
SALE/LEASEBACK AND REDEVELOPMENT CONTRACT

Between

**LAND CLEARANCE FOR REDEVELOPMENT AUTHORITY
OF KANSAS CITY, MISSOURI**

And

KCAC PARTNERS, LLC

DATED AS OF DECEMBER 19, 2018

SALE/LEASEBACK AND REDEVELOPMENT CONTRACT

This SALE/LEASEBACK AND REDEVELOPMENT CONTRACT (“Contract”) is entered into effective as of the 19th day of December, 2018, by **LAND CLEARANCE FOR REDEVELOPMENT AUTHORITY OF KANSAS CITY, MISSOURI** (“Authority”), a public body corporate and politic organized under the laws of Missouri and the ordinances of the City of Kansas City, Missouri, and **KCAC PARTNERS, LLC**, a Missouri limited liability company (“Redeveloper”).

RECITALS

A. The Authority is a public body corporate and politic created by the LCRA Law and is transacting business and exercising the powers granted by the LCRA Law by virtue of Committee Substitute for Ordinance No. 16120, duly passed by the City Council on November 21, 1952.

B. The Redeveloper is a Missouri limited liability company with offices at 3299 K St. NW, Suite 700, Washington, D.C. 20007.

C. The Authority, on November 25, 1968, initially found the Urban Renewal Area is a blighted area and in need of redevelopment and is appropriate for an urban renewal project and approved the Urban Renewal Plan.

D. The City Council initially approved the Urban Renewal Plan by Ordinance No. 36287 passed on January 17, 1969, the purpose of which is to eliminate and prevent the spread, development and recurrence of the blighted conditions within the Urban Renewal Area.

E. On November 28, 2018, the Authority, by its Resolution No. 11-18, selected the Redeveloper as the redeveloper for the Project, approved sales tax exemption on construction materials and a sale/leaseback ownership structure during construction, approved 90% tax abatement for a period of ten (10) years, which ten (10) year period shall expire ten (10) years after issuance of a Certificate of Qualification for Tax Abatement, and authorized execution of this Sale/Leaseback and Redevelopment Contract.

F. Under the sale/leaseback arrangement, the Redeveloper will transfer the Property to the Authority and the Authority will lease it back to the Redeveloper during the Construction Period. At the end of the Construction Period, the Authority will transfer the Property back to the Redeveloper.

G. On or about November 28, 2018, the Authority and the Redeveloper entered into the Funding Agreement pursuant to which the Redeveloper agreed to pay to the Authority the funds necessary to enable the Authority to undertake the Project, as contemplated by this Contract.

H. On December 19, 2018, the Authority, by its Resolution No. 12--18, approved and authorized execution of this Contract, together with its authorization to issue the Bonds and to enter into the Lease and to execute such other documents and agreements necessary to carry out and comply with the intent of the Resolution.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and the mutual covenants and agreements contained in this Contract and other good and valuable mutual consideration, the receipt and sufficiency of which are acknowledged, the parties agree as follows:

ARTICLE I DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.01 Definitions. The following terms shall have the following meanings as used in this Contract:

“Acquisition Deed” means the special warranty deed, in substantially the form attached as Exhibit C, pursuant to which the Redeveloper shall convey title to the Property to the Authority.

“Affirmative Action Policy” means the policy or policies of the Authority pertaining to goals for (a) minority business enterprise and women’s business enterprise (“MBE/WBE”) participation under professional services and construction contracts in connection with the Project, and (b) construction workforce employment on a company-wide basis of minorities and women under construction contracts between the Redeveloper and construction contractors in connection with the Project, as such policy or policies may be amended from time to time.

"Applicable Law" means all then applicable statutes, laws, rules, regulations, ordinances, decrees, writs, judgments, orders and administrative and judicial opinions enacted, promulgated and/or issued by any federal, state, county, municipal or local governmental, quasi-governmental, administrative or judicial authority, body, agency, bureau, department, or tribunal.

"Authority" means the Land Clearance for Redevelopment Authority of Kansas City, Missouri, a public body corporate and politic created pursuant to the LCRA Law, and its successors and assigns and any surviving, resulting, or transferee entity.

"Board" means the Board of Commissioners of the Authority, which is the governing body of the Authority.

“Bond Purchase Agreement” means the Bond Purchase Agreement among the Authority, the Trustee, and the Redeveloper.

“Bonds” means the taxable bonds in one or more series to be issued by the Authority pursuant to due authority under the LCRA Law in an original principal amount not to exceed \$50,000,000.00 to fund all or a portion of the Project Costs. The Bonds are to be payable solely by Lease rental payments, revenues and receipts derived by the Authority from the Lease that will be sufficient to pay the principal and interest on the Bonds.

“Bond Documents” means the Indenture, the Lease, the Bond Purchase Agreement, and related documents for each series of the Bonds, as they each may be amended from time to time.

“Bond Trustee” means BOKF, N.A., a national banking association, and its successor or successors and any other corporation or association which at any time may be substituted in its place pursuant to and at the time serving as trustee under the Indenture.

“Certificate of Qualification for Tax Abatement” means the Certificate of Qualification for Tax Abatement issued by the Authority pursuant to Sections 99.700 to 99.715, RSMo.

"City" means the City of Kansas City, Missouri, a constitutional charter city and political subdivision of the State, and its successors and assigns.

"City Council" means the City Council of the City, which is the governing body of the City.

“Closing” means the closing of the transactions contemplated in this Contract to facilitate construction of the Project Improvements in accordance with this Contract and the Lease; provided that the parties acknowledge that the Redeveloper’s Loan closing may occur after the Closing Date but not later than the Commencement Date as defined herein.

“Closing Date” means the mutually agreeable date upon which the Authority issues Bonds, the Redeveloper conveys title to the Property to the Authority and the Authority leases the Property to the Redeveloper in accordance with this Contract and the Lease, which date shall not be later than the date in Section 5.01.

"Construction Contract" means each contract between the Redeveloper and any Construction Contractor for the construction of the Project Improvements on behalf of the Authority.

"Construction Contractor" means _____, a _____, having a usual place of business at, or any other construction contractor chosen by Redeveloper to construct all or any portion of the Project Improvements on behalf of the Authority.

"Construction Loan Agreement" means the **Construction Loan Agreement** between the Redeveloper and the Lender.

“Construction Period” means the period from the date upon which the Authority acquires the Property and issues the Bonds to the date that the City issues a certificate of occupancy allowing tenants to move into and occupy at least ninety percent (90%) of the units within the Project, provided that the Construction Period shall not extend past **January 1, 2021**, subject to Section 4.03. For clarification purposes, the Construction Period shall end on the date that the City issues a certificate of occupancy as specified in the foregoing sentence and not on the date that the Project is at least ninety percent (90%) occupied.

“Construction Period PILOT” means the amount that the Redeveloper is required to pay during the Construction Period to each Taxing Jurisdiction as specified in Section 3.03.

"Completion Certificate" means the certificate to be issued by the Authority pursuant to Section 4.04 of this Contract upon completion of the Project by the Redeveloper in accordance with this Contract, the Redevelopment Plan, and the Urban Renewal Plan.

"Completion Date" means the date on which the Redeveloper has completed the Project in accordance with this Contract, the Redevelopment Plan and the Urban Renewal Plan.

"Contract" means this Sale/Leaseback and Redevelopment Contract, entered into by the Authority and the Redeveloper, as may be amended.

“Controlled Affiliate” means, with respect to Redeveloper, any entity directly or indirectly controlled by or under common control with Redeveloper. For purposes of this definition, the terms "control," and "controlled" shall include the ownership, control or power to vote at least fifty one percent (51%) or more of (A) the outstanding shares of any class of voting securities, or (B) the partnership, limited liability company or beneficial interests of any entity, directly or indirectly, or acting through one or more persons or entities.

"Cure Period" means a period of thirty (30) days after written notice is given by the Authority to the Redeveloper of an Event of Default, as defined in Article V of this Contract, during which time the Redeveloper may cure any such Event of Default; provided, however that the Cure Period shall be extended for such additional time, as determined by the Authority, as may be reasonably necessary for the Redeveloper to achieve a cure if: (i) the Redeveloper has commenced curing such Event of Default during the thirty (30) day period; (ii) the Redeveloper gives written notice during the 30-day period to the Authority detailing the reason(s) for the extended Cure Period and the estimated length of the extended Cure Period; and (iii) the Redeveloper is diligently proceeding to achieve a cure during the extended Cure Period.

“Environmental Law” means any applicable federal, state or local law, regulation, order, decree, permit, authorization, opinion, common law relating to: (i) the protection, investigation or restoration of the environment, health, safety, or natural resources; (ii) the handling, use, presence, disposal, release, or threatened release of any Hazardous Substance; (iii) noise, odor, wetlands, pollution, or contamination; or (iv) standards of conduct concerning

protection of human health (including, without limitation, employee health and safety), in each case as amended and as now or hereafter in effect.

"Executive Order" means Executive Order 11246 of September 24, 1965 which addresses equal employment opportunity.

"Force Majeure Conditions" means a condition by reason of which the construction of the Project Improvements or completion of the Project is prevented or materially impeded through no fault of the Redeveloper, due to acts of God, extreme and extraordinary weather conditions, strikes, lockouts, labor troubles, inability to procure materials, failure of power, extreme and extraordinary governmental delay, riots, or other events or circumstances beyond such party's control; provided, however that the Redeveloper has given written notice to the Authority of the existence of the condition reasonably promptly after first becoming aware of the condition.

"Funding Agreement" means the Funding Agreement between the Authority and the Redeveloper on or about November 28, 2018, pursuant to which the Redeveloper agreed to pay fees of, and costs incurred by, the Authority in conjunction with the Project, as may be amended from time to time.

"Hazardous Substance" means any material or substance that is: (A) oil or other petroleum products, (B) "hazardous wastes," as defined by the Resource Conservation and Recovery Act, as amended, (RCRA), 42 U.S.C. § 6901 *et seq.*, or similar state or local law, ordinance, regulation, or order, (C) "hazardous substances," as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, (CERCLA), 42 U.S.C. § 9601 *et seq.*, or similar state or local law, ordinance, regulation, or order, (D) "hazardous materials," as defined by the Hazardous Materials Transportation Act, as amended, (HMTA), 49 U.S.C. § 1802, or similar state or local law, ordinance, regulation, or order, (E) radioactive materials subject to the Atomic Energy Act, as amended, (AEA), 42 U.S.C. § 2014 *et seq.*, or similar state or local law, ordinance, regulation, or order, and (F) any other pollutant, contaminant, chemical, substance whose presence creates or could create a hazard to health or the environment or a violation of any Applicable Law or any federal, state, or local Environmental Law.

"Indenture" means the Trust Indenture between the Authority and BOKF, N.A., as bond trustee.

"LCRA Law" means the Land Clearance for Redevelopment Authority Law, Sections 99.300, *et seq.*, as amended from time to time.

"Lease" means the Lease Agreement to be entered into between the Authority and the Redeveloper, as may be amended from time to time, pursuant to which the Authority shall lease the Property to the Redeveloper.

“Leasehold Deed of Trust” means that Leasehold Deed of Trust and Security Agreement pursuant to which the Redeveloper shall grant a lien against the Redeveloper’s leasehold interest in the Property under the Lease to the Lender.

“Lender” means _____, a _____, or any other bank financing all or a part of the acquisition of the Property and the construction of the Project.

“Loan” means that construction loan from the Lender to the Redeveloper in the approximate principal amount of _____ Dollars (\$_____).

“Loan Documents” means the **Construction Loan Agreement, the Note, the Leasehold Deed of Trust**, and such other assignments, guarantees, escrow agreements, estoppel certificates and other documents required by the Lender or the title company in connection with the Loan and the disbursement of Loan proceeds.

“Materials” means construction materials and supplies necessary for and used in the construction of the Project Improvements.

“Note” means the Promissory Note issued by the Redeveloper evidencing the Loan.

“Payment in Lieu of Taxes” or “PILOT” means the amount which is due and payable by the Redeveloper to the Jackson County, Missouri Collector for distribution, in the proper proportional share, as applicable, to each Taxing Jurisdiction.

