTICLE VII. GENERAL PROVISIONS

7.1 Developer’s Right of Termination. At any time prior to the delivery of a Certificate of Substantial Completion applicable to the Redevelopment Project, the Developer may, by giving written notice to the City, abandon the Redevelopment Project and terminate this Agreement and the Developer’s obligations hereunder if the Developer determines, in its sole discretion, that the Redevelopment Project is no longer economically feasible. Upon such termination, the City shall have no obligation to reimburse the Developer for any amounts advanced under this Agreement or costs otherwise incurred or paid by Developer and any

TIF Note issued in connection with the Redevelopment Project pursuant to this Agreement shall be deemed null, void and canceled.

7.2 City's Right of Termination. The City may terminate this Agreement if the Developer fails to submit its Certificate of Substantial Completion, acceptable to the City, in accordance with **Section 3.8** of this Agreement and the schedule set forth in **Section 3.4** of this Agreement. Upon termination of this Agreement for any reason, the City shall have no obligation to reimburse the Developer for any amounts advanced under this Agreement or costs otherwise incurred or paid by Developer and any TIF Note issued in connection with the Redevelopment Project pursuant to this Agreement shall be deemed null, void and canceled.

7.3 Successors and Assigns.

7.3.1 Binding Effect. This Agreement shall be binding on and shall inure to the benefit of the parties named herein and their respective heirs, administrators, executors, personal representatives, successors and assigns.

7.3.2 Assignment or Sale. Without limiting the generality of the foregoing, all or any part of the Property or any interest therein may be sold, transferred, encumbered, leased, or otherwise disposed of at any time, and the rights of the Developer named herein or any successors in interest under this Agreement or any part hereof may be assigned at any time before, during or after redevelopment of the Redevelopment Project, whereupon the party disposing of its interest in the Property or assigning its interest under this Agreement shall be thereafter released from further obligation under this Agreement (although any such Property so disposed of or to which such interest pertains shall remain subject to the terms and conditions of this Agreement), provided, however, that until substantial completion of the Redevelopment Project, the fee title to the Property shall not be sold, transferred or otherwise disposed of and the rights, duties and obligations of the Developer under this Agreement shall not be assigned in whole or in part without the prior written approval of the City, which approval shall not be unreasonably withheld or delayed upon a reasonable demonstration by the Developer of the proposed transferee's or assignee's experience and financial capability to undertake and complete such portions of the Work and perform the Developer's obligations under this Agreement, all in accordance with this Agreement. Notwithstanding anything herein to the contrary, the City hereby approves, and no prior consent shall be required in connection with: (a) the right of the Developer to encumber or collaterally assign its interest in the Property or any portion thereof or its rights, duties and obligations under this Agreement to secure loans, advances or extensions of credit to finance or from time to time refinance all or any part of the Redevelopment Project Costs, or the right of the holder of any such encumbrance or transferee of any such collateral assignment (or trustee or agent on its behalf) to transfer such interest by foreclosure or transfer in lieu of foreclosure under such encumbrance or collateral assignment; and (b) the right of Developer to assign the Developer's rights, duties and obligations under this Agreement to any party related to the Developer by one of the relationships described in Section 267(b) of the United States Internal Revenue Code of 1986, as amended; provided that in each such event (i) the Developer named herein (Loughborough Commons, LLC) shall remain liable hereunder for the substantial completion of the Redevelopment Project and shall be released from such liability hereunder only upon substantial completion of the Redevelopment Project and (ii) the Developer provides to the City fifteen (15) days' advance written notice of the proposed assignment or transfer.

7.3.3 Assignment or Sale to Exempt Organization. Prior to any sale, transfer or other disposition of all or any portion of the Property or any interest therein to an organization exempt from payment of ad valorem property taxes, such organization shall be required to agree not to apply for an exemption from payment of such property taxes for a period ending on the earlier of the date that all TIF Obligations are paid in full or twenty-three (23) years from the date that the Approving Ordinance was adopted by the City. The Developer shall make this requirement a covenant running with the land, enforceable for such period as if such purchaser or other transferee or possessor thereof were originally a party to and bound by this Agreement.

7.4 Remedies. Except as otherwise provided in this Agreement and subject to the Developer's and the City's respective rights of termination, in the event of any default in or breach of any term or conditions of this Agreement by either party, or any successor, the defaulting or breaching party (or successor) shall, upon written notice from the other party specifying such default or breach, proceed immediately to cure or remedy such default or breach, and shall, in any event, within thirty (30) days after receipt of notice, cure or remedy such default or breach. In the event that the defaulting or breaching party (or successor) diligently and in good faith commences to cure or remedy such default or breach but is unable to cure or remedy such default or breach within thirty (30) days after receipt of notice, the defaulting or breaching party (or successor) shall, prior to the end of such thirty (30) days, provide notice to the other party that it has in good faith commenced to cure or remedy such default or breach, whereupon the defaulting or breaching party (or successor) shall have an additional thirty (30) days to cure or remedy such default or breach. In case such cure or remedy is not taken or not diligently pursued, or the default or breach shall not be cured or remedied prior to the

end of the additional thirty (30) day period, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including without limitation proceedings to compel specific performance by the defaulting or breaching party.

7.5 Force Majeure. Neither the City nor the Developer nor any successor in interest shall be considered in breach or default of their respective obligations under this Agreement, and times for performance of obligations hereunder shall be extended in the event of any delay caused by force majeure, including without limitation damage or destruction by fire or casualty; strike; lockout; civil disorder; war; restrictive government regulations; lack of issuance of any permits and/or legal authorization by the governmental entity necessary for the Developer to proceed with construction of the Work or any portion thereof; shortage or delay in shipment of material or fuel; acts of God; unusually adverse weather or wet soil conditions; or other like causes beyond the parties' reasonable control, including without limitation any litigation, court order or judgment resulting from any litigation affecting the validity of the Redevelopment Plan, the Redevelopment Project or the TIF Obligations or this Agreement or any eminent domain proceeding instituted hereunder; provided that (i) such event of force majeure shall not be deemed to exist as to any matter initiated or sustained by the Developer in bad faith, and (ii) the Developer notifies the City in writing within thirty (30) days of the commencement of such claimed event of force majeure.

