FOURTH AMENDMENT  
CIVIC MALL  
TAX INCREMENT FINANCING PLAN  
KANSAS CITY, MISSOURI

TIF Commission Consideration:  
6/28/12  6-28-12  
Date  Resolution No.

City Council Approval:  
9/34/12  120657  
Date  Ordinance No.

Attached herewith is a true and correct copy of the TIF Plan that was approved by the Tax Increment Financing Commission of Kansas City, Missouri by Resolution No. 6-28-12 on 6/28/12.

[Signature]
Chairman

{File: EDCKC/60/ADM/ADMST/99/00042453.DOC/}
FOURTH AMENDMENT
TO THE
CIVIC MALL
TAX INCREMENT FINANCING PLAN

I. Introduction

The Fourth Amendment to the Civic Mall Tax Increment Financing Plan (the “Fourth Amendment”) shall amend the Civic Mall Tax Increment Financing Plan as approved by Ordinance No. 941589 (referred to herein as the “Plan”) and subsequently amended by Ordinance No. 970236 (referred to herein as the “First Amendment”), Ordinance No. 980654 (referred to herein as the “Second Amendment”) and Ordinance No. 040706 (referred to herein as the “Third Amendment”).

The Fourth Amendment provides (a) for the removal of Redevelopment Project Area 64B, which is an area bounded by East 9th Street on the North, Cherry Street on the East, East 10th Street on the South and Locust Street on the West, and the elimination of all improvements contemplated by or funded with tax increment financing generated by Redevelopment Project Area 64B, (b) for the removal of Redevelopment Project Area 65A, which is an area bounded by East Street on the North, Holmes Street on East, East 10th Street on the South and Cherry Street on the West, and the elimination of all improvements contemplated by or funded with tax increment financing generated by Redevelopment Project Area 65A, (c) for the removal of Redevelopment Project Area 65B, which is an area bounded by East Street on the North, Holmes Street on East, East 10th Street on the South and Cherry Street on the West, and the elimination of all improvements contemplated by or funded with tax increment financing generated by Redevelopment Project Area 65B, and (d) for certain other modifications to conform with existing Commission policies and procedures.

II. Specific Amendments

The Civic Mall Tax Increment Financing Plan shall be amended as follows:

Amendment No. 1: Delete the third paragraph of Section II.A., entitled, Payments in Lieu of Taxes, in its entirety and replace the following in lieu thereof:

“The Amount of PILOTS in excess of the funds deemed necessary by the City for the implementation of this Plan, may be declared surplus by the City. The declared surplus will be remitted to the affected taxing districts located wholly or partially within the Redevelopment Area, in a manner provided by Section 99.850, RSMo., as amended or supplemented from time to time.”
Amendment No. 2: Delete Section XV., entitled, Affirmative Action, in its entirety and replace the following in lieu thereof:

In accordance with Chapter 38, Article II, of the Code of Ordinances of the City, the Commission has adopted an Affirmative Action Policy and a Work Force Policy, which are intended to secure equal opportunities and maximize the participation of certified Minority Business Enterprises (“MBE”) and certified Women’s Business Enterprises (“WBE”) in providing professional and construction services contracted for by the Commission and its redevelopers, and an equal opportunity for minorities and women to be employed in the workforces of all contractors, subcontractors and assignees of the Commission and its redevelopers. All redevelopers engaged by the Commission to implement any portion of the Civic Mall Tax Increment Financing Plan, as amended, shall do the following:

(1) meet or exert good faith efforts to meet the goals established by the Human Relations Department of the City and, if necessary, any adjustments required by the Fairness in Construction Board,

(2) comply or exert good faith efforts to comply with the Utilization Plans approved by the Human Relations Department of the City and the Commission,

(3) comply with all reporting requirements set forth in the Affirmative Action Policy, and

(4) contractually require each contractor, subcontractor and assignee to comply with the Affirmative Action Policy and Workforce Policy and to enforce such contractual provisions.

Amendment No. 3: Delete Section XVI of the Plan in its entirety.

Amendment No. 4: Delete Section XVII, Enterprise Zone, and replace the following in lieu thereof:

XVII. ENTERPRISE ZONE

In the event mandatory statutory abatement is sough or received pursuant to Section in Sections 135.200 through 135.256, RSMo., as amended (the “Enterprise Zone Statute”) or Sections 135.950 to 135.970, RSMo., as amended (the “Enhanced Enterprise Zone Statute”), such abatement shall not serve to reduce payments in lieu of taxes that otherwise would have been available pursuant to Section 99.845, RSMo. without Commission approval. Said designating shall not relieve the assessor or other responsible official from ascertaining the amount of equalized assessed valuation of all taxable property, as required by Section 99.855, RSMo.
Amendment No. 5: Delete Exhibit 1 of the Plan in its entirety, and insert the revised Exhibit 1, “Location and Legal Description of the Redevelopment Area” as attached hereto.

Amendment No. 6: Delete Exhibit 2 of the Plan in its entirety, and insert the revised Exhibit 2, “Site Plan”, as attached hereto.

Amendment No. 7: Delete Exhibit 6 of the Plan in its entirety and insert the revised Exhibit 6, “Estimated Redevelopment Project Costs”, as attached hereto.

Amendment No. 8: Delete Exhibit 11 of the Plan in its entirety and insert the revised Exhibit 11, “Land Acquisition and Disposition Map”, as attached hereto.

Amendment No. 9: Delete Exhibit 12 of the Plan in its entirety and insert the revised Exhibit 12, “Affirmative Action Policy”, as attached hereto.

Amendment No. 5

Exhibit 1: Legal Description

A. LEGAL DESCRIPTION OF THE REDEVELOPMENT AREA

The Redevelopment Area has an irregular boundary generally encompassed by Interstate 35/70 on the north, Interstate 70 (also known as the Midtown Freeway) on the east, 13th Streets on the south and McGee Street on the west.

Beginning at the point of intersection of the center line of 13th Street and the center line of McGee Street, thence north along the center line of McGee Street to the center line of 11th Street; thence east along the center line of 11th Street to the center line of Oak Street; thence north along the center line of Oak Street to the center line of 10th Street; thence west along the center line of 10th Street to the center line of McGee Street; thence north along the center line of McGee Street to the center line 8th Street; thence east along the center line of 8th Street to the center line of Oak Street; thence northeasterly along the center line of Oak Street to the south right-of-way of Interstate 35/70; thence easterly along the south right-of-way of Interstate 35/70 to the west right-of-way line of Interstate 70; thence south along the west right-of-way of Interstate 70 to the center line of 11th Street; thence west along the center line of 11th Street to the center line of Charlotte Street; thence south along the center line of Charlotte Street to the center line of 12th Street; thence west along the center line of Cherry Street to the center line of 11th Street; thence west along the center line of 11th Street to the center line of Oak Street; thence south along the center line of Oak Street to the center line of 13th Street; thence west along the center line of 13th Street to the Point of Beginning, now all included in a part of the City of Kansas City, Jackson County, Missouri.

B. LEGAL DESCRIPTION OF THE REDEVELOPMENT PROJECT AREAS

Legal Description of Redevelopment Project Areas to be Terminated by the Fourth Amendment

Redevelopment Project Area 64B

That portion of the city block legally described as beginning at the intersection of the center line of Locust Street and the westerly extension of the north lot line of Lot 3, Block 4, SMART’S 2ND ADDITION, thence east along the westerly extension of said line and the north lot line of Lot 3, Block 4, SMART’S 2ND ADDITION, extended to the intersection of said line with the center line of the vacated north – south alley lying between Locust Street and Cherry Street, thence south along said line a distance of 60.24 feet to the intersection of said line and the westerly extension of a line 36 feet north of and parallel to the north lot line of Lot 25, Block 15, SMART’S 3RD ADDITION, and the easterly extension of said line to the center line of Cherry Street; thence south along the
center line of Cherry Street to the center line of 10th Street; thence west along the center line of 10th Street to the centerline of Locust Street; thence north along the center line of Locust Street to the Point of Beginning, all included in and a part of Kansas City, Jackson County, Missouri.

Redevelopment Project Area 65A
That half city block legally described as beginning at the intersection of the center line of E. 9th Street and the center line of Cherry Street; thence east along the center line of E. 9th Street to the center line of Holmes Street; thence south along the center line of Holmes Street to the easterly extension of the north lot line of Lot 28, Block 15, SMART’S ADDITION NO. 3; thence west along the easterly extension of said line and the north lot line of Lot 28, Block 15, SMART’S ADDITION NO. 3, and the north lot line of Lot 4, Block 4, SMART’S 2ND ADDITION, and the westerly extension of said lot line to the center line of Cherry Street; thence north along the center line of Cherry Street to the Point of Beginning, all included in and a part of Kansas City, Jackson County, Missouri.