“Permitted Exceptions” means those Encumbrances described on attached Exhibit D.

“Project” means the Project Improvements to be developed at 106 W. 11th Street and completed in accordance with this Contract, the Redevelopment Plan, and the Urban Renewal Plan.

“Project Costs” means all expenses of, or incidental to, the acquisition of the Property and the financing, design, construction, reconstruction, renovation, equipping, rehabilitation, repair, alteration, and improvement and completion of the Project, and all other fees and costs, including, without limitation, legal fees and costs, incurred by the Authority in conjunction with the Project.

“Project Improvements” means the redevelopment of the historic 22-story Mark Twain Tower located at 106 W. 11th Street for a mixed-use project consisting of approximately 202 apartment units, approximately 18,000 square feet of ground floor retail space, and related residential improvements and amenities including a swimming pool, basketball court, gym, event space, and other related improvements to be accomplished on the Property in accordance with this Contract, the Redevelopment Plan, and the Urban Renewal Plan.

"Property" means all of the real property legally described in the attached Exhibit A, including specifically the Project Improvements and related improvements to be constructed on the Property and any and all alterations, additions or improvements to the Property, together with the rights, easements and appurtenances appertaining thereto.

"Redeveloper" means KCAC Partners, LLC, a Missouri limited liability company.

"Redevelopment Plan" means the plan attached to and incorporated into this Contract as Exhibit B, pursuant to which the Redeveloper will complete the Project, as amended from time to time in accordance with Section 4.02.

"State" means the State of Missouri.

"Suppliers" means persons or entities that sell Materials used in construction of the Project Improvements.

"Tax Abatement Period" means the period beginning upon the filing of the Certificate of Qualification for Tax Abatement with the Jackson County, Missouri Assessor and expiring ten (10) years after the Certificate of Qualification for Tax Abatement is filed with the Assessor for Jackson County, Missouri ("Jackson County Assessor") in accordance with the LCRA Law.

"Tax Abatement Period PILOT" means the amount that the Redeveloper is required to pay during the Tax Abatement Period to the Jackson County, Missouri Collector as specified in Section 4.08.

"Taxing Jurisdiction" means any taxing district or governmental jurisdiction imposing or assessing *ad valorem* real property taxes against the Property.

"Transaction Document" or **"Transaction Documents"** means this Contract, the Funding Agreement, the Bond Documents, the Transfer Deed, the Urban Renewal Plan, the Certificate of Qualification for Tax Abatement, and any other document related to the Project and the transactions contemplated by this Contract.

"Transfer Deed" means the special warranty deed, in substantially the form attached as Exhibit E, pursuant to which the Authority shall convey title to the Property to the Redeveloper.

"Urban Renewal Area" means the Central Business District Urban Renewal Area, as amended.

"Urban Renewal Plan" means the Central Business District Urban Renewal Plan, as amended.

"Workable Program" means The Workable Program of Land Clearance for Redevelopment Authority of Kansas City, Missouri, and the Rules for the Implementation of The

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Workable Program of Land Clearance for Redevelopment Authority of Kansas City, Missouri, approved by the Board by Resolution Nos. 10-9-00 and 10-10-00 dated October 4, 2000, as amended from time-to-time.

Section 1.02 Other Defined Terms. Words and phrases that are not capitalized shall have the meaning, if any, given to such words or phrases in the LCRA Law. If not defined in the LCRA Law, such terms shall be given their plain and ordinary meaning.

Section 1.03 Headings. The headings and captions of this Contract are for convenience and reference only, and in no way define, limit or describe the scope or intent of this Contract or any provision of this Contract.

Section 1.04 Accounting Terms. Accounting terms used in this Contract and not otherwise specifically defined shall have the meaning ascribed such terms by generally accepted accounting principles as from time to time in effect.

Section 1.05 Rules of Construction. Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, the words importing the singular shall include the plural and vice versa, and words importing person shall include entities, associations and corporations, including public bodies, as well as natural persons.

Section 1.06 Conflicting Provisions. In the event of any conflict between the terms of this Contract and the Redevelopment Plan, the terms of this Contract shall prevail.

ARTICLE II REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 2.01 Representations, Warranties and Covenants of the Redeveloper. The Redeveloper represents, warrants and covenants that:

(a) The Redeveloper is a Missouri limited liability company, duly created and existing under the laws of the State and is authorized to do business in the State.

(b) The Redeveloper has full power and authority to enter into this Contract and to carry out its obligations under this Contract, and, by proper actions of its members/owners has been duly authorized to execute and deliver this Contract.

(c) This Contract will be the valid and binding obligation of Redeveloper, enforceable against the Redeveloper in accordance with its terms.

(d) Neither the execution and delivery of this Contract, nor the fulfillment of or compliance with the terms and conditions of this Contract, nor the consummation of the transactions contemplated by this Contract, conflicts with or results in a breach of the

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terms, conditions or provisions of any restriction or any agreement or instrument to which the Redeveloper is now a party or by which the Redeveloper is bound.

(e) There is no litigation or other proceedings pending or threatened against the Redeveloper or, to Redeveloper's knowledge, any other person affecting the right of the Redeveloper to execute or deliver this Contract or the ability of the Redeveloper to comply with its obligations under this Contract and the Funding Agreement. As used in this Contract "knowledge" shall mean knowledge Redeveloper would have reasonably obtained after making due and appropriate inquiry with respect to the particular matter in question.

(f) The Project will advance the purposes of the LCRA Law.

(g) The Redeveloper will pay, or cause to be paid, the property taxes assessed against the Property and any Construction Period PILOT and Tax Abatement Period PILOT required by this Contract.

(h) The Redeveloper shall comply with the requirements of the Workable Program, except that the Authority and the Redeveloper acknowledge that Exhibit 1 to the Workable Program does not apply to this Project.

(i) Except as disclosed by the documents and reports set forth at Exhibit F attached hereto, to the Redeveloper's knowledge the Property has not become contaminated with any Hazardous Substances above any *de minimis* non-reportable levels.

(j) Based upon the documents and reports set forth at Exhibit F and previously provided to the Authority, the Redeveloper has neither received notice and, to Redeveloper's knowledge, it is not aware that it or any previous owner of the Property is subject to liability for any Hazardous Substance disposal or contamination on the Property above any *de minimis* non-reportable levels, nor has it received notice that it or any previous owner of the Property is subject to liability for any release or threat of release of any Hazardous Substance.

(k) The Redeveloper has good, valid and marketable title to the Property, free and clear of all encumbrances, except for the Permitted Exceptions, and at Closing will obtain a release of any deed of trust and termination of any financing statement on the Property securing the Redeveloper's obligations under any loan(s) affecting the Property.

(l) Neither the Redeveloper nor any of its members, managers, or employees has employed any broker or finder or incurred any liability for any financial advisory fees, brokerage fees, commissions or finder's fees, and no broker or finder has acted

directly or indirectly for the Redeveloper in connection with this Contract or the transactions contemplated by the Transaction Documents.

Section 2.02 Representations, Warranties and Covenants of the Authority. The Authority represents, warrants and covenants that:

(a) The Authority is a public body corporate and politic duly organized under the laws of the State and ordinances of the City and has corporate power to enter into this Contract. The Board has duly authorized the negotiation, execution and delivery of this Contract.

(b) No commissioner of the Authority or any other officer of the Authority has any conflicting interest (financial, employment or otherwise) in the Redeveloper, the Project or the transactions contemplated by this Contract.

Section 2.03 Survival of Representations, Warranties and Covenants. All representations, covenants and warranties of the Redeveloper and the Authority contained in this Contract, in any certificate or other instrument delivered by the Redeveloper or the Authority pursuant to this Contract, or otherwise made in conjunction with the Project, transactions contemplated by this Contract shall survive the execution and delivery of this Contract.

ARTICLE III

ACQUISITION, LEASE AND TRANSFER OF PROPERTY, AND RESTRICTIONS ON USE

Section 3.01 Acquisition of the Property. The Redeveloper is the owner of the Property as of the Effective Date. Subject to the terms and conditions of this Contract, the Permitted Encumbrances, and the full consummation of the transactions contemplated by the Transaction Documents, Redeveloper agrees to convey to the Authority, and the Authority agrees to acquire from the Redeveloper pursuant to the Acquisition Deed, the Property. The conveyance of the Property and the consummation of the transactions contemplated by the Transaction Documents are being undertaken by the Authority to facilitate the Redeveloper's elimination of blight within the Urban Renewal Area and to provide assistance to the Redeveloper in achieving that goal. All costs of the Authority associated with the acquisition and leasing of the Property and performance of the Authority's obligations under this Contract and the Transaction Documents shall be funded by the Redeveloper pursuant to this Contract, the Funding Agreement, and the Transaction Documents.

Section 3.02 Title to and Lease of the Property. The Authority shall hold title to the Property during the term of the Lease and issue the Bonds. Effective immediately upon the execution and delivery of the Acquisition Deed, the Authority agrees to lease to the Redeveloper and the Redeveloper agrees to lease from the Authority the Property subject to and in accordance with the terms and conditions of the Lease. Until termination of the Lease, the Authority shall own the Property and lease the Property to the Redeveloper pursuant to the terms of the Lease.

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The parties acknowledge that the intent of the described leaseback structure is to assist the Project for the public purpose of eliminating and preventing the spread, development and recurrence of blighted and insanitary conditions within the Urban Renewal Area by utilizing the Authority's real property tax exemption and sales tax exemption based on the Authority's ownership of the Property and its ownership of the Project and the Project Improvements. The parties further acknowledge that the Jackson County, Missouri Assessor could determine that "bonus value" exists under Missouri law and declare all or a portion of the Property and/or leasehold interest created by the Lease taxable and in such event the Redeveloper shall be fully and solely responsible for payment of any "bonus value" assessment against the Property and/or leasehold interest created by the Lease, subject to the Redeveloper's right to protest any such assessment as set out in the Lease.

Notwithstanding anything in this Contract or any Transaction Document to the contrary, the Redeveloper acknowledges that the Authority makes no representation or warranty that the Authority's tax-exempt status will remain in effect throughout the duration of the term of the Lease and that the Authority has made no representation or warranty concerning the tax-exempt status of the Project and the Authority shall have no liability to the Redeveloper if any taxing authority shall deny exemption from the payment of taxes. Notwithstanding any provision to the contrary contained in this Contract, if any taxing authority shall deny the exemption from the payment of property tax or sales tax on any portion of the Project, the Redeveloper or any designee thereof may, at its sole cost and expense, contest such denial and if it is ultimately determined that the contested property tax or sales tax is due and payable on any portion of the Project then the Redeveloper shall pay all such applicable property tax or sales tax. Furthermore, in the event that the Authority's tax-exempt status is reduced or eliminated due to a change in Applicable Law as to all or any part of the Authority's ownership interest in the Property and ownership of the Project and the Project Improvements, then the Redeveloper shall be solely responsible for payment of any taxes, fees, interest, charges, penalties, or special assessments or other costs assessed or imposed against the Authority's ownership interest in the Property and its ownership of the Project and the Project Improvements for so long as the Lease is effective. The Redeveloper shall indemnify, defend and hold the Authority harmless from any taxes, fees, interest, charges, penalties, special assessments, "bonus value" assessment or other costs assessed or imposed against the Property or the leasehold interest created by the Lease, including reasonable attorney's fees incurred by the Authority in connection with any such assessment or imposition. The Redeveloper's obligations under this Section shall survive the termination of this Contract.

Section 3.03 Construction Period PILOT. Each full or partial year during the Construction Period, the Redeveloper shall pay a PILOT to the Jackson County Collection Department in an amount equal to the *ad valorem* taxes plus assessments assessed against the Property based on the Property's current market value of \$4,752,000 assessed at the commercial rate of 32% (as currently abated under the 353 Contract (as defined below)) and which would otherwise be due and payable but for the Authority's ownership of the Property ("Construction Period PILOT"). The Redeveloper's obligation to pay Construction Period PILOTs and the procedures for billing, collection and enforcement of each Construction Period PILOT payment

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shall be governed by subsections (a) – (c) of Section 4.08 below, except that all references to “Tax Abatement Period PILOT” in such subsections shall be replaced by “Construction Period PILOT” for the purpose of construing the rights and obligations of the Redeveloper, the Authority and the Taxing Jurisdictions in connection with any Construction Period PILOT. The Redeveloper's obligation to pay the Construction Period PILOT shall run with the land and be binding upon the Redeveloper and its successors and assigns during the Construction Period. The Redeveloper acknowledges that the Construction Period PILOT is intended to require the Redeveloper to pay during the Construction Period an amount equal to the Redeveloper’s current tax liability for the Property.