7.6 Notices. All notices, demands, consents, approvals and other communications required by this Agreement to be given by either party hereunder shall be in writing and shall be hand delivered or sent by United States first class mail, postage prepaid, addressed to the appropriate party at its address set forth below, or at such other address as such party shall have last designated by notice to the other. Notices, demands, consents, approvals, and other communications shall be deemed given when delivered or three days after mailing; provided, however, that if any such notice or other communication shall also be sent by telecopy or fax machine, such notice shall be deemed given at the time and on the date of machine transmittal if the sending party receives a written send verification on its machines and forwards a copy thereof with its mailed or courier delivered notice or communication.

(i) In the case of the Developer, to:

Loughborough Commons, LLC
c/o The DESCO Group, Inc.
8040 Forsyth Boulevard
St. Louis, MO 63105
Attention: Scott A. Sachtleben
Facsimile: _____

With a copy to:

Greensfelder, Hemker & Gale, P.C.
10 South Broadway, Suite 2000
St. Louis, Missouri 63102
Attention: Vincent J. Garozzo
Facsimile: 314-241-3237

(iii) In the case of the City, to:

City of St. Louis
Office of the Mayor
City Hall
1200 Market Street, Room 200
St. Louis, Missouri 63103
Attention: Barbara Geisman, Executive Director of Development
Facsimile: 314-622-3440

and

City of St. Louis
Office of the Comptroller
City Hall
1200 Market Street, Room 212

St. Louis, Missouri 63103
 Attention: Ivy Neyland-Pinkston, Deputy Comptroller
 Facsimile: 314-588-0550

With a copy to:

St. Louis Development Corporation
 1015 Locust Street
 Suite 1200
 St. Louis, Missouri 63101
 Attention: Dale Ruthsatz
 Facsimile: 314-231-2341

and

Armstrong Teasdale LLP
 One Metropolitan Square, Suite 2600
 St. Louis, Missouri 63102
 Attention: James E. Mello
 Facsimile: 314-621-5065

(iii) In the case of the St. Louis Development Corporation, to:

St. Louis Development Corporation
 1015 locust Street, Suite 1200
 St. Louis, Missouri 63101
 Attention: Dale Ruthsatz
 Facsimile: 314-231-2341

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

7.8 Damage or Destruction of Redevelopment Project. In the event of total destruction or damage to the Redevelopment Project by fire or other casualty, during construction or thereafter during the term of this Agreement so long as any TIF Notes are outstanding and the Developer owns the Property, the Developer shall determine and advise the City in writing within one year of such destruction or damage whether to restore, reconstruct and repair any such destruction or damage so that the Redevelopment Project will be completed or rebuilt in accordance with the Redevelopment Plan and this Agreement. Should the Developer determine not to restore, reconstruct and repair, all unaccrued liability of the City for any payments of principal or interest on the TIF Notes shall immediately terminate and the Developer shall promptly surrender the TIF Notes to the City for cancellation. In the event of such total destruction or damage during the term of this Agreement and after any TIF Bonds are issued or the issuance of a TIF Note to a purchaser other than the Developer or a Related Entity, the Developer shall, at the City's option after consultation with the Developer, tender to the City that portion of the insurance proceeds, if any, to which Developer is entitled, from any fire or casualty insurance policy in an amount equal to the outstanding principal amount of the TIF Bonds or TIF Notes, plus accrued interest thereon to be deposited into the Special Allocation Fund.

7.9 Inspection. The City may conduct such periodic inspections of the Work as may be generally provided in the building code of the City. In addition, the Developer shall allow other authorized representatives of the City reasonable access to the Work site from time to time upon advance notice prior to the completion of the Work for inspection thereof. The Developer shall not unreasonably deny the City and its officers, employees, agents and independent contractors the right to inspect, upon request, all architectural, engineering, demolition, construction and other contracts and documents pertaining to the construction of the Work as the City determines is reasonable and necessary to verify the Developer's compliance with the terms of this Agreement.

7.10 Choice of Law. This Agreement shall be taken and deemed to have been fully executed, made by the parties in, and governed by the laws of State of Missouri for all purposes and intents.

7.11 Entire Agreement; Amendment. The parties agree that this Agreement constitutes the entire agreement between the parties and that no other agreements or representations other than those contained in this Agreement have been made by the parties. This Agreement shall be amended only in writing and effective when signed by the authorized agents of the parties.

7.12 Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute one and the same instrument.

7.13 Severability. In the event any term or provision of this Agreement is held to be unenforceable by a court of competent jurisdiction, the remainder shall continue in full force and effect, to the extent the remainder can be given effect without the invalid provision.

7.14 Representatives Not Personally Liable. No elected or appointed official, agent, employee or representative of the City shall be personally liable to the Developer in the event of any default or breach by any party under this Agreement, or for any amount which may become due to any party or on any obligations under the terms of this Agreement.

7.15 Actions Contesting the Validity and Enforceability of the Redevelopment Plan. During such time as the Developer is the registered owner of the TIF Notes, in the event a third party brings an action against the City or the City's officials, agents, attorneys, employees or representatives contesting the validity or legality of the Redevelopment Area, the Redevelopment Plan, the TIF Obligations, or the ordinance approving this Agreement, Developer may, at its option, join the City in 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. The Developer shall be responsible for all reasonable and necessary costs and expenses incurred by the City and by the Developer in connection with the defense of such claim or action, provided that 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. All cost of any such defense, whether incurred by the City or the Developer, shall be deemed to be Reimbursable Redevelopment Project Costs and reimbursable from any amounts in the Special Allocation Fund, subject to Article IV of this Agreement.

7.16 Release and Indemnification. The indemnifications and covenants contained in this Section shall survive termination or expiration of this Agreement.

7.16.1 The City and its governing body members, officers, agents, attorneys, employees and independent contractors shall not be liable to the Developer for damages or otherwise in the event that all or any part of the TIF Act, or any ordinance adopted in connection with either the TIF Act, this Agreement or the Redevelopment Plan, is declared invalid or unconstitutional in whole or in part by the final (as to which all rights of appeal have expired or have been exhausted) judgment of any court of competent jurisdiction, and by reason thereof either the City is prevented from performing any of the covenants and agreements herein or the Developer is prevented from enjoying the rights and privileges hereof.

7.16.2 The Developer releases from and covenants and agrees that the City and its governing body members, officers, agents, attorneys, employees and independent contractors shall not be liable for, and agrees to indemnify and hold harmless the City, its governing body members, officers, agents, attorneys, employees and independent contractors against any and all claims, demands, liabilities and costs, including reasonable attorneys' fees, costs and expenses, arising from damage or injury, actual or claimed (excluding consequential and punitive damages), to persons or property occurring or allegedly occurring as a result of any negligent or malicious acts or omissions of the Developer, its governing body members, officers, agents, attorneys, employees and independent contractors, in connection with its or their activities conducted pursuant to this Agreement.