Redevelopment Project Area 65B
That half city block legally described as beginning at the intersection of the center line of Cherry Street and the westerly extension of the north lot line of the north lot line of Lot 4, Block 4, SMART’S 2ND ADDITION; thence east along the westerly extension of said line and the north lot of Lot 4, Block 4, SMART’S 2ND ADDITION and the north lot line of Lot 28, Block 15, SMART’S ADDITION NO. 3, and the easterly extension of said lot line to the center line of Holmes Street; thence south along the center line of Holmes Street to the center line of E. 10th Street; thence west along the center line of E. 10th Street to the center line of Cherry street, thence north along the center line of Cherry Street to the Point of Beginning, all included in and a part of Kansas City, Jackson County, Missouri.
Amendment No. 6

Exhibit 2: Site Plan
Amendment No. 7

Exhibit 6: Estimated Redevelopment Project Costs
<table>
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<th>Redevelopment Project Costs</th>
<th>Third Amendment</th>
<th>TIFC Reimbursable</th>
<th>Fourth Amendment</th>
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<td><strong>Block 65B - Construction of 800 Car Parking Garage</strong></td>
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<tr>
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<tr>
<th>Block 82B - Construction of Governmental or Commercial Office</th>
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<td>Block 84A &amp; B - Construction of Governmental of Commercial Space</td>
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<td>Block 96A - Construction &amp;/or Construction of Commercial Space</td>
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<td>Block 96B - Construction of 600 Car Parking Garage</td>
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<td>$ 7,263,000</td>
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| Block 99 - Construction of 1000 Car Parking Garage       | $ 658,900              | $ 658,900         | $ 658,900              | $ 658,900         |
| Acquisition, Demolition & Relocation                      | 10,000,000             | 10,000,000        | 10,000,000             | 10,000,000        |
| Subtotal Block 99                                        | $ 10,658,900           | $ 10,658,900      | $ 10,658,900           | $ 10,658,900      |

| Block 100 - Rehabilitation of Existing Building          |                        |                   |                        |                   |
| Block 113 - Rehabilitation of Existing Building           | $ 2,554,000            | $ -               | $ 2,554,000            | $ -               |
| Acquisition, Demolition & Relocation                      | 5,000,000              | -                 | 5,000,000              | -                 |
| Subtotal Block 113                                        | $ 11,554,000           | $ -               | $ 11,554,000           | $ -               |

| Streetscape/Public Improvements                          | $ 1,800,600            | $ 1,800,600       | $ 1,800,600            | $ 1,800,600       |

| Block 14 - Construction of Commercial Space             |                        |                   |                        |                   |
| Block 15A - Construction of Commercial Space            | $ 3,900,000            | $ 3,900,000       | $ 3,900,000            | $ 3,900,000       |
| Acquisition, Demolition & Relocation                    | 22,432,000             | 5,447,500         | 22,432,000             | 5,447,500         |
| Civic Mail Area Improvements                             | 500,000                | 500,000           | 500,000                | 500,000           |
| Subtotal Block 15A                                       | $ 26,832,000           | $ 9,847,500       | $ 26,832,000           | $ 9,847,500       |

| Block 15B - Construction of Commercial Space            |                        |                   |                        |                   |
| Block 16 - Construction of Commercial Space             |                        |                   |                        |                   |
| Block 17 - Construction of Commercial Space             |                        |                   |                        |                   |
| Block 31 - Construction of Commercial Space             |                        |                   |                        |                   |
| Block 32 - Construction of Commercial Space             |                        |                   |                        |                   |
| Block 33 - Construction of Commercial Space             |                        |                   |                        |                   |

### 422 Admiral Project

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<tr>
<th>Approval Fees (5% per square foot space @ 28,500)</th>
<th>Amendment Project Costs</th>
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<th>Amendment Project Costs</th>
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<td>76,690</td>
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<td>76,690</td>
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<td>Voice/Data/Systems for Building</td>
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<td>Parking Lot Renovations</td>
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<td>330,000</td>
<td>330,000</td>
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</tr>
<tr>
<td>Developer Fee</td>
<td></td>
<td></td>
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<td></td>
</tr>
<tr>
<td>Project Management</td>
<td></td>
<td></td>
<td></td>
<td></td>
</tr>
<tr>
<td>Market Analysis and Appraisal</td>
<td></td>
<td></td>
<td></td>
<td></td>
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<tr>
<td>Entitlement Procurement (TIF) including consultant</td>
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<td>Code Consultation</td>
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<td>Structural Engineer</td>
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<tr>
<td>Amendment</td>
<td>Project Costs</td>
<td>Reimbursable</td>
<td>TIFC Costs</td>
<td>Reimbursable</td>
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<tr>
<td>-----------</td>
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<td>Loan Fees</td>
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<td>Legal Fees</td>
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<td>Closing Fees</td>
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<td>-</td>
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<td>Environmental Report Phase 1, Phase 2</td>
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<td>-</td>
<td>6,900</td>
<td>-</td>
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<tr>
<td>Misc. Soft Cost, Inspection Fees</td>
<td>8,000</td>
<td>-</td>
<td>8,000</td>
<td>-</td>
</tr>
<tr>
<td><strong>422 Admiral - TOTAL PROJECT COSTS</strong></td>
<td><strong>$ 4,678,487</strong></td>
<td><strong>$ 3,002,873</strong></td>
<td><strong>$ 4,678,487</strong></td>
<td><strong>$ 3,002,873</strong></td>
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<tr>
<td>Civic Mall TIF - Total Project Costs</td>
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<td><strong>$ 206,650,987</strong></td>
<td><strong>$ 72,836,873</strong></td>
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</tbody>
</table>
Amendment No. 8

Exhibit 11: Land Acquisition and Disposition Map
Amendment No. 9

Exhibit 8: Affirmative Action Policy
Policy Name: Affirmative Action Policy


Resolution Number: 88-10, 92-61, 92-70, 93-70, 96-01, 1-3-97, 4-1-97, 3-6-01, 4-1-01, 6-1-03, 3-3-05, 6-2-05, 7-2-05, 4-2-06, 6-2-07, 2-23-08, 4-11-11, 4-1-12

Policy Statement: WHEREAS, the Kansas City, Missouri Disparity Study, dated October 1, 1994, determined that women and certain minority groups were being underutilized in the Kansas City, Missouri Metropolitan Area. As a result, the City of Kansas City, Missouri (the “City”) has adopted City-wide affirmative action goals applicable to firms doing business with the City, through its departments and agencies. In accordance with Chapter 38, Article II, Section 38-85.5 of the Code of Ordinances of the City, the Tax Increment Financing Commission of Kansas City, Missouri (“TIFC”) has adopted this Policy, which is intended to secure equal opportunities and maximize the participation of certified Minority Business Enterprises (“MBE”) and certified Women’s Business Enterprises (“WBE”) in providing professional and construction services contracted for by the TIFC and its Redevelopers, and an equal opportunity for minorities and women to be employed in the workforces of all contractors, subcontractors and assignees of TIFC and its Redevelopers. The City has since commissioned a new Disparity Study that was published in October 2006.

THEREFORE, TIFC shall adhere to the requirements set forth herein and shall contractually require its Redevelopers to do the following:

1. meet or exert good faith efforts to meet the goals established by the Human Relations Department of the City and, if necessary, any adjustments required by the Fairness in Construction Board,

2. comply or exert good faith efforts to comply with the Utilization Plans approved by the Human Relations Department of the City and TIFC,

3. comply with all reporting requirements set forth in this Policy, and

4. contractually require each contractor, subcontractor and assignee to comply with this Policy and to enforce such contractual provisions.