Section 3.04 Redeveloper's Option to Purchase. Subject to the terms and conditions of Section 11.1 of the Lease, the Redeveloper shall have the option to repurchase the Property and the Project Improvements from the Authority pursuant to the terms of the Lease.

Section 3.05 Authority's Option to Transfer. Subject to the terms and conditions of the Lease, the Authority has the option to transfer title to the Property and Project Improvements to the Redeveloper pursuant to the terms of the Lease.

Section 3.06 Transfer of the Property to the Redeveloper upon Lease Termination. The parties acknowledge that the term of the Lease coincides with the Construction Period of the Project Improvements and that the Lease is intended to terminate at such time as the Project Improvements are complete as provided in the Lease. Subject to the terms and conditions of Section 11.4 of the Lease, the Authority agrees to transfer title to the Redeveloper at the end of the Lease term.

Section 3.07 Condition to Receive Tax Abatement. The Redeveloper acknowledges that the Authority agrees to issue a Certificate of Qualification for Tax Abatement for the Property subject to: (a) the Redeveloper’s completion of the Project in accordance with this Contract and the Urban Renewal Plan; (b) the Property is transferred to the Redeveloper as provided under this Contract and the Lease; and (c) the Redeveloper’s use of the Project Improvements as described in Exhibit B.

Section 3.08 Use Restrictions.

(a) The Redeveloper covenants and agrees for itself and its successors and assigns and every successor in interest to all or any part of the Property and/or all or any part of the Project Improvements for so long as this Contract is in effect, that the Redeveloper and such successors and assigns shall:

(1) devote all uses of the Property and the Project Improvements in accordance with and subject to the provisions regarding use set forth in the Urban Renewal Plan; and

(2) not discriminate on the basis of race, color, religion, sex, or national origin in the sale, lease or rental or in the use or occupancy of all or any part of the Property and/or all or any part of the Project Improvements.

(b) It is intended and agreed that the covenants provided in this Section shall be covenants running with the land binding to the fullest extent permitted by law and equity for the benefit and in favor of, and enforceable by: the Authority, its successors and assigns, the City, any successor in interest in the Property or any part of the Property, the owner of any other real estate or of any interest in real estate that is subject to the real estate use requirements and restrictions of the Urban Renewal Plan, and in regard to the use restriction provided in subsection (a)(2) of this Section, the United States, against the Redeveloper, its successors and assigns, and every successor in interest to the Property, or any part thereof or any interest therein, and any party in possession or occupancy of the Property or any part thereof.

(c) The covenant in subsection (a)(1) of this Section shall remain in effect for the duration of the Urban Renewal Plan, and any renewal period or periods thereof, at the end of which time it shall cease and terminate. The covenant provided in subsection (a)(2) of this Section shall remain in effect without limitation as to time.

ARTICLE IV

REDEVELOPMENT PLAN, CONSTRUCTION OF PROJECT IMPROVEMENTS AND TAX ABATEMENT

Section 4.01 Construction and Sales Tax Exemption.

(a) The Redeveloper shall close on the Loan transaction and commence or cause the commencement of construction of the Project Improvements no later than _____, 2019 ("Commencement Date"). The Redeveloper shall complete or cause the completion of the Project Improvements on the earliest to occur of: (a) the date that is not more than thirty (30) days after a certificate of occupancy ("Certificate of Occupancy") is issued by the City allowing tenants to move into and occupy at least ninety percent (90%) of the Project; or (b) **January 1, 2021**, subject to extensions granted pursuant to Section 4.03 (the "Completion Date"). The limitation of time for commencement and completion may be extended by written agreement between the parties. For clarification purposes, the threshold for determining the Completion Date under (a) is intended to relate to the date that at least ninety percent (90%) of the Premises is complete and available for occupancy as evidenced by the Certificate of Occupancy and not the date that the Premises is at least ninety percent (90%) occupied.

(b) The Redeveloper shall enter into the necessary contracts with the Construction Contractor and other contractors or subcontractors (each a "Construction Contractor") for the construction of the Project Improvements on behalf of the Authority and the Redeveloper shall cause those contracts to provide that all work performed under

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such contracts shall be in accordance with the Redevelopment Plan, this Contract and the Urban Renewal Plan. The Redeveloper shall cause the Construction Contract and each related subcontractor construction contract (each a "Construction Contract") to include provisions satisfactory to the Authority in substantially the following form:

(1) necessary to assure that the Construction Contractor includes in contracts with the Suppliers that sell the Materials necessary for the construction of the Project Improvements: (A) a provision acknowledging that title to the Materials shall pass directly to the Authority from the Supplier, but only after the Materials have been inspected and accepted by the Construction Contractor or Redeveloper, acting as the agents of the Authority; and (B) a provision that requires Suppliers to properly submit detailed Invoices for Materials for review and approval to the Redeveloper and the Authority or the Authority's designee, which Invoices for Materials, upon their approval, will be forwarded for payment in accordance with the Bond Documents;

(2) stating that the invoices for Materials must reflect that the Redeveloper or the Construction Contractor is purchasing the Materials on behalf of the Authority as the Authority's agent or subagent, respectively;

(3) requiring that the Redeveloper and the Construction Contractor keep full and complete records of the Materials purchased on behalf of the Authority, and providing that the Redeveloper and the Authority shall each have reasonable access to those records, as may be necessary or desirable to ascertain that the Materials are, in fact, being acquired in accordance with this Contract;

(4) providing that all work performed under such contracts shall be in accordance with the Urban Renewal Plan and this Contract, as applicable;

(5) providing that the Redeveloper and the Construction Contractor acknowledge and affirm that they are each buying the Materials on behalf of, and as agent or subagent, respectively, for, the Authority and that the Construction Contractor further acknowledges and affirms that any such Materials purchased are the sole property of the Authority; and

(6) ensuring that all payments for the Materials shall be made using funds of the Authority and that all payments are made in accordance with the draw request process specified in the Bond Documents.

(c) Agent. The Authority appoints and, confirms the appointment of the Redeveloper as its agent to purchase the Materials for and on behalf of the Authority. The Redeveloper has the right to make the Construction Contractor a subagent for the purchase of the Materials and, accordingly, the Redeveloper appoints the Construction Contractor as subagent for the Authority for the limited purpose of purchasing the

Materials. The Authority and the Redeveloper confirm that the Construction Contractor is authorized to appoint its subcontractors as subagents of the Authority for the limited purpose of purchasing Materials. The Authority will provide its sales tax exemption certificate to Redeveloper and Construction Contractor (and others purchasing Materials at the request of Redeveloper and/or Construction Contractor) for purposes of purchasing the Materials. Notwithstanding anything in this Contract or any Transaction Documents to the contrary, the Redeveloper acknowledges that the Authority makes no representation or warranty with respect to any sales tax exemption during the Construction Period and that the Authority's sales tax exemption certificate applies only to purchases of eligible construction Materials made pursuant to this Contract and after the Authority has acquired the Property and issued the Bonds. In the event that the Authority's tax exempt status is reduced or eliminated, or Authority is otherwise unable to effectively extend sales tax exemption as a result of circumstances, including, but not limited to, a: (i) change in Applicable Law as to the purchase of all or any Materials used for construction of the Project Improvements; or (ii) lawsuit or administrative proceeding challenging the validity or legality of the sales tax exemption granted by the Authority during the Construction Period and which results in a determination by a court of competent jurisdiction or by a federal or State agency or department that the sales tax exemption is invalid or illegal, then the Redeveloper shall be fully responsible for payment of any sales taxes, use taxes, interest, fees, charges, or penalties levied or imposed against the Authority. The Redeveloper shall indemnify, protect, defend, and hold the Authority and its officers, commissioners, agents, and employees harmless from and against any and all sales taxes, use taxes, interest, fees, charges, penalties, claims, demands, liabilities, and costs, including reasonable attorneys' fees, costs and expenses, resulting or arising from, or otherwise incurred in connection with, the Authority's inability to effectively extend sales tax exemption as intended by this Contract and such indemnification obligations shall survive termination of this Contract.

(d) Title. Title to the Materials shall pass to the Authority directly from the Suppliers, but only after the Materials have been inspected and accepted by the Redeveloper acting as the agent of the Authority (or by the Construction Contractor or another person or entity acting as the Redeveloper's subagent); thereafter title to the Materials shall remain in the Authority unless and until transferred, together with the Authority's title to the Property, by the Authority pursuant to the Lease.

(e) Disbursement of Project Financing. The Redeveloper acknowledges and affirms that the Authority's undertakings under the terms and provisions of this Contract are providing significant economic benefits to the Redeveloper and the Project Improvements. In consideration of such significant economic benefits being provided to the Redeveloper, the Redeveloper acknowledges and affirms that the proceeds of the Bonds and other amounts necessary to cause the construction of the Project and payable under the Lease are the sole and exclusive property of the Authority and the proceeds of the Bond and other amounts necessary to cause the construction of the Project and payable under the Lease are to be used in part for the purpose of purchasing services and

Materials for the acquisition and construction of the Project Improvements; provided, however, that the review and approval of invoices for services and Materials may be undertaken by the Redeveloper, as the agent of the Authority, the Authority or the Construction Inspector (as defined below) as the Authority's designee, the Lender, and any other party to the applicable Transaction Documents. The proceeds from the Bonds shall be disbursed in accordance with the terms of the applicable Bond Documents.

(f) Enforcement of Warranties for Materials. The Redeveloper, in its capacity as the agent of the Authority, is granted the right to make on behalf of the Authority, all warranty, indemnification, or other claims to enforce any of the Authority's warranty rights granted by manufacturers or sellers of the Materials. The Redeveloper is assigned the benefits derived by the Authority from the actions of the Redeveloper taken pursuant to this Section, insofar as such rights relate to the Materials.

NOTWITHSTANDING ANYTHING TO THE CONTRARY IN THE FOREGOING PARAGRAPH, THE REDEVELOPER RECOGNIZES THAT, BECAUSE THE MATERIALS AND COMPONENTS OF THE PROJECT HAVE BEEN DESIGNATED AND SELECTED BY THE REDEVELOPER, THE AUTHORITY HAS NOT MADE AN INSPECTION OF THE MATERIALS OR OF ANY FIXTURE OR OTHER ITEM CONSTITUTING A PORTION OF THE PROJECT, AND THE AUTHORITY MAKES NO WARRANTY OR REPRESENTATION, EXPRESS OR IMPLIED OR OTHERWISE, WITH RESPECT TO THE SAME OR THE LOCATION, USE, DESCRIPTION, DESIGN, MERCHANTABILITY, FITNESS FOR USE FOR ANY PARTICULAR PURPOSE, CONDITION OR DURABILITY THEREOF, OR AS TO THE QUALITY OF THE MATERIALS OR WORKMANSHIP THEREIN, IT BEING AGREED THAT ALL RISKS INCIDENT THERETO ARE TO BE BORNE BY THE REDEVELOPER. IN THE EVENT OF ANY DEFECT OR DEFICIENCY OF ANY NATURE IN THE MATERIALS OR ANY FIXTURE OR OTHER ITEM CONSTITUTING A PORTION OF THE PROJECT, WHETHER PATENT OR LATENT, THE AUTHORITY SHALL HAVE NO RESPONSIBILITY OR LIABILITY WITH RESPECT THERETO. THE PROVISIONS OF THIS SECTION ARE INTENDED TO BE A COMPLETE EXCLUSION AND NEGATION OF ANY WARRANTIES OR REPRESENTATIONS BY THE AUTHORITY, EXPRESS OR IMPLIED, WITH RESPECT TO THE MATERIALS OR ANY FIXTURE OR OTHER ITEM CONSTITUTING A PORTION OF THE PROJECT.