7.16.3 The City and its governing body members, officers, agents, attorneys, employees and independent contractors shall not be liable for any damage or injury to the persons or property of the Developer or its officers, agents, employees, independent contractors or any other persons who may be about the Property or the Work except for matters arising out of the gross negligence or willful misconduct of the City and its governing body members, officers, agents, attorneys, employees and independent contractors.

7.16.4 All covenants, stipulations, promises, agreements and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City and not of any of its governing body members, officers, agents, attorneys, employees or independent contractors in their individual capacities.

7.16.5 No governing body members, officers, agents, attorneys, employees or independent contractors of the City shall be personally liable to the Developer (i) in the event of a default or breach by any party under this Agreement or (ii) for any amount or any TIF Obligations which may become due to any party under the terms of this Agreement.

7.16.6 The Developer releases from and covenants and agrees that the City, its governing body members, officers, agents, attorneys, employees and independent contractors shall not be liable for, and agrees to indemnify and hold the City, its governing body members, officers, agents, attorneys, employees and independent contractors, harmless from and against any and all third party suits, interest, claims and cost of reasonable attorneys fees incurred by any of them, resulting from, arising out of, or in any way connected with: (i) the enforcement of this Agreement, the validity of the TIF Obligations or the enforcement or validity of any other agreement or obligation made in connection therewith and their approvals (excluding opinions of counsel and of the City's financial advisors whenever such claim is based on such party's own negligence); (ii) the negligence or willful misconduct of the Developer or its officers, agents, employees or independent contractors in connection with the design, management, development, redevelopment and construction of the Work, or (iii) the compliance by the Developer with all applicable state, federal and local environmental laws, regulations and ordinances as applicable to the Property, to the extent such condition existed prior to the acquisition thereof by the Developer. The foregoing release and indemnification shall not apply in the case of such liability arising directly out of the negligence or malicious acts or omissions of the City or its governing body members, officers, agents, attorneys, employees and independent contractors in connection with its or their activities conducted pursuant to this Agreement or which arises out of matters undertaken by the City following termination of this Agreement as to the Redevelopment Project or any particular portion thereof.

7.17 Survival. Notwithstanding the expiration or termination or breach of this Agreement by either party, the agreements contained in **Section 2.2, clauses (iii)-(v), Article VI, Sections 7.10, 7.11, 7.12, 7.13, 7.14, 7.15, 7.16, 7.17 and Article VIII** of this Agreement shall, except as otherwise expressly set forth herein, survive such early expiration or early termination of this Agreement by either party.

7.18 Maintenance of the Property. The Developer shall remain in compliance with all provisions of the City's ordinances relating to maintenance and appearance of the Property during the construction of the Redevelopment Project or any portion thereof. Upon substantial completion of the Redevelopment Project and so long as any TIF Obligations are outstanding, the Developer or its successor(s) in interest, as owner or owners of the affected portion(s) of the Property, shall, during the remainder of the term of this Agreement (but subject to any delay caused by an event of force majeure as provided in **Section 7.5** of this Agreement), maintain or cause to be maintained the buildings and improvements within the Redevelopment Area which it owns in a good state of repair and attractiveness and in conformity with applicable state and local laws, ordinances and regulations. If there are separately-owned or ground leased parcels of real estate on the Property during the term of this Agreement, each owner or lessee as a successor in interest to the Developer shall maintain or cause to be maintained the buildings and improvements on its parcel in a good state of repair and attractiveness and in conformity with applicable state and local laws, ordinances and regulations.

7.19 Non-Discrimination. The Developer agrees that, during the term of this Agreement and 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 within the Redevelopment Area or any portion thereof and said covenant may be enforced by the City or the United States of America or any of their respective agencies. The Developer further agrees that a provision containing the covenants of this paragraph shall be included in all agreements pertaining to the lease or conveyance or transfer (by any means) of all or a portion of the Redevelopment Project and any of the facilities under its control in the Redevelopment Area. Except as provided in this Section, the Developer shall have no obligation to enforce the covenants made by any transferee or lessee, tenant, occupant or user of any of the facilities within the Redevelopment Area.

7.20 Fair Employment Without limiting any of the foregoing, the Developer voluntarily agrees to observe the Equal Opportunity and Nondiscrimination Guidelines set forth as **Exhibit G**, attached hereto and incorporated herein by reference. By execution of this Agreement, the Developer certifies and agrees that it is under no contractual or other disability that would materially impair its ability to observe the Guidelines set forth as **Exhibit G**, attached hereto and incorporated herein by reference.

**ARTICLE VIII.
REPRESENTATIONS OF THE PARTIES**

8.1 Representations of the City. The City hereby represents and warrants that it has full constitutional and lawful right, power and authority, under current applicable law, to execute and deliver and perform the terms and obligations of this Agreement, including without limitation the right, power and authority to issue and sell the TIF Obligations, and all of the foregoing have been or will be, upon adoption of ordinances authorizing the issuance of the TIF Obligations, 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.

8.2 Representations of the Developer. The Developer hereby represents and warrants it has full power to execute and deliver and perform the terms and obligations of this Agreement and all of the foregoing has been duly and validly authorized by all necessary corporate proceedings. This Agreement constitutes the legal, valid and binding obligation of the Developer, enforceable in accordance with its terms.

(The remainder of this page is intentionally left blank.)

IN WITNESS WHEREOF, the City and the Developer have caused this Agreement to be executed in their respective names and the City has caused its seal to be affixed thereto, and attested as to the date first above written.

“CITY”

CITY OF ST. LOUIS, MISSOURI

BY: _____
Francis G. Slay, Mayor

BY: _____
Darlene Green Comptroller

(SEAL)

Attest:

Parrie May, City Register

Approved as to Form:

Patricia Hageman, City Counselor

“DEVELOPER”:

LOUGHBOROUGH COMMONS, LLC
a Missouri limited liability company

By: _____
Name: _____
Title: _____

STATE OF MISSOURI)
) SS.
CITY OF ST. LOUIS)

On this ___ day of ___, 2005, before me appeared Francis G. Slay, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen, and said individual acknowledged said instrument to be the free act and deed of said City.

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

Notary Public

My Commission Expires:

STATE OF MISSOURI)
) SS.
CITY OF ST. LOUIS)

On this ___ day of ___, 2005, before me appeared Darlene Green, to me personally known, who, being by me duly sworn, did say that she is the Comptroller of the CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen, and said individual acknowledged said instrument to be the free act and deed of said City.