I. DEFINITIONS

Commercially Useful Function - Real and actual services that are a distinct and verifiable element of the contracted work based upon private sector trade or industry standards. Determination that an enterprise performs a Commercially Useful Function will be made based on the following considerations:
a. An MBE or WBE performs a Commercially Useful Function when it is responsible for execution of the ordinary and necessary work of the contract and is carrying out its responsibilities by actually performing, managing, and supervising the work involved. To perform a Commercially Useful Function, the MBE or WBE must also be responsible, with respect to materials and supplies used on the contract, for negotiating price, determining the quality and quantity, ordering the material, installing (where applicable) and paying for the material itself. To determine whether an MBE or WBE is performing a Commercially Useful Function, one must evaluate the following:

1. The amount of work subcontracted; and
2. Industry practices; and
3. Whether the amount the enterprise is to be paid under the contract is commensurate with the work it is actually performing; and
4. Whether the MBE or WBE has the skill and expertise to perform work for which it is being utilized; and
5. The credit claimed for its performance of the work; and
6. Other relevant factors.

b. An MBE or WBE does not perform a Commercially Useful Function if its role is limited to that of an extra participant in a transaction, contract, or project through which funds are passed in order to obtain the appearance of MBE or WBE participation. In determining whether an MBE or WBE is such an extra participant, one must examine similar transactions, particularly those in which MBEs or WBEs do not participate.

c. An MBE or WBE firm is not performing a Commercially Useful Function if the MBE or WBE subcontracts a greater portion of the work on a contract or purchases a greater amount of material than would be expected on the basis of normal industry practice for the type of work involved.

d. Whether the MBE or WBE is participating in the contract as a middle person or broker in the normal course of that business or trade by purchasing the goods and/or services from another business, thereby qualifying expenditures for such goods and/or services to be counted toward utilization requirements for MBEs and WBEs.

e. Whether the MBE or WBE is responsible for the purchase and quality of, and payment for, materials used to perform its work under the contract.

There shall be a rebuttable presumption that, when the MBE or WBE subcontracts a greater portion of the contract work than normal industry practice, the MBE or WBE is not performing a Commercially Useful Function.
Construction Services - Activities undertaken to complete the construction, reconstruction, improvement, enlargement or alteration of any fixed work that relates to the implementation of a Redevelopment Plan, Project or Public Improvement, including environmental remediation and demolition, but excluding Professional Services.

Disparity Study - An undertaking dated October 1, 1994, commissioned by the City of Kansas City, Missouri, the Kansas City Area Transportation Authority, and the Kansas City, Missouri School District to determine whether or not defined minority groups or women were underutilized in the Kansas City Metropolitan Area. An updated disparity study, which was commissioned by the City, was published in October 2006.

Kansas City Metropolitan Area - The Missouri counties of Cass, Clay, Jackson and Platte and the Kansas counties of Johnson, Leavenworth and Wyandotte.

Minorities - Persons who are citizens or lawful permanent residents of the United States and who:

a. Have origins in any of the Black racial groups of Africa, and who has historically and consistently identified himself or herself as being such a person (“Black Americans”);

b. Have origins in any of the peoples of Mexico, Puerto Rico, Cuba, Central or South America, or any of the Spanish speaking islands of the Caribbean, regardless of race and who has historically and consistently identified himself or herself as being such a person (“Hispanic Americans”);

c. Have origins in any of the original peoples of the Far East, Southeast Asia, or the Indian subcontinent or the Islands of the Pacific or the Northern Marianas, and who has historically and consistently identified himself or herself as being such a person (“Asian Americans”); and

d. Maintain cultural identification through tribal affiliation or community recognition with any of the original peoples of the North American continent; or those who demonstrate at least one-quarter descent from such groups, and who has historically and consistently identified himself or herself as being such a person. (“Native Americans”).

Minority Business Enterprise (“MBE”) - A business or professional entity that (a) is at least 51% owned and independently controlled by one or more Minorities and is certified as such by the Human Relations Department of the City of Kansas City, Missouri prior to a Redeveloper submitting a Utilization Plan to the Commission and the Human Relations Department of the City of Kansas City, Missouri, and prior to submitting a bid, a request for qualifications or proposal to or entering into negotiations with such entity for Construction Services or Professional Services to be utilized in connection with implementing a Redevelopment Plan or Redevelopment Project, (b) either has its principal place of business in the Kansas City Metropolitan Area or has made substantial efforts to become a market participant in Kansas City, Missouri, (c) meets the size
standards imposed by 13 CFR 121.201, (d) possesses the professional qualifications necessary to perform the work contemplated by a Redevelopment Agreement or contract between TIFC, a Redeveloper, or a Redeveloper’s contractors, subcontractors or assignees in furtherance of a Redevelopment Agreement or Redevelopment Plan, and performs a Commercially Useful Function, and (e) is capable of providing the necessary equipment and labor force independent of any other contractor, subcontractor or assignee and can perform the work itself without subcontracting. The Kansas City Human Relations Department maintains a list of certified MBEs, which is available at any time upon request, but shall be submitted to the TIFC on an annual basis.

Professional Services - Advisory or consulting activities including, but not limited to, architectural, engineering, legal, accounting, marketing, environmental studies, and financial services contracted for by any Redeveloper necessary to complete Project Improvements, but excluding Construction Services.

Project Improvements - Those activities undertaken and facilities constructed in order to implement the provisions of a Redevelopment Plan pursuant to a Redevelopment Agreement.

Redeveloper - Any person or entity which enters into a Redevelopment Agreement.

Redevelopment Agreement - Any agreement between TIFC and a Redeveloper for the implementation of a Redevelopment Plan, Project or Public Improvement.

TIFC - The Tax Increment Financing Commission of Kansas City, Missouri, created pursuant to the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865 of the Revised Statutes of Missouri, 1986, as amended (the “Act”), and by Ordinance No. 54556 of the City Council of Kansas City, Missouri, adopted on November 24, 1982, and amended by Ordinance No. 911076 adopted on August 29, 1991, for the purpose of holding hearings and making recommendations to the City Council of Kansas City, Missouri, with respect to proposed tax increment financing plans, and carrying out the responsibilities delegated to it by the City Council, among which, are entering into agreements with redevelopers to implement said plans when approved, and monitoring compliance therewith.

TIFC Representative - A representative designated by the TIFC, who shall make regular reports at TIFC meetings regarding Redevelopers’ compliance with this Policy.

Utilization Goals – The goals described in Section II of this Affirmative Action Policy.

Women’s Business Enterprise (“WBE”)

The Disparity Study included minority women as part of the minority population and goals and, therefore, minority women should be included in MBE statistical categories furnished to the TIFC. As a result, the WBE category includes only those firms owned or controlled by white women.

1
Redeveloper submitting a Utilization Plan to the Commission and the Human Relations Department of the City of Kansas City, Missouri and prior to submitting a bid, a request for qualifications or proposal to or entering into negotiations with such entity for Construction Services or Professional Services to be utilized in connection with implementing a Redevelopment Plan or Redevelopment Project, (b) either has its principal place of business in the Kansas City Metropolitan Area or has made substantial efforts to become a market participant in Kansas City, Missouri, (c) meets the size requirements imposed by 13 CFR 121.201, (d) possesses the professional qualifications necessary to perform the work contemplated by a Redevelopment Agreement or contract between TIFC, a Redeveloper, or a Redeveloper’s contractors, subcontractors or assignees in furtherance of a Redevelopment Agreement, and performs a Commercially Useful Function, and (e) is capable of providing the necessary equipment and labor force independent or any other contractor, subcontractor or assignee, and can perform the work itself without subcontracting. The Kansas City Human Relations Department maintains a list of WBEs, which is available at any time upon request, but shall be submitted to the TIFC on an annual basis.

Workforce - Those persons employed to perform Construction Services.

All terms not otherwise defined herein, shall have the meaning set forth in the Redevelopment Agreement.

II. TIFC COMPLIANCE

A. The TIFC, pursuant to Chapter 38, Article II, Section 38-87(1) of the Code of Ordinances of the City, shall prepare and deliver to the Director of the Human Relations Department by April 1 an annual MBE/WBE Utilization Plan for each upcoming fiscal year of the City. Each MBE/WBE Utilization Plan shall include the TIFC’s goals for participation by qualified, certified MBEs and WBEs as prime contractors and subcontractors in the procurement of goods and professional and construction services for the upcoming year. The goals should be expressed as a percentage of the TIFC’s estimated total fiscal contract expenditures.

B. The TIFC, pursuant to Chapter 38, Article II, Section 38-97(5), shall make reasonable efforts to:

1. advertise contract opportunities in general circulation media, trade and professional publications, small business media and publications of minority and women’s business organizations;

2. send written notice of specific contract opportunities to minority and women’s business organizations and those MBEs/WBEs listed on the TIFC’s approved professional service provider list;

3. with the assistance of the Director of Human Relations Department of the City, shape the scope, specifications and size of a contract to enhance participation opportunities for qualified, certified MBEs and WBEs;
4. include certified, qualified MBEs/WBEs on the TIFC’s approved professional service provider list, which shall be updated, if necessary, no less frequently than annually; and

5. add a provision within all RFQ’s and advertisements to bid a provision that encourages MBEs/WBEs to become certified with the City, the Kansas Department of Transportation and the Missouri Department of Transportation.