(g) Cost Certification. As a material inducement for the Authority to enter into this Contract, the Redeveloper shall pay the costs and fees incurred by the Authority to review and cost certify the invoices for Materials submitted to the Authority pursuant to this Article to ensure that the Materials are properly being purchased and used in the construction of the Project Improvements in accordance with this Contract. The Authority may undertake the cost certification process internally or engage a third-party reasonably satisfactory to the Redeveloper to provide cost certification services to the

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Authority and the Redeveloper shall pay the costs and fees incurred by the Authority whether the Authority performs such services internally or engages a third-party cost certifier, or rely on the work of an inspector ("Construction Inspector") hired by the Lender. The Authority intends to rely on the work of the Construction Inspector, provided that the Authority promptly receives copies of any documentation prepared and delivered by the Construction Inspector to the Lender and the Redeveloper and that the Authority shall not be responsible for paying for any fees or costs charged or incurred by the Construction Inspector in connection with the Project. The Authority may also perform such other cost certification work internally as the Authority may deem necessary or desirable at its own cost. The Authority will not hire a third-party cost certifier without prior notice to and consent of the Redeveloper.

Section 4.02 Redevelopment Plan; Modifications. The Redeveloper shall diligently pursue completion of the Project in conformance with the Redevelopment Plan, this Contract, and the Urban Renewal Plan. Should the Redeveloper deem it necessary or desirable to amend the Redevelopment Plan, the Redeveloper shall submit such proposed modifications to the Authority, including plans and specifications for Project Improvements and a timeline for completion of the Project. The Authority shall review such modification within a reasonable time and shall send written notice of the Authority's approval or rejection of the modifications to the Redeveloper. If the Authority rejects any such modification, the notice so stating shall set forth the reasons for rejection.

Section 4.03 Extensions Due to Force Majeure Conditions. The time limit for the Completion Date may be extended due to any Force Majeure Condition if the Redeveloper notifies the Authority of the existence of such condition reasonably promptly after first becoming aware of such condition. The extension of time for the Completion Date shall be for the period of any delay or delays caused or resulting from any Force Majeure Condition; provided, however, the Redeveloper must notify the Authority of the existence of such delaying event within forty five (45) days after the commencement of such Force Majeure Condition, which notice to the Authority shall include documentation or other information reasonably necessary to establish the existence of the delaying event and an estimate of the approximate period of delay to be created by that event. The Redeveloper's failure to provide such notice and documentation shall eliminate the waiver of default due to such delaying event created in this Section.

Section 4.04 Completion Certificate. On or after the Completion Date, the Redeveloper shall send a written request to the Authority for a Completion Certificate. The Completion Certificate shall be a conclusive determination of the Redeveloper's satisfaction and termination of the covenants in this Contract regarding completion of the Project within the dates for commencement and completion set forth in this Contract and in accordance with the Urban Renewal Plan, the Redevelopment Plan and this Contract. The Completion Certificate shall be in recordable form. If the Authority fails or refuses to provide the Completion Certificate after receiving a written notice requesting such certificate, the Authority shall, within thirty (30) days of receiving such request, provide the Redeveloper with a written statement indicating in reasonable detail how the Redeveloper has failed to complete the Project in conformity with the

Urban Renewal Plan, the Redevelopment Plan, and/or this Contract and the measures or acts necessary, in the opinion of the Authority, for the Redeveloper to take or perform in order to obtain a Completion Certificate.

Section 4.05 Maintenance. The Redeveloper and its successors and assigns shall, at all times during the term of this Contract, maintain the Property and the Project Improvements in a good state of repair and attractive appearance.

Section 4.06 Payment of Fees, Costs and Expenses. The Redeveloper shall advance funds and pay to the Authority all fees owed to the Authority and all expenses and costs incurred by the Authority in performance of its obligations under this Contract and the Transaction Documents, all in the manner prescribed in this Contract, the Funding Agreement and the Transaction Documents.

Section 4.07 Tax Abatement. The Authority approved ninety percent (90%) tax abatement for the Project during the Tax Abatement Period. Subject to the terms and conditions of this Contract and within 14 days after Redeveloper's request, the Authority shall issue and file its Certificate of Qualification for Tax Abatement with the Jackson County Assessor on or about the Completion Date, or if requested by Redeveloper, such earlier date as the Authority may deem necessary or desirable after the Project is substantially complete. The Redeveloper acknowledges that following filing with the Jackson County Assessor, the Certificate of Qualification for Tax Abatement must also be signed by the Jackson County Assessor (or designee) and by the City and that the Authority shall be in compliance so long as the Authority files the Certificate of Qualification for Tax Abatement within the 14-day period even if the Jackson County Assessor and City signatures are not obtained within such period. For purposes of this Contract, the Project shall not be deemed to be substantially complete until the City has issued a temporary certificate of occupancy or a certificate of occupancy and the Authority has verified compliance with the terms and conditions of this Contract. The Authority and the Redeveloper acknowledge that, pursuant to the LCRA Law, upon receipt of the Certificate of Qualification for Tax Abatement, the Jackson County Assessor will issue a statement as to the then current assessed valuation of the Property, which valuation shall be the maximum total assessed value of the Property. The Jackson County Assessor's statement will include the assessed value of the Property for the year in which the Authority issued the Certificate of Qualification for Tax Abatement ("Maximum Assessed Value").

The obligation to pay the *ad valorem* taxes assessed against the Property by the Jackson County Assessor, as such taxes are abated in accordance with this Contract and the LCRA Law and any Tax Abatement Period PILOT required under Section 4.08, shall run with the land and shall be binding on the Redeveloper and its successors, assigns and subsequent owners of the Property.

Section 4.08 Tax Abatement Period PILOT. For each year during the Tax Abatement Period, the Redeveloper shall be obligated to pay a Tax Abatement Period PILOT in an amount equal to ten percent (10%) of the *ad valorem* taxes that would be assessed against the true value

of the Property as improved with the Project Improvements and payable but for the Authority's issuance of its Certificate of Qualification for Tax Abatement pursuant to this Contract.

The Redeveloper acknowledges that the Tax Abatement Period PILOT payments as set forth above shall be in addition to the base *ad valorem* property taxes assessed against the Property in each year of the Tax Abatement Period that are not abated pursuant to the LCRA Law and that it is anticipated that the Jackson County, Missouri Assessor will establish the base assessed value for the Property at not less than \$902,880, which is derived from the current market value of \$4,752,000 multiplied by the residential assessment rate of 19%. The base assessed value for the Property may increase if the market value increases before the Authority's Certificate of Qualification for Tax Abatement is issued. The Redeveloper further acknowledges that there may also be special assessments assessed against the Property during the Tax Abatement Period over and above the amount of the base *ad valorem* property taxes and that the Redeveloper shall be responsible for paying such special assessments.

The process for collection and payment of the Tax Abatement Period PILOT is as follows:

(a) No separate bill for the Tax Abatement Period PILOT will be delivered to the Redeveloper by the Authority; provided, however, the Authority will provide to the Jackson County, Missouri Collector an executed copy of this Contract or such other information as the Jackson County, Missouri Collector may reasonably request to enable the Jackson County, Missouri Collector to prepare and deliver to the Redeveloper, its successors or assigns, or subsequent purchasers of the Property, a separate tax bill in the amount of the PILOT for each year that a PILOT payment is due and payable under this Contract. Concurrently with payment of the Tax Abatement Period PILOT to the Jackson County, Missouri Collector, Redeveloper shall provide notice to the Authority of such payment.

(b) The obligation to pay the Tax Abatement Period PILOT due under this Contract shall be a covenant running with the land and shall be binding on the Redeveloper, its successors or assigns, and subsequent purchasers of the Property, regardless of whether or not the Redeveloper, its successors or assigns, or subsequent purchasers of the Property receive a separate tax bill from the Jackson County, Missouri Collector for any PILOT due and payable under this Contract; provided, however, that such covenant shall terminate upon termination of the Tax Abatement Period as provided herein. The Redeveloper agrees that delinquent Tax Abatement Period PILOTs are subject to interest and penalties at the same rate as *ad valorem* property taxes and further agrees that delinquent Tax Abatement Period PILOTs will be subject to collection in the same manner as *ad valorem* property taxes, including a lien enforceable against the Property, by the Authority or the Taxing Districts.

(c) Notwithstanding the foregoing, the Authority and the Redeveloper expressly acknowledge that the Authority shall have no responsibility or liability to bill

or collect the Tax Abatement Period PILOT. The Authority may, but is not obligated to, enforce the Redeveloper's payment of the Tax Abatement Period PILOT and if the Authority elects to enforce the Redeveloper's payment obligation (either by itself or in conjunction with any Taxing Jurisdiction) the Redeveloper shall pay all reasonable costs incurred by the Authority (include attorney's fees) in connection therewith. The Authority hereby names the Taxing Jurisdictions as third-party beneficiaries to this Contract for the limited purpose of enforcing the Redeveloper's obligation to pay Tax Abatement Period PILOTs as provided in this Contract and if any Taxing Jurisdiction elects to enforce the Redeveloper's payment obligation (either by itself or in conjunction with the Authority) the Redeveloper shall pay all reasonable costs incurred by any Taxing Jurisdiction (including attorney's fees) in connection therewith. The Redeveloper indemnifies and agrees to protect, defend and hold harmless the Authority and the Authority's commissioners, officers, directors, employees, agents, affiliates, successors and assigns, from and against all claims, demands, losses, damages, costs, expenses, liabilities, taxes, assessments, fines, penalties, charges, administrative and judicial proceedings and orders, judgments, causes of action, remedial action requirements and/or enforcement actions of any kind (including, without limitation, attorney's fees and court or similar costs) directly or indirectly arising out of or attributable to in whole or in part the calculation, billing, collection or enforcement of the Tax Abatement Period PILOT.

Section 4.09 Tax Abatement Under the LCRA Law. Notwithstanding anything in this Contract to the contrary, the procedure for tax abatement is set forth in Sections 99.700 to 99.715, RSMo, of the LCRA Law and the tax abatement provided by the Authority under this Contract shall be subject to and in accordance with the LCRA Law. The Authority makes no representation regarding the base tax year or the base assessed value used by the Jackson County Assessor to determine the Maximum Assessed Valuation of the Property for the Tax Abatement Period.

ARTICLE V CLOSING; DEFAULT AND TERMINATION

Section 5.01 Date, Time and Place of Closing. The Closing shall take place at such date, time and place as may be mutually agreed upon by the parties, provided that such date shall coincide with the closing for the Bonds. In the event the Closing does not occur on or before _____, 2019, then the Authority shall have the right to terminate this Contract by written notice to that effect to the Redeveloper.

Section 5.02 Obligations at Closing. At the Closing each party shall execute and deliver to the other the applicable Transaction Documents and take such other actions as are required pursuant to the provisions of this Contract. Each party shall also execute and deliver at the Closing such other documents and instruments as are normal, usual and customary for like or similar transactions.

Section 5.03 Conditions to Closing by the Authority. All obligations of the Authority to participate in the Closing are expressly conditioned upon the following:

- (a) The Redeveloper's representations, warranties and covenants contained in this Contract shall be true and correct at and as of the Closing Date, with the same effect as if made on the Closing Date.
- (b) The Redeveloper shall have, in all material respects, observed, performed and/or complied with all terms, conditions, duties, obligations and/or covenants required by this Contract and the other Transaction Documents to be performed, observed and/or complied with on or prior to the Closing.
- (c) The Redeveloper and the Authority shall be ready, willing and able to close on the Bonds.
- (d) The Redeveloper shall not be in default under this Contract, the Funding Agreement or any other Transaction Document.
- (e) The Redeveloper, at its cost, obtains and provides to the Authority the most recent Phase I Environmental Assessment performed on the Property, which shall not be dated more than one hundred eighty (180) days before the Closing Date. The Phase I Environmental Assessment shall be certified to the Authority and the Authority shall be able to rely on the Phase I Environmental Assessment in all respects in connection with the Authority's acquisition and lease of the Property.
- (f) The Redeveloper, at its cost, obtains and provides to the Authority from a company duly qualified to issue such insurance in the State of Missouri, a title commitment and an owner's policy of title insurance, including such policy endorsements as the Authority may request, naming the Authority as the insured in an amount acceptable to the Authority.
- (g) The Redeveloper, at its cost, obtains and provides to the Authority evidence of the insurance policies the Redeveloper is required to obtain and maintain under this Contract and the Lease listing the Authority as an additional insured.
- (h) The Redeveloper deposits with the title company or the Bond Trustee the funds required to be paid by the Redeveloper under this Contract, the Lease, the Bonds, and the Funding Agreement necessary to close the financing and real estate transactions as contemplated therein.
- (i) The Redeveloper has caused the termination and release of the 353 Contract and related tax abatement as provided in Section 15.16 below.

Section 5.04 Transfer of Possession. Pursuant to the Lease, possession of the Property shall be retained by the Redeveloper following Closing.

Section 5.05 Other Transaction Expenses. Notwithstanding any provisions of Applicable Laws imposing the burden of such expense on Redeveloper or on Authority, as the case may be, Redeveloper shall be responsible for and shall pay all costs and expenses (including, without limitation, the Authority's reasonable attorneys' fees) incurred by either party in connection with the consummation of the transactions contemplated by the Transaction Documents, and the enforcement of their rights hereunder.

Section 5.06 Events of Default Defined. The following shall be "Events of Default" under this Contract and the terms "Events of Default" and "Default" shall mean, whenever they are used in this Contract, any one or more of the following events:

(a) Failure by the Redeveloper to observe and perform any covenant, condition or agreement on its part to be observed or performed under this Contract, which failure continues uncured following the Cure Period, specifically including, without limitation, payment of the Construction Period PILOT and the Tax Abatement Period PILOT.

(b) The filing by the Redeveloper of a voluntary petition in bankruptcy, or failure by the Redeveloper to promptly lift any execution, garnishment or attachment of such consequence as would impair the ability of the Redeveloper to carry on its operation, or adjudication of the Redeveloper as a bankrupt, or assignment by the Redeveloper for the benefit of creditors, or the entry by the Redeveloper into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the Redeveloper in any proceedings whether voluntary or involuntary instituted under the provisions of the federal bankruptcy laws, as amended, or under any similar acts which may hereafter be enacted.

(c) The occurrence of an Event of Default by the Redeveloper or a default under the Funding Agreement or any Transaction Document by the Redeveloper which is not cured within any applicable cure period set forth in the Funding Agreement or Transaction Document.

(d) Failure by the Redeveloper to achieve a record discharge of a mechanic's lien or similar lien as provided in Article IX of this Contract.

(e) The failure of the Redeveloper to close on the Loan and commence construction of the Project prior to or on the Commencement Date.

(f) The failure of the Redeveloper to complete the Project prior to or on the Completion Date, unless such date shall be extended by the period of time equal to delays caused by any Force Majeure Conditions, as provided in Section 4.03.

Section 5.07 Remedies on Default.

(a) Whenever any Event of Default shall have occurred and be continuing, the Authority shall have the right, at its option and without any further demand or notice, to take whatever action at law or in equity may appear necessary or desirable to enforce performance and observance of any obligation, agreement, or covenant of the Redeveloper under this Contract, including, but not limited to, the following:

(1) institute such proceedings as may be necessary or desirable in the Authority's sole opinion to compensate the Authority for any damages resulting from all breaches by the Redeveloper, including, but not limited to, proceeding for breach of contract and/or damages;

(2) terminate this Contract and any tax abatement relating to the Property if the Event of Default occurs after the Authority's issuance of its Certificate of Qualification for Tax Abatement; or

(3) terminate this Contract and transfer the Property to the Redeveloper as permitted under the Lease if the Event of Default occurs before the Authority's issuance of its Certificate of Qualification for Tax Abatement.

(b) Notwithstanding anything to the contrary set forth in this Contract, the Authority shall, in no way, be limited to the terms of this Contract in enforcing, implementing and/or otherwise causing performance of the provisions of this Contract, the Redevelopment Plan and/or Urban Renewal Plan or in exercising its right and authority to condemn the Property after the Redeveloper's Default and failure to cure during the Cure Period as provided in this Contract.

Section 5.08 No Waiver. No delay or omission of the Authority to exercise any right or remedy occurring upon an Event of Default shall impair any such right or remedy or constitute a waiver of any such Event of Default or an acquiescence in such Event of Default. Every right and remedy given by this Article or by law to the Authority may be exercised from time to time and as often as may be deemed expedient by the Authority. No waiver of any breach of any covenant or agreement contained in this Contract shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement. In case of a breach by the Redeveloper of any covenant, agreement or undertaking by the Redeveloper, the Authority may nevertheless accept from the Redeveloper any payment or payments made under this Contract without in any way waiving right of the Authority to exercise any of its rights and remedies provided for in this Contract with respect to any such default or defaults of the Redeveloper which were in existence at the time such payment or payments were accepted by the Authority.

Section 5.09 Rights and Remedies Cumulative. The rights and remedies reserved by the Authority in this Contract and those provided by law shall be construed as cumulative and

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continuing rights and may be exercised concurrently or alternatively. No one of them shall be exhausted by the exercise of such option on one or more occasions.

Section 5.10 Termination of Lease and this Contract. This Contract shall survive the termination of the Lease and the closing to re-transfer the Property to the Redeveloper in accordance with the Lease. At such time as this Contract terminates, the terms set forth in Article VI and Article X shall survive the termination of this Contract.

ARTICLE VI

SPECIAL COVENANT AND DAMAGES FOR BREACH

Section 6.01 Project Covenant. It is acknowledged that the Authority's willingness to enter into this Contract and carry out the Authority's obligations under the Transaction Documents is based on the anticipated benefits (the "Public Benefits") to be derived in the City through the Redeveloper's completion of the Project and the proper maintenance of the Project and/or any Project Improvements. Authority and Redeveloper acknowledge that the Public Benefits to be derived from the Project are that the Redeveloper will build and maintain the Project Improvements during the term of the Urban Renewal Plan. Accordingly, and as a material inducement to the Authority to enter into this Contract and consummate the transactions contemplated by the Transaction Documents, the Redeveloper covenants and agrees that it will at all times during the term of the Urban Renewal Plan, as may be amended from time to time, either perform or cause to be performed the following: (a) complete and operate the Project and the Project Improvements; (b) maintain the Property and the Project Improvements in good condition; and (c) observe and perform every other term, covenant, condition, or agreement to be observed or performed by Redeveloper under this Contract (the "Project Covenant").

Section 6.02 Remedy Upon Breach of Project Covenant. If the City does not, in the Authority's reasonable discretion, realize the Public Benefits, then the Redeveloper shall be in breach and violation of the Project Covenant. The parties acknowledge that the damages that will be incurred upon any breach or violation of the Project Covenant would be impossible to ascertain with any reasonable degree of certainty. Nevertheless, the parties have attempted to fairly approximate the amount of such damages, and have agreed that upon any breach or violation of the Project Covenant, the Redeveloper shall be liable to pay to the Authority as agreed liquidated damages (and not as a penalty), immediately upon demand, a sum equal to the aggregate amount of the *ad valorem* real property taxes which were not assessed but could have been assessed and payable with respect to the Property and Project Improvements assuming: (a) after the Authority acquires the Property and before the Authority's issuance of the Certificate of Qualification for Tax Abatement, the Redeveloper (and not the Authority) owned title to the Property and the Project Improvements, or (b) after the Authority's transfers the Property back to the Redeveloper and after the Authority's issuance of the Certificate of Qualification for Tax Abatement, the Authority had not issued a Certificate of Qualification for Tax Abatement pursuant to the LCRA Law for the Property and Project Improvements (the "Project Covenant Liquidated Damages"). Without limiting the Authority's remedies upon an Event of Default by the Redeveloper or the Authority's right to transfer the Property back to the Redeveloper, payment of the Project Covenant Liquidated

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Damages by the Redeveloper shall be the Authority's remedy for a breach or violation of the Project Covenant. A violation of the Project Covenant by the Redeveloper shall be an Event of Default.

ARTICLE VII RISK OF LOSS AND INSURANCE

Section 7.01 Risk of Loss. So long as the Property is owned by the Redeveloper and/or the Authority, all risk of loss with respect to the Property and the Project Improvements shall be borne by the Redeveloper.

Section 7.02 Insurance. For so long as the Lease is in effect, the Redeveloper shall, at its expense, obtain and maintain or cause to be maintained the insurance policies and coverage as specified in the Lease and, to the extent that the Lender requires that the Redeveloper obtain and maintain additional insurance policies or coverage amounts, then the Redeveloper shall also obtain and maintain or cause to be maintained such additional policies or coverage at its expense. After the Lease has been terminated and the Property and the Project Improvements transferred back to the Redeveloper, the Redeveloper shall, at its expense, maintain or cause to be maintained a policy of all risk casualty insurance insuring the Property and the Project Improvements and, to the extent that the Lender requires that the Redeveloper obtain and maintain additional insurance policies or coverage amounts, then the Redeveloper shall also obtain and maintain or cause to be maintained such additional policies or coverage at its expense. Duplicate copies or certificates of such policy bearing notations evidencing payment of premiums or other evidence of such payment shall be furnished to the Authority. Such policy shall include a waiver of subrogation consistent with the release described in Section 7.04 below. In addition, the Redeveloper shall cause the Authority to be named as an additional insured on all policies the Redeveloper is required to procure and maintain under this Contract, the Lease, the Loan Documents, and the Bond Documents.

Section 7.03 Blanket Insurance Policies. The Redeveloper may satisfy any of the insurance requirements set forth in this Article by using blanket policies of insurance, provided each and all of the requirements and specifications of this Article respecting insurance are complied with.

Section 7.04 Release. Anything in this Contract to the contrary notwithstanding, it is agreed that each party hereby releases the other from any claim, demand, or cause of action arising out of any loss or damage to the Property caused by a peril insurable pursuant to an all risk casualty insurance policy in standard form available in the State.

ARTICLE VIII COMPLIANCE WITH APPLICABLE LAWS

The Redeveloper shall, at its sole cost and expense, comply with all Applicable Laws. The Redeveloper shall also comply with the requirements, rules and regulations of all insurers under the policies required to be carried under this Contract. The Redeveloper shall pay all costs, expenses, claims, fines, penalties and damages incurred by Authority and Redeveloper that may in any manner arise out of, or be imposed as a result of, the failure of the Redeveloper to comply with the

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provisions of this Article. Notwithstanding any provision contained in this Article, however, the Redeveloper shall have the right, at its sole cost and expense, to contest or review, by legal or other appropriate procedures, the validity or legality of any such Applicable Laws, or any such requirement, rule or regulation of an insurer, and during such contest or review the Redeveloper may refrain from complying therewith to the extent such noncompliance is expressly permitted by law and provided that such noncompliance does not result in adverse action being taken against the Project, the Property, the Authority or the City.

ARTICLE IX LIENS

Section 9.01 Discharge of Lien. The Redeveloper shall not do or suffer anything to be done by any person or entity whereby all or any part of the Property or the Project Improvements may be encumbered by any mechanics' or other similar lien while the Authority or the Redeveloper is the owner of the Property or the Project Improvements (including the Redeveloper's leasehold interest under the Lease). Whenever and as often as any mechanics' or other similar lien is filed against all or any part of the Property or the Project Improvements owned by the Authority or the Redeveloper (including the Redeveloper's leasehold interest under the Lease) purporting to be for or on account of any labor done or materials or services furnished in connection with any work in or about the Property or the Project Improvements, the Redeveloper, at the Redeveloper's sole cost and expense, shall notify the Authority and the Lender and discharge the same of record within thirty (30) days after the date of filing. Notice is hereby given that the Authority shall not be liable for any labor or materials furnished by the Redeveloper or anyone claiming by, through or under the Redeveloper upon credit.

Section 9.02 Lien Contest. Notwithstanding Section 9.01 above, the Redeveloper may post a bond in or pay into escrow an amount equal to one hundred and twenty-five percent (125%) of the amount being contested or provide such other assurances, including, but not limited to, title insurance, as the Authority and the Lender may approve in writing if the Redeveloper (1) within five (5) business days after the Redeveloper becomes aware of the filing any such lien, notifies the Authority and the Lender in writing of its intention so to do, (2) diligently prosecutes such contest, (3) at all times effectively stays or prevents any official or judicial sale of the Property, or any part thereof or interest therein (including the Redeveloper's leasehold interest under the Lease), under execution or otherwise, (4) pays or otherwise satisfies any final judgment enforcing such contested lien claim, and (5) thereafter immediately procures record release or satisfaction thereof and provides copies of the same to the Authority and the Lender. The Redeveloper may permit the lien so contested to remain unpaid during the period of such contest, and any appeal therefrom unless the Redeveloper is notified by the Authority that by nonpayment of any such items, the interest of the Authority or the Redeveloper in the Property will be subject to loss or forfeiture. In that event, the Redeveloper shall immediately, at its own expense, take such action as may be reasonably necessary to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim if the same shall arise at any time. If the Redeveloper fails to discharge any such lien either by failing to elect one of these options under Sections 9.01 or 9.02 or by failing to procure a record release or satisfaction of any final judgment

enforcing such contested lien claim, then the Authority or the Lender may, but neither shall be obligated to, take such action and pay such amounts as may be necessary in order to cause such lien to be discharged of record in order to comply with the terms of the Bond Documents; provided, however, if the Authority or the Lender fail or decline to duly discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim within twenty (20) days after the 30-day period described in Section 9.01 or, if the lien is contested pursuant to this Section 9.02, the issuance of a final judgment enforcing such contested lien claim, the Authority shall have the right, notwithstanding anything in the Bond Documents to the contrary, to transfer the Property and the Project Improvements to the Redeveloper and terminate the Lease. The Redeveloper shall indemnify and save and hold harmless the Authority from any loss, costs, or expenses, including attorney's fees, the Authority may incur related to any such contest. The Redeveloper shall reimburse the Authority for any expense incurred by it in connection with the imposition of any such lien or in order to discharge or remove any such mortgage, pledge, lien, charge, encumbrance or claim. For so long as the Authority is the owner of the Property, the Authority agrees to cooperate with the Redeveloper in any such contest provided the Redeveloper is not in default under this Contract or the Lease and the Redeveloper adheres to the requirements in this Section 9.02.

ARTICLE X INDEMNIFICATION

Section 10.01 Indemnity. The Redeveloper indemnifies and agrees to protect, defend and hold harmless the Authority and the Authority's commissioners, officers, directors, employees, agents, affiliates, successors and assigns, from and against all claims, liens, demands, losses, damages, costs, expenses, injuries to persons or property, liabilities, taxes, payments in lieu of taxes, assessments, fines, penalties, charges, administrative or judicial proceedings, orders, judgments, causes of action, remedial action requirements, and/or enforcement actions of any kind (including, without limitation, attorney's fees and court or similar costs) directly or indirectly arising out of or attributable to in whole or in part:

- (a) the material inaccuracy of any representation or the material breach of any representation, covenant or warranty of the Redeveloper contained in this Contract;
- (b) the Redeveloper's acquisition, development, ownership, occupancy, possession, lease, or use of the Property and the Project Improvements, unless directly caused by the gross negligence or willful misconduct of the Authority;
- (c) the failure on the part of the Redeveloper to perform, observe and/or comply with any covenant, obligation or duty to be performed, observed and/or complied with by the Redeveloper pursuant to the terms of this Contract or any other Transaction Document;
- (d) any condition of, on or in the Property or the Project Improvements or any part thereof caused by any act or omission of the Redeveloper or the Redeveloper's

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agents, contractors, subcontractors, servants, employees, members, officers, directors, licensees or invitees or any other person or entity for whose acts or omissions the Redeveloper is otherwise responsible pursuant to Applicable Law;

(e) the performance or non-performance by Redeveloper of any Transaction Document, contract, agreement, obligation or undertaking entered into by the Redeveloper (whether as the agent of the Authority or otherwise) in connection with all or any part of the Project; and/or

(f) any act or omission of the Redeveloper or any of the Redeveloper's agents, contractors, subcontractors, servants, employees, members, officers, directors, licensees, or invitees, or any other person or entity for whose acts or omissions the Redeveloper is otherwise responsible pursuant to Applicable Law, including, without limitation, failure to pay prevailing wages or to provide payment and performance bonds to the extent, if any, required under Applicable Law.

Section 10.02 Environmental.

(a) The Redeveloper covenants that it shall not place or cause to be placed, nor permit any other person to place or cause to be placed, any Hazardous Substances on or about the Property or the Project Improvements above any *de minimis* non-reportable levels reasonably necessary to the Redeveloper's use of the Property or the Project Improvements.

(b) The Redeveloper indemnifies and agrees to protect, defend and hold harmless, the Authority and the Authority's officers, directors, commissioners, employees, agents, affiliates, successors and assigns (except to the extent intentionally and directly caused by any such indemnified party), from and against any and all claims, liens, demands, losses, damages, costs, expenses, liabilities, assessments, fines, penalties, charges, administrative or judicial proceedings, orders, judgments, causes of action, defects in title, remedial action requirements, and/or enforcement actions of any kind (including, without limitation, attorneys' fees and costs) directly or indirectly arising out of or attributable to, in whole or in part, (i) the breach of the covenants of the Redeveloper contained in this Section 10.02, or (ii) the use, handling, generation, manufacture, production, storage, release, threatened release, discharge, treatment, removal, transport, decontamination, cleanup, disposal, and/or presence of Hazardous Substances on, under, from or about the Property or the Project Improvements, or (iii) any other activity carried on or undertaken on or off the Property, whether prior to or during the ownership of the Property by the Authority, and whether by the Redeveloper or any other predecessor in title or any employees, agents, contractors, or subcontractors of the Redeveloper or any other predecessor in title, or any third persons at any time occupying or present on the Property, in connection with the use, handling, generation, manufacture, production, storage, release, threatened release, discharge, treatment, removal, transport, decontamination, cleanup, disposal, and/or presence of any Hazardous Substance at any time located, transported or present on, under,

from, to or about the Property or the Project Improvements, including without limitation: (A) all consequential damages; (B) the cost of any required or necessary repair, cleanup, or detoxification of the Property or the Project Improvements and the preparation and implementation of any closure, remedial or other required plans; and (C) liability for personal injury or property damage arising under any statutory or common-law tort theory, including damages assessed for the maintenance of a public or private nuisance, response costs or for the carrying on of any abnormally dangerous activity.

(c) The foregoing indemnity obligation includes without limitation: (i) the costs of removal or remedial action incurred by the United States government or the State or response costs incurred by any other person, or damages from injury to, destruction of, or loss of natural resources, including the cost of assessing such injury, destruction or loss, incurred pursuant to the Comprehensive Environmental Response, Compensation and Liability Act of 1980 as amended ("CERCLA"), 42 U.S.C. §9601 *et seq.*; (ii) the clean-up costs, fines, damages or penalties incurred pursuant to any applicable provisions of State law; and (iii) the cost and expenses of abatement, correction or cleanup, fines, damages, response costs or penalties which arise from the provisions of any other Applicable Law.

(d) The foregoing indemnity shall further apply to any residual contamination on, under, from or about the Property or the Project Improvements, or affecting any natural resources, arising in connection with the use, handling, generation, manufacturing, production, storage, release, discharge, treatment, removal, transport, decontamination, cleanup, disposal, and/or presence of any such Hazardous Substance on, under, from or about the Property or the Project Improvements and irrespective of whether any of such activities were or will be undertaken in accordance with any Applicable Laws. This indemnity is intended to be operable under 42 U.S.C. Section 9607(e)(1), and any successor section thereof, and shall survive the termination of this Contract in all respects.

Section 10.03 Redeveloper's Obligation on the Bonds. The Redeveloper hereby indemnifies and agrees to hold harmless and defend the Authority from and against any and all loss, liability, damage, claim, fine, penalty, judgment, cost and expense of any nature whatsoever, including, without limitation, reasonable attorneys' fees and expenses, arising from or in connection with the Redeveloper's failure to perform its obligations under this Contract and the Transaction Documents with respect to any obligation under the Bond Documents, including, without limitation, the repayment of the Bonds.

Section 10.04 Failure to Discharge Liabilities. The Redeveloper hereby indemnifies and agrees to hold harmless and defend the Authority from and against any and all loss, liability, damage, claim, fine, penalty, judgment, cost and expense of any nature whatsoever, including, without limitation, reasonable attorneys' fees, arising from or in connection with: (i) any transferee liability law; (ii) any payment or performance by the Authority to any third party in order to perform or discharge fully or partially any liability or obligation of the Redeveloper which the Authority shall have the option, but shall not be required, to perform or discharge if demand is made on the Authority therefor and threatened to be charged against the Property and

the Redeveloper fails to defend against or perform or discharge the same or otherwise to provide reasonable evidence to the Authority that the Redeveloper will comply with its indemnification obligations hereunder, at no cost or expense to the Authority; and/or (iii) any judgment or other circumstances pursuant to which the Authority may be held liable or accountable for, or the Property required hereunder may be charged in respect of, any liability or obligation of the Redeveloper.

Section 10.05 Enforcement Expenses; Survival of Indemnification Obligations. The indemnity obligations contained in this Contract include within them all costs and expenses (including, without limitation, reasonable attorneys' fees) incurred in enforcing any right to indemnity contained in this Contract. All indemnification obligations of the Redeveloper under this Article X shall survive the termination of this Contract.

ARTICLE XI ASSIGNMENT

Section 11.01 Successors and Assigns. This Contract shall be binding upon and shall inure to the benefit of the Redeveloper and its successors and assigns, and any subsequent purchaser of the Property (provided, however, that this provision shall not be deemed to permit an assignment of this Contract except as specifically provided in this Article), and the term "Redeveloper" as used in this Contract shall be deemed to include such successors and assigns.

Section 11.02 General Assignments. The Redeveloper shall not assign this Contract without the prior written consent of the Authority, which consent may be granted, denied, or conditioned in the sole discretion of the Authority; provided, however, that leasing of individual units and/or commercial space within the Project within the Redeveloper's normal course of business is not to be construed as an assignment of this Contract. Notwithstanding the foregoing, the Redeveloper, upon prior written notice to the Authority, shall be permitted to assign this Contract without consent of the Authority to any Controlled Affiliate of the Redeveloper and such affiliate shall be deemed to assume and agree to keep, observe and perform all of the terms, covenants, obligations (including specifically, without limitation, indemnification obligations) and provisions of this Contract. Upon any assignment by Redeveloper as permitted under this Contract, this Contract shall be binding upon and shall inure to the benefit of the assignee or to any successor entity and the assignment instrument shall be recorded in the Office of the Recorder of Deeds for Jackson County, Missouri. Notwithstanding anything in Section 11.02 to the contrary with respect to an assignment to a Controlled Affiliate, the form of any such assignment instrument shall be subject to the approval of the Authority, which approval shall not be unreasonably withheld.

The Authority shall have the right to assign or otherwise transfer this Contract to the City, or to any successor entity created by the City to perform the same functions as the Authority and upon such assignment or other transfer, this Contract shall be binding upon and shall inure to the benefit of the City or to any such successor entity.

Section 11.03 Sale or Disposition of Property Following Issuance of a Certificate of Completion. In the event of the sale or other disposition of any or all of the Property by reason of the foreclosure of any mortgage or other lien, through insolvency or bankruptcy proceedings, by order of any court of competent jurisdiction, or by voluntary transfer or otherwise, the tax abatement provided in Section 4.08 of this Contract and under the provisions of the LCRA Law and the Urban Renewal Plan shall inure, with respect to the real property so sold or otherwise disposed of, to any purchaser or transferee of such real property so long as (i) the Authority approves assignment of this Contract to such purchaser or transferee as provided in Sections 11.01 and 11.02; (ii) such purchaser or transferee continues to use, operate, and maintain such real property in accordance with the provisions of the Urban Renewal Plan and this Contract, including, without limitation, payment of the Tax Abatement Period PILOT as provided in Section 4.08; and (ii) the Redeveloper shall comply with the provisions in the Lease for assignment of obligations thereunder. However, if the purchaser or transferee does not desire to continue to own and operate the Property under the terms of the Urban Renewal Plan, effective as of the date of such election or such use, the Property may be assessed for *ad valorem* taxes based upon the full true value of such real property and may be owned and operated free from any of the conditions, restrictions, or provisions of this Contract, the LCRA Law and the Urban Renewal Plan, subject, however, to proper termination of this Contract, proper termination of the Bond Documents, and to the Jackson County Assessor's acceptance of the Authority's request to cancel its Certificate of Qualification for Tax Abatement before expiration of the Tax Abatement Period. If the Jackson County Assessor declines to accept the Authority's request or it is determined that the Certificate of Qualification for Tax Abatement cannot be legally cancelled before expiration of the Tax Abatement Period, then the Redeveloper shall cause the purchaser or transferee shall pay, for each year during the remainder of the Tax Abatement Period, payments in lieu of taxes in an amount equal to the *ad valorem* taxes that would be assessed against the Property and the Project Improvements if a Certificate of Qualification for Tax Abatement had not been issued pursuant to mutually acceptable terms of an amendment to this Contract or, if this Contract is properly terminated, a separate PILOT agreement. If this Contract is amended or a separate PILOT agreement entered into as set forth in the previous sentence, such amended Contract or separate PILOT agreement shall specify that the Project Covenant no longer is applicable and shall not require payment of Project Covenant Liquidated Damages or any similar penalty, clawback, fine, fee or recapture of the Public Benefits provided pursuant to this Contract.

ARTICLE XII

EQUAL EMPLOYMENT OPPORTUNITY

Section 12.01 Equal Employment Opportunity During Performance of this Contract. With respect to this Project, during the performance of this Contract, the Redeveloper agrees, for itself and its successors and assigns, as follows:

- (a) The Redeveloper will not discriminate against any employee or applicant for employment because of race, color, religion, sexual orientation, family status, handicap, sex, or national origin. The Redeveloper will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sexual orientation, family status, handicap, sex, or

national origin. Such action shall include, but not be limited to the following: employment, upgrading, demotion or transfer, recruitment or recruitment advertising; rates of pay or other forms of compensation; and selection for training, including apprenticeship. The Redeveloper agrees to post in conspicuous places, available to employees and applicants for employment, notices to be provided by the Authority setting forth the provisions of this nondiscrimination clause.

(b) The Redeveloper will, in all solicitations or advertisements for employees placed by or on behalf of the Redeveloper, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sexual orientation, family status, handicap, sex or national origin.

(c) The Redeveloper will send to each labor union or representative of workers with which it has a collective bargaining agreement or other contract or understanding, a notice advising the labor union or workers' representative of the Redeveloper's commitments under Section 202 of Executive Order 11246, and shall post copies of the notice in conspicuous places available to employees and applicants for employment.

(d) The Redeveloper will comply with all provisions of the Executive Order, and of the rules, regulations and relevant orders of the Secretary of Labor.

(e) The Redeveloper will furnish all information and reports required by the Executive Order, and by the rules, regulations, and orders of the Secretary of Labor, or pursuant thereto, and will permit access to its books, records and accounts by the Authority and the Secretary of Labor for purposes of investigation to ascertain compliance with such rules, regulations, and orders.

(f) In the event of the Redeveloper's non-compliance with the non-discrimination clauses of this Contract or with any of such rules, regulations, or orders, this Contract may be canceled, terminated or suspended in whole or in part and the Redeveloper may be declared ineligible for further government contracts and/or federally assisted construction contracts in accordance with the procedures authorized in the Executive Order, and such other sanctions may be imposed and remedies invoke as provided in the Executive Order, or by rule, regulation, or order of the Secretary of Labor, or as otherwise provided by law.

Section 12.02 Inclusion of Equal Employment Opportunity Provisions in Contracts. The Redeveloper agrees, for itself and its successors and assigns, that it will include the provisions listed in Section 12.01 in every contract or purchase order unless exempted by the rules, regulations, or orders of the Secretary of Labor issued pursuant to section 204 of Executive Order 11246, so that such provision will be binding upon each contractor or vendor that does business with the Redeveloper in conjunction with the Project, as well as those contractor's subcontractors. For the purpose of including the provisions of Section 12.01 in any construction

contract or purchase order, the terms "Authority", "Redeveloper" and "Contract" may be changed to appropriately reflect the name or designation of the parties to such contract or purchase order.

Section 12.03 Modification of Requirements. Upon the issuance of additional or conflicting rules, regulations, or orders of the Secretary of Labor pursuant to section 204 of the Executive Order, the requirements of this Article shall automatically be amended to conform and comply with such changes.

Section 12.04 Determination of Compliance. For the sole purpose of determining the Redeveloper's compliance with the provisions of this Article, the Authority and its duly appointed agents shall be permitted, at reasonable times, and after three (3) days prior notice to the Redeveloper, to examine the books and records of the Redeveloper.

ARTICLE XIII AMERICANS WITH DISABILITIES ACT

With respect to the Project, the Redeveloper shall comply with the provisions of the Americans with Disabilities Act ("ADA"), 42 U.S.C. A Section 1201, et seq., as amended from time to time, and regulations promulgated under the ADA, including, without limitation, 28 C.F.R. Part 35 and 29 C.F.R. Part 1630.

ARTICLE XIV
AFFIRMATIVE ACTION: MINORITY BUSINESS ENTERPRISES/WOMEN'S
BUSINESS ENTERPRISES AND CONSTRUCTION WORKFORCE EMPLOYMENT

The Redeveloper shall comply with the provisions of the Affirmative Action Policy of the Authority, as amended from time to time, which policy requires that the Redeveloper make a good faith effort to meet the goals established in accordance with the City Code of General Ordinances Chapter 3, Article IV, Divisions 1-3, Sections 3-401 through 3-600, and any related rules and regulations, as may be amended, of the City promulgated pursuant to Ordinance No. 18535 As Further Further Amended, adopted by the City Council on October 25, 2018, and Committee Substitute for Ordinance 130275 adopted by the City Council on April 11, 2013, and effective May 1, 2013, for (a) MBE/WBE participation under professional services and construction contracts in connection with the Project, and (b) construction workforce employment on a company-wide basis of minorities and women under construction contracts between the Redeveloper and construction contractors in connection with the Project. As a part of this Contract, Redeveloper shall provide all attachments as required by the Authority's Affirmative Action Information Packet containing information and forms for MBE/WBE participation and construction workforce employment ("Affirmative Action Information Packet"). Redeveloper acknowledges that Redeveloper has received a copy of the Affirmative Action Policy and the Affirmative Action Information Packet pertaining to the requirements for MBE/WBE participation and construction workforce employment. Redeveloper further acknowledges that Redeveloper understands the Affirmative Action Policy's requirements and that the Authority, in the Authority's sole discretion, may pursue any remedy or remedies available under the Affirmative Action Policy and/or this Contract in the event that the Redeveloper is unable to demonstrate a good faith effort to meet the goals set forth in the Affirmative Action Policy.

ARTICLE XV
MISCELLANEOUS PROVISIONS

Section 15.01 Amendments. This Contract may not be amended, modified, terminated, or waived orally, but only by a writing signed by the party against whom any such amendment, modification, termination, or waiver is sought.

Section 15.02 No Oral Agreements. This Contract, together with all exhibits referred to in this Contract, the Bond Documents, and the Funding Agreement contain all the oral and written agreements, representations and arrangements between the parties, and any rights which the parties may have under any previous contracts or oral arrangements are hereby canceled and terminated and no representations or warranties are made or implied, other than those set forth in this Contract.

Section 15.03 Binding Effect. This Contract shall inure to the benefit of and shall be binding upon the Authority and its successors and assigns and the Redeveloper and its permitted successors and assigns.

Section 15.04 Severability. The provisions of this Contract are severable. In the event that any provision of this Contract is held to be invalid, illegal, or unenforceable to any extent, then the remaining provisions of this Contract, and the portion of the offending provision (or any application of such provision) which is not invalid, illegal, or unenforceable shall remain in full force and effect.

Section 15.05 Conflict of Interest. No commissioner, officer or employee of the Authority shall have any personal interest, direct or indirect, in the Project, the Property or this Contract, nor shall any such commissioner, officer, or employee participate in any decision relating to the Project, the Project, the Property, or this Contract which affects his personal interest or the interest of any corporation, partnership, or association in which he is directly or indirectly interested.

Section 15.06 Execution of Counterparts. This Contract may be executed in two (2) or more counterparts, each of which shall be deemed to be an original and all of which together shall constitute but one and the same instrument.

Section 15.07 Governing Law. This Contract shall be governed by and construed in accordance with the laws of the State without regard to conflict of laws.

Section 15.08 Notices. Any notice, approval, request, or consent required by or permitted under this Contract shall be in writing and mailed by United States registered or certified mail, postage prepaid, return receipt requested, or delivered by hand, and addressed as follows:

To Authority: Land Clearance for Redevelopment
Authority of Kansas City, Missouri
Attention: Executive Director
1100 Walnut, Suite 1700
Kansas City, Missouri 64106

With a copy to: Rouse Frets White Goss Gentile Rhodes, P.C.
Attention: Brian Engel
4510 Belleview, Suite 300
Kansas City, Missouri 64111

To Redeveloper: KCAC Partners, LLC
Attention: Phillip Aftuck
3299 K Street NW, Suite 20007
Washington, D.C. 20007

With a copy to:

Spencer Fane LLP

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Attention: S. Shawn Whitney
1000 Walnut Street, Suite 1400
Kansas City, Missouri 64106

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

All notices given by mail shall be effective upon the earlier of the date of receipt or the second (2nd) business day after deposit in the United States mail in the manner prescribed in this Section. Rejection or other refusal to accept or the inability to deliver because of changed address for which no notice was given, shall be deemed to be receipt of the notice as of the date of such rejection, refusal or inability to deliver.

Section 15.09 Recording. This Contract or a memorandum of this Contract may be recorded by the Authority, from time to time, in the office of the Director of Records of Jackson County, Missouri, at Kansas City. The Redeveloper shall pay the costs of recording the Contract or memoranda upon demand by the Authority.

Section 15.10 Further Assurances. The Redeveloper will do, execute, acknowledge and deliver such further acts, instruments, financing statements and assurances as the Authority may reasonably require for accomplishing the purposes of this Contract.

Section 15.11 Access to Project and Inspection. The Authority and its duly appointed agents shall have the right, with at least 48 hours advance notice, at reasonable times, and when accompanied by Redeveloper or its agent, to enter upon the Property and Project Improvements and to examine and inspect the Property. The Redeveloper covenants to execute, acknowledge and deliver all such further documents and do all such other acts and things as may be reasonably necessary to grant to the Authority such right of entry. The Authority and its duly appointed agents shall also have the right, at reasonable times and upon three (3) days prior written notice, to examine the books and records of the Redeveloper which relate to the Project and/or to the obligations of the Redeveloper under this Contract.

Section 15.12 Annual Employment Reports. Not Applicable.

Section 15.13 Term. Except as otherwise provided herein, this Contract shall terminate upon the expiration of the Urban Renewal Plan; provided, however, if the Authority issues its Certificate of Qualification for Tax Abatement and the Tax Abatement Period will not expire before the expiration of the Urban Renewal Plan, the parties shall work cooperatively with each other and the City, if the Redeveloper is not then in default under this Contract, to achieve an extension of the Urban Renewal Plan for a period sufficient to coincide with the expiration of the Tax Abatement Period in accordance with the LCRA Law.

Section 15.14. Nature of Obligations of Authority. Notwithstanding any other provision herein to the contrary, the obligations, liabilities and any amounts due and owing by the Authority pursuant to the provisions hereof shall be nonrecourse as to the Authority. No provision, representation, covenant, or agreement contained in this Contract or any Bond Document (including, without limitation, any indemnity obligation), or any obligation herein imposed upon the Authority, or the breach thereof, shall constitute or give rise to or impose upon the Authority a pecuniary liability. No provision hereof shall be construed to impose a charge against the general credit of the Authority or any personal or pecuniary liability upon any commissioner, officer, agent, or employee of the Authority. The Authority has no taxing power. The covenants and agreements of the Authority shall not be deemed to constitute a debt, liability, or a general obligation of the Authority, the State of Missouri or of any political subdivision thereof within the meaning of any State of Missouri constitutional provision or statutory limitation and shall not constitute a pledge of the full faith and credit of the State of Missouri or any political subdivision thereof or of the Authority. The Bonds shall not constitute an indebtedness within the meaning of any constitutional or statutory debt limitation or restriction and is not payable in any manner by taxation.

All covenants, obligations and agreements of the Authority contained in this Contract shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation, or agreement shall be deemed to be a covenant, obligation, or agreement of any present or future commissioner, officer, agent, or employee of the Authority in other than his or her official capacity, and no official executing this Contract shall be liable personally for this Contract or be subject to any personal liability or accountability by reason of the execution and delivery of this Contract or by reason of the covenants, obligations or agreements of the Authority contained in this Contract.

Section 15.15 Non-Merger. All of the terms, covenants, representations, warranties, restrictions, and controls of this Contract, which by their terms involve a performance of any act or obligation after delivery of the Acquisition Deed to the Authority and of the Transfer Deed to the Redeveloper, shall survive such Closings and delivery of the Acquisition Deed to the Authority and of the Transfer Deed to the Redeveloper; it being intended that no provision of this Contract shall be deemed to be merged into any subsequent deed or conveyance of the Property from the Redeveloper to the Authority for from the Authority to the Redeveloper, and such subsequent deed shall not be deemed to affect or impair the rights or obligations under this Contract.

Section 15.16 353 Contract Release. The Redeveloper acknowledges that the Property is currently receiving *ad valorem* tax abatement under the 353 Contract between the Mark Twain Redevelopment Corporation and the City dated December 23, 1999 ("353 Contract"). Section 20(a) of the 353 Contract permits the Redeveloper, as the owner of the Property, to elect to withdraw the Property from the Development Plan (as defined in the 353 Contract) and to voluntarily cause the Property to be assessed for *ad valorem* taxes based upon the full true value of the property and operated from any of the conditions, restrictions, or provisions of Chapter 353, RSMo, the 353 Contract, and any associated rules, regulations, or ordinances of the City. As a condition precedent to the Authority acquiring title to the Property and leasing the Property to the Redeveloper and to

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the Authority granting or implementing any tax incentives as contemplated under the Transaction Documents, the Redeveloper, at the Redeveloper's sole cost and expense, shall: (a) notify in writing the City pursuant to the 353 Contract and such other governmental authorities as necessary to evidence the Redeveloper's election to terminate the *ad valorem* tax abatement under the 353 Contract; (b) cause the Jackson County, Missouri Collector and the Jackson County, Missouri Assessor to terminate *ad valorem* tax abatement under the 353 Contract; (c) cause the City to terminate and release the 353 Contract in recordable form as an encumbrance against the Property; and (d) obtain approvals from the City, the Jackson County, Missouri, Assessor, the Jackson County, Missouri Collector, or other governmental authorities as may be necessary for the Authority to implement tax abatement pursuant to the LCRA Law as contemplated in this Contract. Notwithstanding anything in this Contract to the contrary, the Authority shall have no obligation to issue a sales tax exemption certificate or a Certificate for Qualification of Tax Abatement to the Redeveloper or for the benefit of the Property until the Redeveloper has satisfied the requirements of this Section and is in compliance with the terms and conditions of the Transaction Documents.

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IN WITNESS WHEREOF, the Redeveloper has caused this Contract to be executed in its name with its seal affixed and attested by its duly authorized officers. The Authority has caused this Contract to be executed in its name with its seal affixed and attested by its duly authorized officers. All of the above occurred as of the date first above written.

KCAC PARTNERS, LLC

By: _____
Name: _____
Title: _____

“REDEVELOPER”

State of Missouri)
) ss.
County of Jackson)

On this ____ day of January, 2019, before me appeared _____, to me personally known, who, being by me duly sworn/affirmed did say that he is the _____ of KCAC Partners, LLC, and that said instrument was signed in behalf of said Missouri limited liability company by authority of its Member[s], and said _____ acknowledged said instrument to be the free act and deed of said Missouri limited liability company.

Notary Public

(Printed Name)

My Commission Expires:

[Seal]

**LAND CLEARANCE FOR REDEVELOPMENT
AUTHORITY OF KANSAS CITY, MISSOURI**

By: _____
Greg Flisram, Executive Director

“AUTHORITY”

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

On this _____ day of January, 2019, before me appeared Greg Flisram, to me personally known, who, being by me duly sworn, did say that he is the Executive Director of Land Clearance for Redevelopment Authority of Kansas City, Missouri, a public body corporate and politic, and that the seal affixed to the foregoing instrument is the seal of said entity and that said instrument was signed on behalf of said Authority by the authority of its Board of Commissioners, and he acknowledged said instrument to be the free act and deed of said Authority.

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

Notary Public

(Printed Name)

My Commission Expires:

EXHIBIT A
LEGAL DESCRIPTION OF THE PROPERTY

Lots 8, 9, 10, and 11, Block 17, ASHBURN'S ADDITION, a subdivision of Kansas City, Jackson County, Missouri, according to the recorded plat thereof, together with the vacated East one (1) foot of the alley lying West of the adjoining Lots 8, 9, 10, and 11.

Note: legal description is subject to confirmation by the title company.

EXHIBIT B
REDEVELOPMENT PLAN

The acquisition of property and redevelopment of the historic 22-story Mark Twain Tower located at 106 W. 11th Street for a mixed-use project consisting of approximately 202 apartment units, approximately 18,000 square feet of ground floor retail space, and related residential improvements and amenities including a swimming pool, basketball court, gym, event space, and other related improvements to be accomplished on the Property in accordance with this Contract, the Redevelopment Plan, and the Urban Renewal Plan.

EXHIBIT C
ACQUISITION DEED

[Attached hereto]

Document Title:	Special Warranty Deed
Document Date:	_____, 2019
Grantor Name:	KCAC Partners, LLC, a Missouri limited liability company
Grantee Name:	Land Clearance for Redevelopment Authority of Kansas City, Missouri
Statutory Address:	Grantee's mailing address is: 1100 Walnut, Suite 1700 Kansas City, Missouri 64106
Legal Description:	See Exhibit A (Page 3)
Reference Book and Page:	N/A

SPECIAL WARRANTY DEED

THIS SPECIAL WARRANTY DEED, made this ____ day of _____, 2019, from **KCAC Partners, LLC**, a Missouri limited liability company ("Grantor"), to **LAND CLEARANCE FOR REDEVELOPMENT AUTHORITY OF KANSAS CITY, MISSOURI**, a public body corporate and politic ("Grantee"), whose mailing address is: 1100 Walnut, Suite 1700, Kansas City, Missouri, 64106.

WITNESSETH, THAT THE GRANTOR, in consideration of the sum of Ten Dollars (\$10.00) and other good and valuable consideration, paid to the Grantor by the Grantee, the receipt and sufficiency of which is acknowledged, does by these presents, Sell and Convey unto the Grantee and the Grantee's successors and assigns, the property (the "Property") described on attached Exhibit A and incorporated herein by this reference, together with all improvements thereon, lying, being and situate in Jackson County, Missouri.

Subject to the Permitted Encumbrances described on attached Exhibit B.

TO HAVE AND TO HOLD the Property, with all and singular the rights, privileges, appurtenances and immunities thereto belonging or in any wise appertaining unto the Grantee and unto Grantee's successors and assigns forever; the Grantor covenants that the Property is free and clear from any encumbrance done or suffered by the Grantor, except as provided above; and that the Grantor will warrant and defend the title to the Property unto the Grantee and unto the Grantee's successors and assigns forever, against the lawful claims and demands of all persons claiming under the Grantor.

LCRA Sale/Leaseback and Redevelopment Contract
Mark Twain Tower Project

IN WITNESS WHEREOF, the Grantor has caused this Deed to be executed the day and year first above written.

KCAC PARTNERS, LLC, a Missouri limited liability company

By: _____
Name: _____
Title: _____

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

BE IT REMEMBERED THAT ON THIS ____ day of _____, 2019, before me, the undersigned, a notary public in and for the county and state aforesaid, came _____, who is the _____ of KCAC Partners, LLC, a Missouri limited liability company, and who is personally known to me to be the same person who executed the within instrument of writing and such person duly acknowledged the execution of the same for and on behalf of said entity and acknowledged said instrument to be the free act and deed of said entity.

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

My Commission Expires:

Notary Public
Printed

Name: _____

EXHIBIT A

Legal Description

Lots 8, 9, 10, and 11, Block 17, ASHBURN'S ADDITION, a subdivision of Kansas City, Jackson County, Missouri, according to the recorded plat thereof, together with the vacated East one (1) foot of the alley lying West of the adjoining Lots 8, 9, 10, and 11.

Note: legal description is subject to confirmation by the title company.

EXHIBIT B

Permitted Encumbrances

[to be added]

EXHIBIT D
PERMITTED ENCUMBRANCES

LCRA Sale/Leaseback and Redevelopment Contract

EXHIBIT E
TRANSFER DEED

[Attached Hereto]

Document Title:	Special Warranty Deed
Document Date:	_____, 20__
Grantor Name:	Land Clearance for Redevelopment Authority of Kansas City, Missouri
Grantee Name:	KCAC Partners, LLC
Statutory Address:	3299 K Street NW, Suite 700 Washington, D.C. 20007
Legal Description:	See attached <u>Exhibit A</u> (Page 4)
Reference Book and Page:	n/a

SPECIAL WARRANTY DEED

THIS INDENTURE ("Deed"), made on the ____ day of _____, 20__, by and between Land Clearance for Redevelopment Authority of Kansas City, Missouri, a public body corporate and politic ("Grantor"), and KCAC Partners, LLC, a Missouri limited liability company ("Grantee"), whose mailing address is 3299 K Street NW, Suite 700, Washington, D.C. 20007.

WITNESSETH, THAT Grantor, in consideration of the sum of Ten Dollars (\$10.00), to Grantor paid by Grantee (receipt of which is acknowledged) does by these presents SELL AND CONVEY unto the Grantee and the Grantee's successors and assigns the following described tracts, lots, or parcels of land ("Property"), lying, being and situate in the County of Jackson and State of Missouri legally described on the attached Exhibit A.

Subject to: (a) restrictions, encumbrances, easements, covenants and reservations now of record affecting the Property; (b) such facts that an accurate survey and environmental assessment and other investigations would disclose; (c) all zoning laws and subdivision regulations and all other laws, rules and regulations affecting the Property; and (d) the liens of unpaid taxes and assessments of any type.

TO HAVE AND TO HOLD the Property, with all and singular the rights, privileges, appurtenances and immunities thereto belonging or in any wise appertaining unto the Grantee and unto Grantee's successors and assigns forever; the Grantor covenants that the Property is free and clear from any encumbrance done or suffered by the Grantor, except as provided above; and that the Grantor will warrant and defend the title to the Property unto the Grantee and unto the Grantee's successors and assigns forever, against the lawful claims and demands of all persons claiming under the Grantor.

IN WITNESS WHEREOF, Grantor has executed this deed the day and year above written.

Land Clearance for Redevelopment Authority
of Kansas City, Missouri

[seal]

By: _____
Greg Flisram, Executive Director

"GRANTOR"

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

On this _____ day of _____, 20____, before me appeared Greg Flisram, to me personally known, who, being by me duly sworn, did say that he is the Executive Director of Land Clearance for Redevelopment Authority of Kansas City, Missouri, a public body corporate and politic, and that the seal affixed to the foregoing instrument is the seal of said entity and that said instrument was signed on behalf of said Authority by the authority of its Board of Commissioners, and he acknowledged said instrument to be the free act and deed of said Authority.

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

Notary Public

(Printed Name)

My Commission Expires:

Exhibit A
Legal Description

Lots 8, 9, 10, and 11, Block 17, ASHBURN'S ADDITION, a subdivision of Kansas City, Jackson County, Missouri, according to the recorded plat thereof, together with the vacated East one (1) foot of the alley lying West of the adjoining Lots 8, 9, 10, and 11.

Note: legal description is subject to confirmation by the title company.

EXHIBIT F
ENVIRONMENTAL DOCUMENTS

LCRA Amended and Restated Sale/Leaseback and Redevelopment Contract
Mark Twain Tower Project