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

Notary Public

My Commission Expires:

STATE OF MISSOURI)
) SS.
_____ of _____)

On this ___ day of ___, 2005, before me appeared _____, to me personally known, who, being by me duly sworn, did say that he/she is the _____ of Loughborough Commons, LLC, a Missouri limited liability company, and that he/she is authorized to sign the instrument on behalf of said limited liability company, and acknowledged to me that he/she executed the within instrument as said corporation's free act and deed.

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

Notary Public

My Commission Expires:

**EXHIBIT A
Legal Description of the Redevelopment Area**

LOUGHBOROUGH PROPERTY
PARCELS 1-24
ST. LOUIS, MISSOURI

A TRACT OF LAND BEING IN CITY BLOCKS 3026, 3030, AND 3072, IN THE CITY OF ST. LOUIS, MISSOURI, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS;

BEGINNING AT A POINT IN THE CENTERLINE OF SOUTH GRAND (WIDTH VARIES) AVENUE AT THE INTERSECTION OF THE CENTERLINE OF LOUGHBOROUGH (60'W) AVENUE;

THENCE, EASTWARDLY ALONG SAID CENTERLINE OF LOUGHBOROUGH (60'W) AVENUE TO THE A POINT BEING THE INTERSECTION OF THE SAID CENTERLINE OF LOUGHBOROUGH AVENUE WITH THE WESTERN LINE OF THE MISSOURI PACIFIC (66'W) RAILROAD RIGHT-OF-WAY;

THENCE, SOUTHWARDLY ALONG THE SAID WESTERN LINE OF THE MISSOURI PACIFIC (66'W) RAILROAD RIGHT-OF-WAY TO A POINT BEING THE INTERSECTION OF SAID WESTERN LINE OF THE MISSOURI PACIFIC RAILROAD RIGHT-OF-WAY WITH THE WESTERN LINE OF INTERSTATE (WIDTH VARIES) ROUTE 55;

THENCE, SOUTHWESTWARDLY ALONG THE SAID WESTERN LINE OF INTERSTATE (WIDTH VARIES) ROUTE 55 TO A POINT BEING THE INTERSECTION OF SAID WESTERN LINE OF INTERSTATE ROUTE 55 WITH THE NORTH LINE OF JOHN C. IVORY'S SUBDIVISION;

THENCE, WESTWARDLY ALONG THE SAID NORTH LINE OF JOHN C. IVORY'S SUBDIVISION TO A POINT BEING THE INTERSECTION OF SAID NORTH LINE WITH THE CENTERLINE OF SOUTH GRAND (WIDTH VARIES) AVENUE;

THENCE, NORTHWARDLY ALONG THE SAID CENTERLINE OF SOUTH GRAND (WIDTH VARIES) AVENUE BACK TO A POINT IN THE CENTERLINE OF LOUGHBOROUGH AVENUE, SAID POINT BEING THE POINT OF BEGINNING.

**EXHIBIT A-1
Description of Property Controlled by Developer**

PARCEL	ADDRESS
3026 00 00100	1042 Loughborough Avenue
3026 00 00300	1036 Loughborough Avenue
3026 00 00500	1026 Loughborough Avenue
3026 00 00600	1024 Loughborough Avenue
3026 00 00800	1012 Loughborough Avenue
3026 00 02050	1031 Blow Street
3026 00 02100	1037 Blow Street
3026 00 02200	7022 S. Grand Avenue
3026 00 02300	7020 S. Grand Avenue
3026 00 02500	7006 S. Grand Avenue
3026 00 02600	7002 S. Grand Avenue
3026 00 02650	7000 S. Grand Avenue
3026 00 02700	6924 S. Grand Avenue
3026 00 02750	6922 S. Grand Avenue
3026 00 02800	6916 S. Grand Avenue
3026 00 02900	6914 S. Grand Avenue
3030 00 00150	1000 Blow Street a/k/a 7100 S. Grand

EXHIBIT A-2
Legal Description of Land Remaining to be Acquired by Developer

PARCEL	ADDRESS
3026 00 00200	1040 Loughborough Avenue
3026 00 00400	1032 Loughborough Avenue
3026 00 00700	1020 Loughborough Avenue
3026 00 00900	950 Loughborough Avenue
3026 00 02000	1029 Blow Street
3026 00 02400	7016 S. Grand Avenue

EXHIBIT B
Estimated Total Redevelopment Project Costs

	CATEGORY	ESTIMATED COSTS
(a)	Property Acquisition and Relocation.	\$13,000,000
(b)	Site Preparation and Paving (includes excavation, demolition and re-grading for new structures and paving for parking lot).	\$7,300,000
(c)	Building Construction/Improvement Costs	\$16,700,000
(d)	Studies, Surveys, Plans and Specifications and Professional Fees (includes, but is not limited to, architectural, engineering, legal, marketing, financial, planning, or special services).	\$1,300,000
(e)	Contingencies	\$700,000
(f)	Financing Costs	\$1,000,000
Total Redevelopment Project Costs		\$40,000,000

EXHIBIT B-1
Estimated Reimbursable Redevelopment Project Costs

	CATEGORY	ESTIMATED COSTS
(a)	Property Acquisition and Relocation.	\$8,000,000
(b)	Site Preparation and Paving (includes excavation, demolition and re-grading for new structures and paving for parking lot).	\$2,500,000
(c)	Professional Fees (includes, but is not limited to, architectural, engineering, legal, marketing, financial, planning, or special services).	\$500,000
(d)	Financing Costs	\$0
Total Reimbursable Redevelopment Project Costs		\$11,000,000

¹ Subject to the limitations set forth in Section 4.2 of this Agreement.

EXHIBIT C
Form of Certificate of Commencement of Construction

DELIVERED BY

Loughborough Commons, LLC

The undersigned, Loughborough Commons, LLC (the "Developer"), pursuant to that certain Redevelopment Agreement

dated as of _____, 200__, between the City of St. Louis, Missouri (the "City") and Developer (the "Agreement") hereby certifies to the City as follows:

1. All property within the Redevelopment Area necessary for the Redevelopment Project (as legally described on Appendix A attached hereto and by this reference incorporated herein and made a part hereof), has been acquired by Developer in accordance with the Agreement.
2. Developer has entered into an agreement with a contractor or contractors to construct the Redevelopment Project.
3. Developer has submitted to the MBE/WBE Compliance Officer a copy of Developer's MBE/WBE Subcontractor List and MBE/WBE Utilization Statement, which are attached hereto as Appendix B.
4. Developer has obtained all necessary financing to complete the Redevelopment Project.
5. This Certificate of Commencement of Construction is being issued by Developer to the City in accordance with the Agreement to evidence Developer's satisfaction of all obligations and covenants with respect to commencement of construction of the Redevelopment Project.