III UTILIZATION GOALS FOR REDEVELOPMENT PROJECTS AND PUBLIC IMPROVEMENTS

Unless the Director of the Human Relations Department of the City establishes separate goals for a specific Redevelopment Agreement (the “Utilization Goals”), the goals listed in Section III.A. through C. (the “Default Goals”) for the participation of MBEs and WBEs (in the case of Professional Services and Construction Services), and minority and female individuals (in the case of Workforces), which are identical to the city-wide goals of the City, shall apply and be incorporated as a part of each Redevelopment Agreement. The Utilization Goals or Default Goals for participation of such MBEs and WBEs are expressed as a percentage of the totals of (a) the dollar amount spent for professional services (b) the dollar amount spent for Construction Services, and (c) hours worked by individuals employed in the Workforce. The Default Goals are as follows:

<table>
<thead>
<tr>
<th>A. Professional Services</th>
<th>Percentages</th>
</tr>
</thead>
<tbody>
<tr>
<td>1. Minority Business Enterprises</td>
<td></td>
</tr>
<tr>
<td>Black-American</td>
<td>8</td>
</tr>
<tr>
<td>Hispanic American</td>
<td>3</td>
</tr>
<tr>
<td>Native American/Asian American</td>
<td>2</td>
</tr>
<tr>
<td></td>
<td>13</td>
</tr>
<tr>
<td>2. Women’s Business Enterprises</td>
<td>8</td>
</tr>
</tbody>
</table>
B. Construction Services

1. Minority Business Enterprises
   Black-American 9
   Hispanic American 5
   Native American/Asian American 1
   15

2. Women’s Business Enterprises 7

C. Workforce

1. Minorities
   Black-American 9
   Hispanic American 5
   Native American/Asian American 1
   15

2. Women 7

D. Identification. The following codes will be used to identify the appropriate reporting classification assigned to each MBE or WBE firm:

01 MBE Certified Black Male Ownership
02 Non-MBE/WBE ( Minority Business Enterprise/Women owned Business Enterprise) Ownership
03 MBE Certified Hispanic Male Ownership
04 MBE Certified American Indian Male Ownership
05 MBE Certified Asian American Male Ownership
06 MBE Certified Black Female Ownership
07 WBE Certified White Female Ownership
08 MBE Certified Hispanic Female Ownership
09 MBE Certified American Indian Female Ownership
10 MBE Certified American Asian Female Ownership

Staff to the TIFC shall notify Redevelopers verbally and in writing, within each Redeveloper’s Application for the implementation of a Redevelopment Plan, Redevelopment Project or Public Improvement, of the requirement that Redevelopers obtain Utilization Goals from the Human Relations Department of the City for each such Redevelopment Plan, Redevelopment Project or Public Improvement, prior to a hearing at which time the TIFC shall consider approving and recommending such Redevelopment Plan, Redevelopment Project or Public Improvement to the City Council for approval. At least seven (7) days prior to the date of the public hearing at which time such Redevelopment Plan, Redevelopment Project or Public Improvement is to be considered for approval by the TIFC, the Redeveloper shall communicate, in writing, to the TIFC Representative either (1) the specific scopes of work for the Redevelopment Plan, Redevelopment Project or Public Improvement in sufficient detail, as determined by the Human
Relations Department, so that specific Utilization Goals can be established or (2) that specific scopes of work for such Redevelopment Plan, Redevelopment Project of Public Improvement have not been established, and in which case, the Default Goals shall apply; provided however, such Default Goals may be modified by the Human Relations Department at such time as the specific scopes of work for such Redevelopment Plan, Redevelopment Project or Public Improvement are presented by the Redeveloper to the Human Relations Department.

IV. RECORDS AND REPORTS

A. Records. The Redeveloper shall maintain such records as reasonably may be required in order to demonstrate Policy compliance including, but not limited to, (1) a copy of the Utilization Goals established by the Director of the Human Relations Department for each Redevelopment Plan, Project or Public Improvement, (2) Utilization Plans approved by the Human Relations Department, (3) teaming agreements or other documentation that evidences the Redeveloper’s intent to enter into agreements with MBEs and WBEs for the implementation of a Redevelopment Plan, Project or Public Improvement, (4) documentation that evidences the good faith requirements set forth in Sections V.A.1.b. and V.B.1.b. to meet the Utilization Goals. Such records shall be made available for audit by the TIFC Representative from time to time upon reasonable notice.

B. Reports. The Redeveloper shall provide to the TIFC Representative by the 15th day of each month, commencing on the month after the Redeveloper incurs any costs or expenses related to construction or professional services utilized in connection with the implementation of a Redevelopment Plan, Redevelopment Project or Public Improvement. Such monthly reports shall be in a format provided by the TIFC Representative. In addition to the monthly reports, the Redeveloper shall provide such additional information requested by the TIFC Representative, including but not limited to, checks, invoices and receipts, in order to verify that the percentages submitted on the reports are accurate. As a condition to the reimbursement of eligible Redevelopment Project Costs, the Redeveloper shall have delivered all monthly reports on a timely basis to the TIFC Representative. A copy of each monthly report, together with a copy of all checks, invoices, receipts and all other documentation evidencing payments to MBEs and WBEs, shall be submitted simultaneously to the TIFC’s independent cost certifier, who has been designated by the TIFC to certify costs for the Redevelopment Plan, Project or Public Improvement to be implemented by the Redeveloper. In the sole discretion of TIFC, for good cause shown, waivers of the monthly reports may be granted. Each monthly report, which shall be in a form substantially similar to Exhibit A, attached hereto, shall summarize the data in the following three (3) categories:

1. Professional Services: Total dollars spent in connection with the Redevelopment Project(s) and/or Public Improvement(s) and dollars spent with MBE and WBE firms, respectively, for professional services.

2. Construction Services: Total dollars spent in connection with the Redevelopment Project(s) and/or Public Improvement(s) and dollars spent with MBE and WBE firms, respectively, for construction services.
3. Workforce: Total construction worker hours utilizing minorities and women.

V. REDEVELOPER COMPLIANCE

A. Professional Services and Construction Services

1. The Redeveloper shall be presumed conclusively to be in compliance with this Policy as it relates to good faith efforts to the meet the Utilization Goals or Default Goals, as applicable, with respect to Professional and Construction Services if:

a. the Redeveloper can demonstrate, to the satisfaction of the TIFC, that each of the Utilization Goals or Default Goals set forth in Section III have been met for each Redevelopment Project and Public Improvement in which Construction or Professional Services have been utilized;²

b. in the event, any of the Utilization Goals or Default Goals have not been met, the Redeveloper has taken the following actions:

(1) requested in writing the assistance of the TIFC Representative with respect to efforts to promote the utilization of MBE/WBE and acted upon the TIFC’s recommendations;

(2) solicited in writing proposals from certified MBE/WBE in sufficient time to allow MBE and WBE firms to participate effectively (in any event no later than 15 calendar days prior to the bid date or the date a request for qualifications or proposal is distributed in connection with any Professional or Construction Services contemplated for each Redevelopment Project or Project Improvement), setting forth in sufficient detail a description of the Plan and Redevelopment Project, identification of the Redeveloper or contractor, the amount and scope of work to be performed, the time frame of performance so that meaningful proposals may be submitted sufficiently in advance to be considered prior to awarding of contracts.

(3) advertised in Minority/Women’s Trade Association Newsletters and/or minority owned media in sufficient time to allow MBE and WBE firms to participate effectively (in any event no later than 15 calendar days prior to the bid date or the date a request for qualifications or proposal is distributed in connection with any Professional or Construction Services contemplated for each Redevelopment Project or Project Improvement), identifying specific opportunities at least equal to the Utilization Goal (but not

² It is sufficient if the overall goal for MBE has been met without regard to the specific “mix” of MBEs.
a reserved set-aside) for MBE/WBE utilization specified for the contract and maintained a log or copies of such ads showing the date of publication and identifying the publication.

(4) adequately segmented the work in request for proposal documents or any other communication or publication intended to solicit Professional or Construction Services for the Redevelopment Project or Redevelopment Plan to be subcontracted to the extent consistent with the size and capability of MBE/WBE so that reasonable subcontracting opportunities exist.

(5) notified in writing Minority/Women Contractor Associations at least 15 calendar days prior to the bid date or the date a request for qualifications or proposal is distributed in connection with any Professional or Construction Services contemplated for each Redevelopment Project or Project Improvement of the availability of specific opportunities at least equal to the Utilization Goal given for MBE/WBE specified in this Policy.

(6) conferred with qualified, certified MBEs and WBEs and explained the work for which their bids or proposals were solicited;

(7) made telephone calls to MBE/WBE contractors and made a log thereof, including date, time, name of person talked to, and subject of discussion.

(8) conducted good faith negotiations, as determined by TIFC, with those MBE/WBE from whom proposals were received in an effort to reach a mutually acceptable agreement. Documentation in support thereof must include:

(a) copies of solicitation letters
(b) bid price of MBE/WBE
(c) bid price of the non-MBE/WBE bidder
(d) reason for non-selection of the MBE/WBE bidder.

(9) sent certified letters, verifiable e-mails or proof of facsimiles to qualified MBE/WBEs listed on the M/W/DBE Kansas City Mo. Online Directory within 5 business days after drawing the bid specifications.

2. Business arrangements with MBE/WBE must be in the form of a written agreement which may be a contract to perform services or formation of a partnership or joint venture.
3. Prior to the TIFC approving and recommending a Redeveloper Plan or Project to the City Council for approval, the Redeveloper and staff to the TIFC shall meet with the Director of the Human Relations Department of the City, who shall establish Utilization Goals or apply the Default Goals for the Redevelopment Project or Public Improvement and the Redeveloper shall submit to TIFC, (i) written evidence that the Human Relations Department has established Utilization Goals or applied the Default Goals for the Redevelopment Plan, Project or Public Improvement, and (ii) an Officer’s Certificate, in a form substantially similar to Exhibit B attached hereto. During the public meeting, at which time TIFC reviews and considers the approval of any Redevelopment Project initiated by a Redeveloper, the TIFC Representative shall certify to TIFC that the Redeveloper has complied with this Section V.A.3.

4. As soon as reasonably practicable after the TIFC approval and recommendation of a Redevelopment Plan or Project to the City Council for approval, but in any event, unless provided otherwise below, prior to the TIFC’s consideration of a Redevelopment Agreement, the Redeveloper must deliver to the TIFC Representative:

   (i) A project budget, in a form substantially similar to Exhibit F, attached hereto (the “Project Budget”), identifying all construction and professional services costs for the Redevelopment Project and/or Project Improvements and including the specific scopes of work, the value of those scopes of work, and anticipated areas where MBE/WBE participation can be obtained,

   (ii) A Utilization Plan for Professional Services, in a form substantially similar to Exhibit C, attached hereto (the “Professional Services Utilization Plan”), that has been approved by the Human Relations Department, which if not submitted prior to the TIFC’s consideration of a Redevelopment Agreement, then no later than thirty (30) days after contracting for Professional Services,

   (iii) A Utilization Plan for Construction Services, in a form substantially similar to Exhibit D, attached hereto (the “Construction Services Utilization Plan”) that has been approved by the Human Relations Department, which if not submitted prior to the TIFC’s consideration of a Redevelopment Agreement, then no later than thirty (30) days after contracting for Construction Services, and

   (iv) verification letters from MBEs and WBEs listed on the Professional Services Utilization Plan and Construction Services Utilization Plan or a teaming agreement, in a form substantially similar to Exhibit E, attached hereto.

As a condition to the reimbursement of any costs, (a) the TIFC Representative shall certify to the TIFC the continued compliance or adherence to this Policy and the Utilization Plans submitted by the Redeveloper; and (b) the TIFC’s independent cost certifier, who has been designated to certify costs related to such Redevelopment Plan or Project, shall certify to the TIFC all payments made to MBEs and WBEs that are referenced in monthly reports. If such certification has
not been made in a timely manner, the Redeveloper may request a hearing by TIFC, which shall be held within thirty-five (35) days. At such hearing, Redeveloper and the TIFC Representative, or their respective counsel, shall present evidence relevant to Redeveloper’s compliance with this Policy. TIFC shall act within thirty-five (35) days of the close of such hearing and may make such ruling as the evidence may justify in its reasonable discretion. TIFC may certify compliance, specify actions that may be taken to gain certification or avail itself of any of the remedies set forth in Section VI hereof.

5. In the event that after an MBE/WBE is selected, such MBE/WBE’s certification is withdrawn, or should an MBE/WBE be unable to perform, the Redeveloper shall promptly notify the Director of Human Relations Department of the City and the TIFC Representative in writing and, where reasonably possible, exert good faith efforts, as determined by the TIFC and the Director of the Human Relations Department, to find a replacement in accordance with the standards and procedures set forth in this Affirmative Action Policy. In the event no replacement MBE/WBES are qualified and available to perform the same services, the Redeveloper shall, to the extent possible, as an alternative to substitution, adjust the MBE/WBE involvement in another area of the contract in order to meet the Utilization Goals established or the Default Goals applied by the Human Relations Department.

B. Workforce

1. Redeveloper shall be presumed conclusively to be in compliance with this Policy as it relates to Workforce if:

   a. each of the Utilization Goals set forth in Section III.C. has been met on a monthly basis for each Redevelopment Project in which Construction Services have been utilized;3

   b. in the event, any of the Utilization Goals have not been met, the Redeveloper has taken the following actions:

      (1) Requested in writing the assistance of the TIFC Representative with respect to efforts to promote the utilization of minorities and women in the Workforce and acted upon the TIFC’s recommendations.

      (2) advertised in Minority/Women’s Trade Association Newsletter and/or minority owned media at least 15 calendar days prior to the utilization of any Construction Services for each Redevelopment Project seeking employees, appropriately describing the work available, pay scale, how to apply, etc., and

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3 It is sufficient if the overall goal for minorities has been met without regard to the specific “mix” of minorities.
maintained a log or copies of such ads showing the date of publication and identifying the publication; and

(3) contacted minority and women’s organizations. A list of such organizations may be provided by the TIFC Representative upon request.

C. Records and Reports. Redeveloper shall be conclusively presumed to be in compliance with this Policy as it relates to records and reports if all records have been kept and reports have been timely made as set forth in Section IV.

D. Contractors, Subcontractors and Assignees. Redeveloper shall incorporate in all agreements with contractors, subcontractors and assignees contain a provision requiring compliance with this Policy, as it may be amended from time to time, and appropriate measures, as determined by the TIFC, have been taken to enforce such provisions.

E. Waiver. For good cause shown, the requirements of this Section V may be waived or modified by TIFC.

F. Burden of Proof. It is the responsibility of Redeveloper to demonstrate compliance with this Policy. The TIFC Representative will monitor Redeveloper’s compliance and make periodic reports to TIFC relative thereto. It is not the responsibility of TIFC or its Representative to conduct any investigation or take any other action to verify Redeveloper’s compliance.

VI. PARTICIPATION CREDIT

Whether or not the participation of MBEs, WBEs, minorities and women satisfies the Utilization Goals set forth in Section III shall be determined as set forth herein.

A. Professional and Construction Services

1. The total dollars paid to an MBE/WBE which contracts to provide goods or services directly to the Redeveloper, or contractor or consultant of Redeveloper.

2. Additional Credit - Suppliers. A sub-contract with an MBE/WBE certified supplier may be credited toward the MBE/WBE requirement for construction contracts only if the MBE/WBE is involved in the manufacture or distribution of the supplies or materials, or otherwise warehouses and ships the supplies or materials. The following rules apply to the use of MBE/WBE suppliers:

a. Manufacturers. If the MBE/WBE business supplier is the manufacturer of part or all of the supplies or materials, up to one hundred percent (100%) of the dollar amount paid to such supplier may be counted towards meeting the MBE/WBE goal, [e.g., If the supplier is the
manufacturer of all (or essentially all) of the supplies or materials, ___ will be allowed. If the MBE/WBE is involved in the manufacture of a lesser percentage, the amount to be counted toward the MBE/WBE goal will be determined on a case-by-case basis.]

b. Non-Manufacturers. If the MBE/WBE supplier is not a manufacturer, twenty-five percent (25%) of the total dollar amount paid or to be paid by a prime contractor to obtain supplies or goods from a construction MBE/WBE supplier may be counted toward the MBE/WBE goal. Ten percent (10%) of the total dollar amount paid or to be paid by a prime contractor to obtain supplies or goods from a supply broker who is a qualified MBE or WBE may be counted toward the MBE/WBE goal. One Hundred Percent (100%) of the total dollar amount paid or to be paid by a prime contractor to an MBE and WBE to obtain supplies or goods not related to construction may be counted toward the MBE/WBE goals.

3. Additional Credit - Administrative Functions. If the MBE/WBE performs administrative functions with respect to contracts awarded to non-minority enterprises, then up to 10% of the dollar value of these non-minority contracts may be counted toward the MBE/WBE goals. In order to be considered as performing these administrative functions, the MBE/WBE must demonstrate that it, she or he is in control of the complete sub-contract. Proof of such control will include the following:

a. The MBE/WBE has provided to the Redeveloper or its general contractor (if the MBE/WBE contractor is himself a sub-contractor), a performance and/or payment bond for the job (if required by the contract).

b. The MBE/WBE has finances/resources in a sufficient amount to perform the sub-contract (i.e. is financially capable of handling a contract of that size without undue reliance on the payments of the redeveloper/general contractor).

c. Payment is made to the MBE/WBE for the percentage of work completed on the project (and not in advance for the purpose of funding the MBE/WBE).

d. MBE/WBE has the expertise to perform such administrative functions.

4. No Credit. No credit toward achieving the goals on an individual contract shall be given for:

a. Participation in a contract by any qualified MBE or WBE that does not perform a Commercially Useful Function.
b. Any portion of the value of the contract that an MBE or WBE subcontractor subcontracts back to the prime contractor or any other contractor who is not a qualified MBE/WBE.

c. An MBE or WBE prime contractor's own participation in its contract.

d. Materials and supplies used on the contract unless the MBE/WBE is responsible for negotiating price, determining quality and quantity, ordering the materials and installing (where applicable) and paying for material itself.

e. Work performed by an MBE or WBE in a scope of work other than that in which the MBE or WBE is currently certified.

B. Workforce. 100% of the hours worked by minorities and women.

VII. REMEDIES

In addition to remedies set forth in the Redevelopment Agreement, if TIFC finds, after due notice and hearing, the Redeveloper has not made a good faith effort to comply with the Utilization Goals set forth herein or has otherwise not complied with this Policy, TIFC may take such action as it deems appropriate, including but not limited to the temporary suspension of development rights, ordering a cessation of development activity, or may note such non-compliance in any future application by the Redeveloper to implement any future Redevelopment Plans. In addition, TIFC may take into account the past compliance record of any Redeveloper’s proposed contractors and subcontractors in evaluating such Redeveloper’s applications to implement a Redevelopment Plan.

The Redeveloper and TIFC acknowledge that MBEs and WBEs are third party beneficiaries to the Redevelopment Agreement with respect to compliance with this Policy. Because the amount of harm caused to MBEs and WBEs by the Redeveloper not exerting good faith efforts to meet the Utilization Goals set forth herein is uncertain, if not impossible, to determine, the Redeveloper agrees to pay to TIFC liquidated damages in an amount not to exceed the fees and expenses incurred by TIFC in investigating and determining that the Redeveloper has not complied with this Policy; plus an amount equal to the percentage of the total amount of dollars spent in the Kansas City Metropolitan Area for Professional and/or Construction services that MBEs or WBEs would have otherwise received or money that otherwise would have been spent to employ minorities and women in the Workforce had the respective Utilization Goals set forth herein, been attained by the Redeveloper. The liquidated damages shall not be a reimbursable Redevelopment Cost. To illustrate the application of this liquidated damages provision, please refer the example below:

Example
1. Pursuant to the implementation of Redevelopment Project A ("Project A"), a Redeveloper spends a total of $100,000 for construction services. Such amount is paid exclusively to contractors, subcontractors and assignees, located within the Kansas City Metropolitan Area.

2. A Redeveloper utilized MBEs at a rate of 2% and WBEs at a rate of 1% for construction services in the development of Project A. Thus, the Redeveloper paid $2,000 to MBEs and $1,000 to WBEs for such construction services.

3. The Utilization Goals established for Project A for the utilization of MBEs and WBEs in construction services is 9% and 7%, respectively and such Utilization Goals were set forth in a Utilization Plan approved by the Human Relations Department.

4. TIFC finds that the Redeveloper did not exercise good faith efforts to meet the Utilization Goals for the utilization of MBEs and WBEs in construction services for the development of Project A. The cost associated with determination is $25,000.

5. The additional amount that MBEs would have otherwise received had the Utilization Goals been met would be an amount equal to: the Utilization Goal of 9% minus the 2% actually attained of the total amount of $100,000 spent. Thus, the Redeveloper would have spent an additional $7,000 with MBEs. The additional amount WBEs would have otherwise received had the Utilization Goals been met would be an amount equal to: the Utilization Goal of 7% minus the 1% actually attained of the total amount of $100,000 spent. Thus, the Redeveloper would have spent an additional $6000 with WBEs.

6. Pursuant to the liquidated damages provision of this Policy, the Redeveloper may be obligated to pay to TIFC liquidated damages in an amount up to $25,000 (the cost associated with TIFC finding); plus $7,000 (the amount MBEs would have otherwise received had the Utilization Goals been met); plus $6,000 (the amount WBEs would have otherwise received had the Utilization Goals been met) for an aggregate amount of $38,000 in liquidated damages.

VIII. COMPLIANCE EXPENSE

To the extent the Redeveloper is in compliance with this Policy, the reasonable and necessary administrative expenses associated with determining compliance may be reimbursed as Redevelopment Project Costs.
HUMAN RELATIONS DEPARTMENT ACKNOWLEDGEMENT & APPROVAL

The Director of the Human Relations Department of the City of Kansas City, Missouri (the "City"), pursuant to Chapter 38, Article II, Section 38-85.5 has reviewed this Affirmative Action Policy and hereby determines that it is consistent with the City's affirmative action program and minority and women's business enterprise program.

________________________________________
Director, Human Relations Department
Exhibit B

OFFICER'S CERTIFICATE

I, ____________________, president of ____________________, a
____________________, the “Developer”), in connection with the Developer’s Proposal
(the “Proposal”) to develop __________________ of the ___________________ Tax
Increment Financing Plan, as amended (the “Plan”) hereby certify that:

1. The Developer has received a copy and reviewed the terms of the
Affirmative Action Policy (the “Policy”) of the Tax Increment Financing Commission of Kansas
City, Missouri (the “Commission”) and has had an opportunity to discuss and ask questions of the
staff of the Commission and the Human Relations Department of the City of Kansas City, Missouri
(the “Department”) with respect to the Policy.

2. All capitalized terms within this Certificate that are not defined shall have the
meanings ascribed to them in the Policy.

3. The Developer acknowledges that the Policy, a copy of which is attached
hereeto as Exhibit A, is intended to implement the goals established by the Department (the
“Utilization Goals”) with respect to the utilization of Minority Business Enterprises (“MBEs”) and
Women Business Enterprises (“WBEs”), which have been certified by the Department, in providing
(i) Professional Services and Construction Services and (ii) an equal opportunity for minorities and
women to be employed in the workforces of all contractors, subcontractors and assignees of the
Developer in connection with the implementation of the ___________________.

4. The Developer agrees to (i) comply with all record keeping and reporting
requirements referenced in the Policy, as such requirements may change from time to time, (ii)
contractually require each contractor, subcontractor and assignee of the Developer to comply with
the Policy and (iii) enforce such contractual provisions.

5. The Developer acknowledges that although the Utilization Goals established
by the Department, which may change from time to time, are not “set-asides” nor requirements, the
Developer agrees to (i) exert a good faith effort, as determined by the Commission, to meet such
Utilization Goals, (ii) contractually require each contractor, subcontractor and assignee of the
Developer to exert a good faith effort to meet the Utilization Goals and (iii) enforce such contractual
provisions.

6. The Developer acknowledges and agrees that a good faith effort to meet the
Utilization Goals requires, at least, the following:

i. Request in writing the assistance of the Department with respect to
efforts to promote the utilization of MBE/WBE’s.

ii. Solicit in writing proposals from known MBE/WBE’s, at least 15
calendar days prior to the utilization of any Professional or Construction
Services in furtherance of each Redevelopment Project, setting forth in
sufficient detail a description of the ____________, identification of
the Developer or contractor, the amount and scope of work to be performed,
the time frame of the performance so that meaningful proposals may be
submitted sufficiently in advance to be considered prior to awarding of
contracts.

iii. Advertise in Minority/Women’s Trade Association Newsletters
and/or minority owned media, at least 15 calendar days prior to the utilization
of any Professional or Construction Services in furtherance of the
______________, identifying specific opportunities, at least equal to
the Utilization Goals (but not a reserved set-aside) and maintain a log or
copies of such ads showing the date of publication and identifying the
publication.

iv. Adequately segment the work request for proposal documents or any
other communication or publication intended to solicit Professional or
Construction Services in furtherance of the ________________, to be
subcontracted to the extent consistent with the size and capability of
MBE/WBEs in order to provide reasonable subcontracting opportunities.

v. Notify in writing Minority/Women Contractor Associations, at least
15 calendar days prior to the utilization of Professional or Construction
Services in furtherance of the ________________, of the availability of
specific opportunities, at least equal to the percentage set forth in the
Utilization Goals.

vi. Make telephone calls to MBE/WBE contractors and make a log
thereof, including date, time, name of the person talked to and subject of
discussion.

vii. Conduct good faith negotiations with those MBE/WBE’s from whom
proposals were received in an effort to reach a mutually acceptable
agreement. Documentation in support thereof must include (a) copies of
solicitation letters, (b) bid price of MBE/WBE, (c) bid price of the non-
MBE/WBE bidder and (d) reason for non-selection of the MBE/WBE bidder.

7. The Developer acknowledges and agrees that if the Commission finds, after
due notice and hearing, that the Developer has not made a good faith effort to meet the goals set
forth in the Policy, the Commission may take such action as it deems appropriate, including but not
limited to the temporary suspension of development rights, ordering a cessation of development
activity, noting such non-compliance in any future applications by Developer to implement any
future redevelopment plans or projects or any such other remedy for a breach under a
Redevelopment Agreement between the Commission and the Developer for the implementation of
the ________________. Additionally, the Developer acknowledges and agrees to the amount of
liquidated damages, as set forth in the Policy, that the Developer may be obligated to pay, if the
Commission finds the Developer has not complied with the Policy.
8. The Developer acknowledges and agrees that prior to reimbursement of any eligible redevelopment project costs identified in the Plan, as amended, that the Developer shall have (i) entered into a Teaming Agreement, in a form substantially similar to Exhibit B, attached hereto, with an MBE or WBE, which shall provide, inter alia, that such MBE or WBE shall provide Professional Services, on behalf of the Developer, in connection with the implementation of the ________________ or delivered to the Commission letters from MBEs and WBEs evidencing their participation in the ________________ and (ii) delivered to the Commission written evidence that the Department has approved the Utilization Plans for Construction Services, Professional Services and Workforce in connection with the implementation of the ________________.

9. The Developer acknowledges and agrees that prior to reimbursement of any eligible redevelopment costs identified in the Plan, as amended, that (i) the Department has certified compliance with the Policy and (ii) the Commission’s independent cost certifier has certified all expenditures paid to MBEs and WBEs.

10. The undersigned has delivered this Officer’s Certificate to the Commission in consideration of the Commission’s review and approval of the Proposal. The undersigned acknowledges and agrees that this Certificate is being materially relied upon by the Commission in connection with the approval of the Proposal and a redevelopment agreement to the implement the same and, to the extent any statement or representation made herein is not true and correct in all material respects, the Commission may withdraw the Developer’s development rights with respect to the implementation of the Proposal and terminate any agreement entered into between the Developer and the Commission regarding the implementation of the ________________.

IN WITNESS WHEREOF, the undersigned has executed this Certificate as of __________, 200_

DEVELOPER:

By: __________________________________________
Name: _________________________________________
Title: __________________________________________
Exhibit C

Utilization Plan for Professional Services

(Tax Increment Financing Plan)

(Redeveloper)

State of _________________
County of _________________

Comes now __________________, of lawful age and being duly sworn upon his/her oath, states as follows:

1. I am the _________________ (position) of Redevloper and am authorized to make this statement on its behalf. This affidavit is for the purpose of complying with the TIF Commission’s Affirmative Action Policy requirements for utilization of Minority/Women Business Enterprises (MBE/WBE), as MBE’s and WBE’s are defined by the TIF Commission’s Affirmative Action Policy, for professional services.

2. The Redeveloper acknowledges and agrees that the aggregate amount it intends to spend on professional services in connection with the implementation of the above-mentioned project is $______________________.

3. The Human Relations Department has established and the Redeveloper that agrees there should be a minimum of ______ percent (___ %) Minority Business Enterprise (MBE) and ______ percent (___ %) Women’s Business Enterprise (WBE) professional service participation in the above-named project.

4. In order to meet the Utilization Goals for professional services, the following is a true and accurate list of the professional services providers, regardless of tier, with whom Redevloper intends to contract:

a. Name of M/WBE Company: ______________________________
Address: ______________________________________________
Phone Number: _________________________________________
Contact Person: _________________________________________
I.R.S. No. _____________________________________________
Race, ethnic origin, or gender _____________________________
Area/Scope of work _____________________________________
Dollar amount __________________________________________
b. Name of M/WBE Company: ____________________________
   Address: __________________________________________
   Phone Number: ______________________________________
   Contact Person: ______________________________________
   I.R.S. No. __________________________________________
   Race, ethnic origin, or gender __________________________
   Area/Scope of work ____________________________
   Dollar amount ______________________________________

c. Name of M/WBE Company: ____________________________
   Address: __________________________________________
   Phone Number: ______________________________________
   Contact Person: ______________________________________
   I.R.S. No. __________________________________________
   Race, ethnic origin, or gender __________________________
   Area/Scope of work ____________________________
   Dollar amount ______________________________________

d. Name of M/WBE Company: ____________________________
   Address: __________________________________________
   Phone Number: ______________________________________
   Contact Person: ______________________________________
   I.R.S. No. __________________________________________
   Race, ethnic origin, or gender __________________________
   Area/Scope of work ____________________________
   Dollar amount ______________________________________

e. Name of M/WBE Company: ____________________________
   Address: __________________________________________
   Phone Number: ______________________________________
   Contact Person: ______________________________________
   I.R.S. No. __________________________________________
   Race, ethnic origin, or gender __________________________
   Area/Scope of work ____________________________
   Dollar amount ______________________________________

DEVELOPER
By: 
Name: 

Subscribed and sworn to before me, a Notary Public, this ___ day of __________, 200_.

Notary Public

My Commission expires:
Exhibit D

Utilization Plan for Construction Services

(Tax Increment Financing Plan)

(Redeveloper)

State of ________________
County of ________________

Comes now ________________, of lawful age and being duly sworn upon his/her oath, states as follows:

1. I am the ______________ (position) of Redveloper and am authorized to make this statement on its behalf. This affidavit is for the purpose of complying with the TIF Commission’s Affirmative Action Policy requirements for utilization of Minority/Women Business Enterprises (MBE/WBE), as MBE’s and WBE’s are defined by the TIF Commission’s Affirmative Action Policy, for construction services.

2. The Redveloper acknowledges and agrees that the aggregate amount it intends to spend on construction services in connection with the implementation of the above-mentioned project is $ ________________.

3. The Human Relations Department has established and the Redveloper that agrees there should be a minimum of _____ percent (%) Minority Business Enterprise (MBE) and _____ percent (%) Women’s Business Enterprise (WBE) construction service participation in the above-named project.

4. In order to meet the Utilization Goals for construction services, the following is a true and accurate list of the professional services providers, regardless of tier, with whom Redveloper intends to contract:

a. Name of M/WBE Company: __________________________
   Address: __________________________________________
   Phone Number: _____________________________________
   Contact Person: _____________________________________
   I.R.S. No. __________________________________________
   Race, ethnic origin, or gender __________________________
   Area/Scope of work _________________________________
   Dollar amount ________________________________
b. Name of M/WBE Company: ______________________________
   Address: ____________________________________________
   Phone Number: _______________________________________
   Contact Person: _______________________________________
   I.R.S. No. ____________________________________________
   Race, ethnic origin, or gender ___________________________
   Area/Scope of work _________________________________
   Dollar amount _______________________________________

c. Name of M/WBE Company: ______________________________
   Address: ____________________________________________
   Phone Number: _______________________________________
   Contact Person: _______________________________________
   I.R.S. No. ____________________________________________
   Race, ethnic origin, or gender ___________________________
   Area/Scope of work _________________________________
   Dollar amount _______________________________________

d. Name of M/WBE Company: ______________________________
   Address: ____________________________________________
   Phone Number: _______________________________________
   Contact Person: _______________________________________
   I.R.S. No. ____________________________________________
   Race, ethnic origin, or gender ___________________________
   Area/Scope of work _________________________________
   Dollar amount _______________________________________

e. Name of M/WBE Company: ______________________________
   Address: ____________________________________________
   Phone Number: _______________________________________
   Contact Person: _______________________________________
   I.R.S. No. ____________________________________________
   Race, ethnic origin, or gender ___________________________
   Area/Scope of work _________________________________
   Dollar amount _______________________________________

DEVELOPER

By: ________________________________
Name: ______________________________

Subscribed and sworn to before me, a Notary Public, this ___ day of 
__________, 200_.

____________________________________
Notary Public

My Commission expires:
Exhibit E

TEAMING AGREEMENT

THIS TEAMING AGREEMENT, including all Exhibits attached hereto or referenced herein (hereinafter referred to as this “Agreement”), is made and entered into this ___ day of ____, 2003, by and between XYZ, a __________ corporation with offices located at __________ (the “Developer”) and ABC (“Independent Contractor”). The Developer and Independent Contractor are sometimes referred to collectively herein as the “Parties” and individually as a “Party.”

WHEREAS, the Developer desires to implement a [Redevelopment Plan/Redevelopment Project] pursuant to Sections 99.800-99.865 of the Real Property Tax Increment Allocation Redevelopment Act (the “TIF Act”);

WHEREAS, the Tax Increment Financing Commission of Kansas City, Missouri (the “Commission”) adopted an Affirmative Action Policy (the “Policy”), which requires that a developer of any Redevelopment Plan, Redevelopment Project or Project Improvement exert good faith efforts to utilize Minority-Owned Businesses (“MBEs”) and Women-Owned Businesses (“WBEs”), which have been certified by the City of Kansas City, Missouri, for Professional Services and Construction Services (as defined in the Policy) in connection with the implementation of any Redevelopment Plan, Redevelopment Project or Public Improvement;

WHEREAS, Independent Contractor is an [MBE/WBE], which has been certified by the City of Kansas City, Missouri;

WHEREAS, pursuant to and in accordance with the Policy, prior to engaging any professional services or construction services in furtherance of any Redevelopment Plan, Redevelopment Project or Public Improvement a developer shall deliver to the Commission an executed Teaming Agreement, which shall demonstrate the developer’s contractual commitment to enter into negotiations with each MBE and WBE the Developer intends to utilize in connection with the implementation of a Redevelopment Plan, Redevelopment Project or Public Improvement; and

WHEREAS, pursuant to and in accordance with the Policy, the Parties wish to enter into this Agreement to demonstrate the Developer’s commitment to utilize the Independent Contractor in connection with the implementation of the ________________ [Redevelopment Plan/Redevelopment Project] (the “Proposed TIF Plan”);

NOW, THEREFORE, in consideration of the foregoing, and in reliance on the mutual promises and obligations contained herein, the Parties hereby agree as follows:

1. Definitions. Capitalized terms set forth herein, which are not defined, shall have the meanings ascribed to them in the Policy.

2. Developer’s Responsibilities. The Developer will work with the Commission, and its designated representatives, in good faith in developing a plan to utilize MBEs and WBEs to provide Professional Services and Construction Services in connection with the implementation of the Proposed Redevelopment Plan, Project or Public Improvement (the “Utilization Plan”), and the Developer shall continue to exert reasonable, good faith efforts
toward this objective throughout the approval and implementation of the Proposed TIF Plan, including but not limited to, compliance with Section 9 of this Agreement.

3. **Identification of Parties.** It is understood that in the Developer’s Utilization Plans submitted to the Commission and the Human Relations Department of the City of Kansas City, Missouri, the Developer will identify the Independent Contractor as a certified [MBE/WBE], and describe the respective areas of responsibility of the Independent Contractor in furtherance of the implementation of the Proposed Redevelopment Plan, Project or Public Improvement.

4. **Additional MBE and WBE’s.** Notwithstanding any other provision herein to the contrary, the Developer, in order to meet the Utilization Goals of the Redevelopment Plan, Project or Public Improvement, or otherwise, reserves the right to utilize additional MBEs and WBEs in implementing the Proposed Redevelopment Plan, Project or Public Improvement.

5. **Independent Contractor Responsibilities.** The Independent Contractor, upon written request by the Developer, will furnish, for incorporation into the Developer’s Utilization Plans, all materials, information and data pertinent to the work assigned to the Independent Contractor.

6. **Independent Contractor Personnel.** Upon the Developer’s written request, the Independent Contractor shall make available appropriate management and technical personnel to assist the Developer in any discussions, communications or any public meeting before the Commission relating to the Proposed Redevelopment Plan, Project or Public Improvement.

7. **Costs/Limitation of Liability.** Except as provided in the Policy, each Party shall bear all costs, expenses, risks and liabilities incurred by it arising out of or relating to its obligations, efforts or performance under this Agreement. In no event shall either Party be liable to the other for any punitive, exemplary, special, indirect, incidental or consequential damages (including, but not limited to, lost profits, lost revenues, lost business opportunities, loss of use or equipment down time, and loss of or corruption to data) arising out of or relating to this Agreement, regardless of the legal theory under which such damages are sought, and even if the Parties have been advised of the possibility of such damages or loss.

8. **Submissions to the Commission.** The Developer shall have the sole right to decide the form and content of all documents submitted to the Commission. The Developer will make reasonable efforts to insure that the Independent Contractor’s data is accurately and adequately portrayed, and identified as the Independent Contractor’s portion. The Developer will afford the Independent Contractor the opportunity to review, upon request, prior to the submission of the Developer’s Application, that portion of the proposal that includes the effort to be performed by the Independent Contractor.

9. **Negotiations with Independent Contractors.** If, during the term of this Agreement, the Commission approves the Proposed TIF Plan or Project submitted by the Developer and subsequently enters into an agreement for the implementation of the Proposed TIF Plan or Project, the Parties will engage in good faith negotiations toward entering into an agreement for that portion of the work set forth on Exhibit I of this Agreement, as may be modified by the Parties. Such work shall be performed by the Independent Contractor in accordance with the specifications as set forth on Exhibit I, which may be modified as the Parties may mutually agree, and subject to the stipulation that such an agreement be reached within a...
reasonable period of time, which shall in no event exceed 120 days from the time the
Commission approves the proposed Redevelopment Plan, Project or Public Improvement.

10. Communications with the Commission. Although the Developer is contemplated as the sole
interface with the Commission with respect to the implementation of the Proposed
Redevelopment Plan, Project or Public Improvement, it is recognized that the Independent
Contractor may have continuing relations with the Commission and may be the recipient of
inquiries concerning the Proposed Redevelopment Plan, Project or Public Improvement.
Therefore, any communications initiated by the Commission directly with the Independent
Contractor concerning this Redevelopment Plan, Project or Public Improvement are
permissible.

11. Points of Contact. The Parties each will designate one or more individuals within their
respective organizations as their representative(s) responsible for directing performance of
the Parties’ obligations under this Agreement.

12. Proprietary/Confidential Information. In carrying out the terms of this Agreement, it may be
necessary for the Parties to provide proprietary and/or confidential information to one
another. In such event, the disclosure and use of all proprietary and/or confidential
information shall be in accordance with a separate Non-Disclosure Agreement, which shall
be in a form substantially similar to Exhibit II, attached hereto (the “Non-Disclosure
Agreement”).

13. Inventions/Patents. Nothing contained in this Agreement shall, by express grant,
implication, estoppel or otherwise, create in either Party any right, title, interest, or license
in or to the inventions, patents, computer software or software documentation of the other
Party.

14. Termination/Expiration. This Agreement shall remain in effect until the first of the
following shall occur:

a. A decision by the Developer that it does not wish to submit the Proposed
Redevelopment Plan, Project or Public Improvement to the Commission for
consideration, provided that, such decision is communicated in writing to the
Independent Contractor at least 30 days prior to the date of the scheduled public hearing.
In the event of the foregoing, the Developer shall be prohibited from participating in the
implementation of the Proposed Redevelopment Plan, Project or Public Improvement, in
any manner, either independently, or in conjunction with any other Party.

b. The termination of the Proposed Redevelopment Plan, Project or Public Improvement or
the agreement by and between the Commission and the Developer for the
implementation of the Proposed Redevelopment Plan, Project or Public Improvement.

c. Inability of the Developer and the Independent Contractor, after negotiating in good
faith, as determined by the Commission, for a reasonable period of time, to reach
agreement on the terms and conditions of a contract. If such agreement has not been
reached within 120 days from the initiation of negotiations, it will be deemed that the
Parties were unable to reach agreement.

d. Either Party becomes insolvent, is placed into receivership, becomes the subject of
proceedings under the laws relating to bankruptcy, the relief of debtors or assignment for
the benefit of creditors, or admits in writing its inability to pay its debts as they become
due.

e. The suspension or debarment of the Independent Contractor as a certified MBE or WBE
with the City of Kansas City, Missouri.

15. