
SALE/LEASEBACK AND REDEVELOPMENT CONTRACT

Between

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

And

[REDEVELOPER]

DATED AS OF _____, 20__

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 *[Trustee]*, 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 *[Lender]* a _____ bank, 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 incorporated into or consumed in the construction of the Project Improvements.

"Note" means the Promissory Note issued by the Redeveloper evidencing the Loan.

"Permitted Exceptions" means those Encumbrances described on attached Exhibit D.

"Project" means the acquisition of the Property and completion of the Project Improvements to be developed at _____ 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, development, *[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

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 the date the Authority acquires the Property and issues the Bonds. For the purposes of this Contract, commencement of construction shall mean excavation and the placement, assembly or installation of materials, equipment or facilities which will make up part of the structures to be constructed for the Project. 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) _____, 20__, 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 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 the 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) a 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, State, or local governing body, agency, or department that the sales tax exemption is invalid or illegal; or (iii) for some other reason, then the Redeveloper shall be solely responsible for payment of any sales taxes, use taxes, interest, fees, charges, or penalties levied or imposed against the Authority or otherwise resulting from the actions of the Redeveloper hereunder. 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 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 will not hire a third-party cost certifier without prior notice to and consent of the Redeveloper, which consent shall not be unreasonably withheld. *[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.]* If the Authority hires a third-party cost

LCRA Sale/Leaseback and Redevelopment Contract
[Redevelopment Project]

certifier or relies upon the Construction Inspector as provided above, the Authority may also perform such other additional cost certification work internally as the Authority may deem necessary or desirable at its own cost. If the Authority elects not to hire a third-party cost certifier or rely upon the Construction Inspector as provided above, the Authority may perform cost certification work internally as the Authority may deem necessary or desirable for a fee in an amount mutually and reasonably acceptable to the Authority and 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.