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 _____, 20__.

Loughborough Commons, LLC

By: _____
 Name: _____
 Title: _____

EXHIBIT D
Form of Certificate of
Reimbursable Redevelopment Project Costs

TO:
 City of St. Louis
 Office of Comptroller
 1200 Market Street, Room 212
 St. Louis, Missouri 63103
 Attention: Ivy Neyland-Pinkston, Deputy Comptroller

Re: City of St. Louis, Missouri, I-55/Loughborough Redevelopment Project

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Redevelopment Agreement dated as of _____, 2005 (the "Agreement"), between the City and Loughborough Commons, LLC, a Missouri limited liability company (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 Redevelopment Project Cost and was incurred in connection with the construction of the Redevelopment Project.
2. These Reimbursable Redevelopment Project Costs have been have been paid by the Developer and are reimbursable under the Note Ordinance and the Agreement.
3. Developer has paid or incurred Reimbursable Redevelopment Project Costs of at least Five Hundred Thousand Dollars (\$500,000) consisting of hard costs related to categories (b) and (c) of Exhibit B to 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 the Note Ordinance, and no part thereof has been included in any other certificate 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 portion of the Work for which this certificate 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 Redevelopment Plan and the Agreement.

7. If any cost item to be reimbursed under this Certificate 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 Redevelopment Project Costs for payment hereunder.

8. The costs to be reimbursed under this Certificate constitute advances qualified for Tax-Exempt TIF Notes:

Yes: _____ No: _____

9. The Developer is not in default or breach of any material term or condition of the Agreement beyond the applicable cure period, if any.

Dated this ____ day of _____, _____.

Loughborough Commons, LLC

By: _____
Name: _____
Title: _____

Approved for payment this ____ day of _____, 20__.

ST. LOUIS DEVELOPMENT CORPORATION

By : _____
Name: _____
Title: _____

Approved for payment this ____ day of _____, 20__.

CITY OF ST. LOUIS, MISSOURI

By : _____
Name: _____
Title: _____

Schedule 1

The Developer has incurred the following Reimbursable Redevelopment Project Costs:

Payee: Amount: Description of Reimbursable Redevelopment Project Costs:

**EXHIBIT E
Form of Certificate of Substantial Completion
CERTIFICATE OF SUBSTANTIAL COMPLETION**

The undersigned, Loughborough Commons, LLC, a Missouri limited liability company (the "Developer"), pursuant to

that certain Redevelopment Agreement dated as of _____, 2005, between the City of St. Louis, Missouri (the "City"), and the Developer (the "Agreement"), hereby certifies to the City as follows:

1. That as of _____, _____, the construction of the Redevelopment Project (as that term is defined in the Agreement) has been substantially completed in accordance with the Agreement.

2. That the Work has been substantially completed or funded pursuant to Exhibit B to the Agreement.

3. The Work has been performed in a workmanlike manner and substantially in accordance with the Construction Plans (as those terms are defined in the Agreement).

4. This Certificate of Substantial Completion is accompanied by the project architect's or owner representative'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 incorporated herein by reference, certifying that the Redevelopment Project has been substantially completed in accordance with the Agreement.

5. Lien waivers for applicable portions of the Work in excess of Five Thousand Dollars (\$5,000) have been obtained.

6. This Certificate of Substantial Completion is being issued by the Developer to the St. Louis Development Corporation and the City in accordance with the Agreement to evidence the Developer's satisfaction of all material obligations and covenants with respect to the Redevelopment Project.

7. The acceptance (below) or the failure of the St. Louis Development Corporation and the Mayor or his designee to object in writing to this Certificate within thirty (30) days of the date of delivery of this Certificate to the St. Louis Development Corporation and the City (which written objection, if any, must be delivered to the Developer prior to the end of such thirty (30) days) shall evidence the satisfaction of the Developer's agreements and covenants to perform the Work.

Upon such acceptance by the St. Louis Development Corporation and the Mayor or his designee, the Developer may record this Certificate in the office of the City's Recorder of Deeds. This Certificate 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 _____, 20__.

LOUGHBOROUGH COMMONS, LLC

By : _____
Name: _____
Title: _____

ACCEPTED:

ST. LOUIS DEVELOPMENT CORPORATION:

By : _____
Name: _____
Title: _____

CITY OF ST. LOUIS, MISSOURI

By : _____
Name: _____
Title: _____

(Insert Notary Form(s) and Legal Description)

EXHIBIT F

Form of Note

THIS TIF NOTE OR ANY PORTION HEREOF MAY BE TRANSFERRED, ASSIGNED OR NEGOTIATED ONLY TO "APPROVED INVESTORS," AS DEFINED HEREIN, AND IN ACCORDANCE WITH THE PROVISIONS HEREOF.

UNITED STATES OF AMERICA
STATE OF MISSOURI

Registered
No. R-__

Registered
Not to Exceed \$11,000,000
plus Issuance Costs
(See Schedule A attached)

CITY OF ST. LOUIS, MISSOURI
[TAXABLE][TAX-EXEMPT] TAX INCREMENT REVENUE NOTE
(I-55/Loughborough Redevelopment Project)
SERIES 200__

Rate of Interest: Maturity Date: Dated Date: CUSIP Number:
None

REGISTERED OWNER: LOUGHBOROUGH COMMONS, LLC

PRINCIPAL AMOUNT: See SCHEDULE A attached hereto.

The CITY OF ST. LOUIS, MISSOURI, a body corporate and a political subdivision duly organized and validly existing under its charter and the Constitution and laws of the State of Missouri (the "City"), for value received, hereby promises to pay to the Registered Owner shown above, or registered assigns, the Principal Amount shown from time to time on Schedule A attached hereto on the Maturity Date shown above unless called for redemption prior to the Maturity Date, and to pay interest thereon from the effective date of registration shown from time to time on Schedule A attached hereto or from the most recent Payment Date to which interest has been paid or duly provided for, at the Rate of Interest shown above computed on the basis of a 360-day year of twelve (12) 30-day months. Interest and principal shall be payable each March 1 and September 1 (each, a "Payment Date"), commencing on the first March 1 or September 1 following the City's acceptance of the Certificate of Substantial Completion for the Redevelopment Project in accordance with the Redevelopment Agreement between the City and Loughborough Commons, LLC, ("Developer"), dated as of ____, 2005 (the "Redevelopment Agreement"), until all principal and interest accruing pursuant to this TIF Note shall be paid in full. This TIF Note shall bear interest from its registration date or from the most recent Payment Date on which interest has been paid or duly provided.

Except as otherwise provided herein, capitalized terms herein shall have the meanings as provided in Ordinance No. ____ [Board Bill No. ____] adopted by the Board of Aldermen on December __, 2005 (the "Note Ordinance"), or if not therein, then the Redevelopment Agreement.

THE OBLIGATIONS OF THE CITY WITH RESPECT TO THIS TIF NOTE SHALL TERMINATE UPON THE EARLIER OF: (I) CANCELLATION AND DISCHARGE BY THE CITY IN WHOLE OR IN PART WITHOUT PENALTY UNDER THE CONDITIONS SET FORTH IN THE REDEVELOPMENT AGREEMENT, (II) THE FULL PAYMENT AND DISCHARGE OF THE TIF NOTES, OR (III) THE MATURITY DATE (WHETHER OR NOT THE PRINCIPAL AMOUNT OR INTEREST HAS BEEN PAID IN FULL).

The principal of and interest on this TIF Note shall be paid at maturity or upon earlier redemption as provided in the Note Ordinance to the person in whose name this TIF Note is registered at the maturity or redemption date hereof (the "Registered Owner"), upon presentation and surrender of this TIF Note at the payment office of the Finance Officer of the City or his or her authorized agent (the "Finance Officer"). The principal of and interest on TIF Notes (as hereinafter defined) shall be payable in any coin or currency of the United States of America which, at the respective dates of payment thereof, is legal tender for the payment

of debts due the United States of America. The principal of and interest on TIF Notes shall be payable by check or draft at the office of the Finance Officer to the Registered Owner on each Payment Date. Except as otherwise provided in the Note Ordinance with respect to mutilated, destroyed, lost or stolen TIF Notes, no principal on the TIF Notes is payable unless the Registered Owner has surrendered such TIF Notes at the office of the Finance Officer.

This TIF Note is one of an authorized series of fully registered TIF Notes of the City designated "City of St. Louis, Missouri, [Taxable][Tax-Exempt] Tax Increment Revenue Notes (I-55/Loughborough Redevelopment Project), Series 200 __," issued in an aggregate principal amount of not to exceed \$11,000,000.00 plus Issuance Costs (the "TIF Notes"). The TIF Notes are being issued for the purpose of paying a portion of the Redevelopment Project Costs in connection with the Redevelopment Plan, under the authority of and in full compliance with the Constitution and laws of the State of Missouri, including particularly the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865, of the Revised Statutes of Missouri (2000) (the "Act"), and pursuant to the Note Ordinance.

The TIF Notes and the interest thereon are and shall be a special, limited obligation of the City payable solely from and secured as to the payment of principal and interest, by the Available Revenues and other moneys pledged thereto and held by the Finance Officer as provided herein. "Available Revenues" means all monies on deposit from time to time (including investment earnings thereon) in (a) the PILOTS Account; and (b) subject to annual appropriation, the EATS Account that have been appropriated to the repayment of the TIF Notes, excluding (i) any amount paid under protest until the protest is withdrawn or resolved against the taxpayer, or (ii) any sum received by the City which is the subject of a suit or other claim communicated to the City which suit or claim challenges the collection of such sum.

Amounts on deposit in the Special Allocation Fund includes "payments in lieu of taxes" (as defined in Sections 99.805(10) and 99.845 of the Act) attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract or parcel of real property in the Redevelopment Area and any applicable penalty and interest over and above the initial equalized assessed value (as provided for by Section 99.855 of the Act) of such unit of property in the Redevelopment Area, as allocated and paid to the City's Treasurer by the City's Collector of Revenue who shall deposit such payments in lieu of taxes into the Revenue Fund of the Special Allocation Fund while tax increment financing remains in effect.

Amounts on deposit in the Special Allocation Fund also includes those amounts equal to fifty percent (50%) of the total additional revenues from taxes, penalties and interest which are imposed by the City or other taxing districts (as that term is defined in Section 99.805(16) of the TIF Act) and which are generated by economic activities within the Redevelopment Area over the amount of such taxes generated by economic activities within the Redevelopment Area in the calendar year ending December 31, 2004 (subject to annual appropriation by the City as provided in the TIF Act), as defined and described in Sections 99.805(4) and 99.845 of the TIF Act, but excluding therefrom personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, licenses, fees or special assessments, taxes levied pursuant to Section 70.500 of the Revised Statutes of Missouri, as amended, and taxes levied for the purpose of public transportation pursuant to Section 94.660 of the Revised Statutes of Missouri, as amended, all as provided in Section 99.845 of the TIF Act, as amended from time to time. Notwithstanding the foregoing, TIF Revenues shall not include the operating levy for school purposes imposed by or any sales tax imposed by the Transitional School District of the City of St. Louis.

All TIF Notes shall be equally and ratably secured by Available Revenues and shall be special, limited obligations of the City payable solely from and secured as to the payment of principal and interest by a pledge of the Available Revenues. The taxing power of the City is not pledged to the payment of the TIF Notes either as to principal or interest. The TIF Notes shall not be or constitute a general obligation of the City, nor shall they constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provision, limitation or restriction.

Available Revenues shall be applied to payments on the TIF Notes as follows:

First, to the Comptroller of the City and the St. Louis Development Corporation, an amount equal to the lesser of i) Twenty Two Thousand Dollars and no/100 (\$22,000.00), or ii) 0.2% of the Notes outstanding on each Payment Date, plus any accumulated deficiency from previous years, plus an amount sufficient to pay all or any portion of the fees and expenses incurred by the City pursuant to Section 7.15 of the Agreement that have not otherwise been reimbursed to the City through the issuance of TIF Notes purchased by the Original Purchaser;

Second, to the Debt Service Fund, an amount sufficient to pay all or any portion of the past due interest owing as a result of prior deficiencies of moneys to pay interest due on any TIF Notes on each Payment Date;

Third, to the Debt Service Fund, an amount sufficient to pay all or any portion of the accrued interest becoming due and payable on any TIF Notes on each Payment Date;

Fourth, to the Debt Service Fund, an amount sufficient to pay the principal of any TIF Notes that are subject to redemption pursuant to the Note Ordinance on each Payment Date;

Fifth, all other remaining money in the Special Allocation Fund shall annually be declared as surplus and distributed in the manner provided in the TIF Act.

Upon the payment in full of the principal of and interest on all TIF Notes (or provision has been made for the payment thereof as specified in the Note Ordinance), payment in full of the fees and expenses of the Finance Officer and the St. Louis Development Corporation, and payment in full of any other amounts required to be paid under the Note Ordinance, all amounts remaining on deposit in the Special Allocation Fund shall be declared as surplus and distributed in the manner provided in the TIF Act.

The City covenants that the officer of the City at any time charged with the responsibility of formulating budget proposals will be directed to include in the budget proposal submitted to the Board of Aldermen of the City for each fiscal year that the TIF Notes are outstanding a request for an appropriation of all moneys on deposit in the Special Allocation Fund for transfer to the Finance Officer for deposit at the times and in the manner provided in the Note Ordinance.

NOTWITHSTANDING ANY PROVISION HEREIN OR IN THE NOTE ORDINANCE TO THE CONTRARY, THE TIF NOTES ARE SUBJECT TO CANCELLATION AND DISCHARGE BY THE CITY IN WHOLE OR IN PART WITHOUT PENALTY UNDER THE CONDITIONS SET FORTH IN THE REDEVELOPMENT AGREEMENT.

The TIF Notes are subject to optional redemption by the City in whole at any time or in part on any Payment Date at a redemption price of 100% of the principal amount of the TIF Note to be redeemed, plus accrued interest thereon to the date fixed for redemption.

The TIF Notes are subject to special mandatory redemption by the City on each Payment Date, at a redemption price equal to 100% of the principal amount being redeemed, together with accrued interest thereon to the date fixed for redemption, in an amount equal to Available Revenues on deposit in the applicable accounts of the Special Allocation Fund and which are not required for the payment of accrued interest on such Payment Date.

The TIF Notes or portions of TIF Notes to be redeemed shall become due and payable on the redemption date, at the redemption price therein specified, and from and after the redemption date (unless the City defaults in the payment of the redemption price) such TIF Notes or portion of TIF Notes shall cease to bear interest. Upon surrender of such TIF Notes for redemption in accordance with such notice, the redemption price of such TIF Notes shall be paid by the Finance Officer. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any TIF Note, there shall be prepared for the Registered Owner a new TIF Note or TIF Notes of the same maturity in the amount of the unpaid principal as provided herein. All TIF Notes that have been redeemed shall be cancelled and destroyed by the Finance Officer as provided herein and shall not be reissued.

TIF Notes shall be redeemed only in the principal amount of One Thousand Dollars (\$1,000) or any integral multiple thereof. When less than all of the outstanding TIF Notes are to be redeemed and paid prior to maturity, such TIF Notes shall be selected by the Finance Officer in One Thousand Dollar (\$1,000) units of face value in such equitable manner as the Finance Officer may determine.

TIF Notes are issuable in the form of fully registered Notes without coupons in minimum denominations of One Hundred Thousand Dollars (\$100,000) or any integral multiple \$1,000 in excess thereof, except with respect to the Notes issued upon acceptance by the City of the final Certificate of Reimbursable Redevelopment Project Costs, which Notes may be issued in any denomination, subject to the limitation on the aggregate Principal Amount.

This TIF Note may be transferred or exchanged as provided in the Note Ordinance only upon the Register, upon surrender of this TIF Note together with a written instrument of transfer satisfactory to the Finance Officer duly executed by the Registered Owner or the Registered Owner's duly authorized agent.

THE OWNER HEREOF EXPRESSLY AGREES, BY SUCH OWNER'S ACCEPTANCE HEREOF, THAT THE

RIGHT TO PURCHASE, TRANSFER, ASSIGN OR NEGOTIATE THIS TIF NOTE SHALL BE LIMITED TO PURCHASE, TRANSFER, ASSIGNMENT OR NEGOTIATION TO APPROVED INVESTORS AND UPON THE EXECUTION BY THE PROPOSED PURCHASER OR TRANSFEREE OF AN INVESTMENT LETTER IN SUBSTANTIALLY THE FORM OF EXHIBIT C TO THE NOTE ORDINANCE, SIGNED BY THE PROPOSED PURCHASER OR TRANSFEREE, SHOWING THAT THE PROPOSED PURCHASER OR TRANSFEREE IS AN APPROVED INVESTOR. "Approved Investor" is defined in the Note Ordinance and includes, among others, (a) the Developer or any party or entity related to the Developer by one of the relationships described in Section 267(b) of the Internal Revenue Code of 1986, as amended, (b) an "accredited investor" under Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, (c) a "qualified institutional buyer" under Rule 144A promulgated under the Securities Act of 1933 or (d) any general business corporation or enterprise with total assets in excess of \$50,000,000.

Subject to the limitations of the preceding paragraph, upon surrender thereof at the office of the Finance Officer, the Finance Officer shall transfer or exchange any TIF Note for a new TIF Note of the same maturity and in the same principal amount as the outstanding principal amount of the TIF Note that was presented for transfer or exchange. Any TIF Note presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Finance Officer, duly executed by the Registered Owner thereof or by the Registered Owner's duly authorized agent.

IT IS HEREBY CERTIFIED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the TIF Notes have existed, happened and been performed in due time, form and manner as required by law.

[The remainder of this page is intentionally left blank.]

IN WITNESS WHEREOF, THE CITY OF ST. LOUIS, MISSOURI has executed this TIF Note by causing it to be signed by the manual or facsimile signature of its Mayor and Finance Officer and attested by the manual or facsimile signature of its City Register, and its official seal to be affixed or imprinted hereon, and this TIF Note to be dated as of the effective date of registration as shown on Schedule A attached hereto.

CITY OF ST. LOUIS, MISSOURI

By: _____
Mayor

By: _____
Finance Officer

Attest:

(Seal)

City Register

Approved as to Form:

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

(Print or Type Name, Address and Social Security Number or other Taxpayer Identification Number of Transferee)

the within TIF Note and all rights thereunder, and hereby irrevocably constitutes and appoints _____ agent to transfer the within Note on the books kept by the Finance Officer for the registration thereof, with full power of substitution in the

premises.

Dated: _____.

NOTICE: The signature to this assignment must correspond with the name of the Registered Owner as it appears on the face of the within Note in every particular.

Signature Guaranteed By:

(Name of Eligible Guarantor Institution)

By: _____
Title: _____

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution as defined by SEC Rule 17Ad-15 (17 CFR 240.17Ad-15).

SCHEDULE A

CERTIFICATE OF AUTHENTICATION

This TIF Note is one of the Series 200__ TIF Notes described in the within-mentioned Note Ordinance.

<u>Date⁽¹⁾</u>	<u>Additions to Principal Amount⁽²⁾</u>	<u>Principal Amount Paid</u>	<u>Outstanding Principal Amount</u>	<u>Authorized Signatory of Finance Officer</u>
_____	\$	\$	\$	

- (1) Date of approval of each Certificate of Reimbursable Redevelopment Project Costs, as provided in the Redevelopment Agreement (which constitutes Date of Authentication with respect to such portion of the Note), or Payment Date.
- (2) Limited to denominations of \$100,000 or any \$1,000 increment in excess thereof, except with respect to an advance pursuant to the final Certificate of Reimbursable Redevelopment Project Costs, which may be in any denomination, subject to the limitation on the aggregate principal amount provided for in the Note Ordinance.

**EXHIBIT G
Equal Opportunity and Nondiscrimination Guidelines**

In any contract for Work in connection with the Redevelopment Project related to any of the Property in the Redevelopment Area, the Developer (which term shall include the Developer, any transferees, lessees, designees, successors and assigns thereof, including without limitation any entity related to the Developer by one of the relationships described in Section 267(b) of the United States Internal Revenue Code of 1986, as amended), its contractors and subcontractors shall comply with all federal, state and local laws, ordinances or regulations governing equal opportunity and nondiscrimination (the "Laws"). Moreover, the Developer shall contractually require its contractors and subcontractors to comply with the Laws.

The Developer and its contractors or subcontractors shall not contract with any party known to have been found in violation of the Laws.

The Developer agrees for itself and its contractors and subcontractors that there shall be covenants to ensure that there shall be no discrimination on the part of the Developer or its contractors and subcontractors upon the basis of race, color, creed, national origin, sex, marital status, age, sexual orientation or physical handicap in the sale, lease, rental, use or occupancy of any of the Property or any improvements constructed or to be constructed on the Property or any part thereof. Such covenants shall run with the land and shall be enforceable by the St. Louis Development Corporation, the City and the United States of America, as their interest may appear in the Redevelopment Project.

The Developer shall make good faith efforts to observe Executive Order #28 dated July 24, 1997, relating to minority and women-owned business participation in City contracts.

The parties agree that the provisions of City Ordinance #60275, codified at Chapter 3.90 of the Revised Ordinances of the City of St. Louis, Missouri (the "First Source Jobs Policy"), do not specifically apply to the Developer as a potential recipient of TIF Notes, TIF Bonds and/or TIF Revenues. Nonetheless, the Developer voluntarily agrees to make good faith efforts to observe the provisions of the First Source Jobs Policy related to the negotiation of an employment agreement with the St. Louis Agency on Training and Employment.

**EXHIBIT I
MBE/WBE Subcontractors List**

Prior to the final approval of any contract resulting from this letting, the apparent low bidder will be evaluated as to the proposed utilization of City certified minority and women-owned business enterprises. This is in addition to any and all requirements in accordance with the Mayor's Executive Order of July 24, 1997, as amended. On the spaces provided below please list all subcontractors and suppliers, including M/WBES, proposed for utilization on this project. Work to be self-performed by the bidder is to be included.

FIRM NAME	MBE or WBE	BID ITEM(S) OF WORK TO BE PERFORMED	SUBCONTRACT OR SUPPLY CONTRACT AMOUNT

**EXHIBIT J
MBE/WBE Utilization Statement**

Policy: It is the policy of the City of St. Louis that minority and women-owned businesses, as defined in the Mayor's Executive Order of July 24, 1997, as amended, shall have an opportunity to participate in the performance of contracts utilizing City funds, in whole or in part. Consequently, the requirements of the aforementioned Executive Order apply to this contract.

Project and Bid Identification:

Contracting Agency: _____
 Project Name: _____
 Letting Number: _____ Date: _____
 Contract MBE/WBE Goal: 25% MBE and 5%WBE Participation
 Total Dollar Amount of Prime Contract: \$ _____
 Total Dollar Amount of Proposed MBE: \$ _____ Percent MBE _____
 Total Dollar Amount of Proposed WBE: \$ _____ Percent WBE _____

Obligation: The undersigned certifies that (s)he has read, understands and agrees to be bound by the bid specifications, including

the accompanying exhibits and other items and conditions of the request for proposals regarding minority and women business enterprise utilization. The undersigned further certifies that (s)he is legally authorized by the respondent to make the statements and representations in the M/WBE Forms and Exhibits and that said statements and representations are true and correct to the best of his/her knowledge and belief. The undersigned will enter into formal agreements with the minority/women business enterprises listed in the Subcontractor List, which are deemed by the City to be legitimate and responsible. The undersigned understands that if any of the statements and representations are made by the respondent knowing them to be false, or if there is a failure of the successful respondent to implement any of the stated agreements, intentions, objectives, goals and commitments set forth herein without prior approval of the City, then in any such events, the contractor’s act or failure to act, as the case may be, shall constitute a material breach of the contract, entitling the City to terminate the contract for default. The right to so terminate shall be in addition to, and not in lieu of, any other rights and remedies the City may have for other defaults under the contract. Additionally, the contractor may be subject to the penalties cited in Section Twelve of the Mayor’s Executive Order #28, as amended.

Assurance: I, acting as an officer of the undersigned bidder or joint venture bidders, hereby assure the City that on this project my company will (check one):

- _____ Meet or exceed contract award goals and provide participation as shown above.
- _____ Fail to meet contract award goals but will demonstrate that good faith efforts were made to meet the goals and my company will provide participation as shown above.

Name of Prime Contractor(s): _____

Prime Contractor Authorized Signature: _____

Title: _____

Date: _____

**EXHIBIT K
Form of Notice of Acquisition**

The undersigned, being a duly authorized officer of Loughborough Commons, LLC (the “Developer”), delivers this notice to the City of St. Louis, Missouri, in connection with the Redevelopment Agreement dated as of _____, 2005 (the “Agreement”). The undersigned hereby certifies that the Developer has acquired (a) legal title by negotiation and contract, (b) the contractual right to acquire, with all contingencies either met or waived, legal title by negotiation and contract, or (c) a commissioners’ award in condemnation, notwithstanding the pendency of any exceptions to such award, to all rights, title and interest of the Property that is located within Redevelopment Area, as legally described on **Exhibit A-1** attached hereto.

Loughborough Commons, LLC

By: _____

Title: _____

Approved: February 28, 2005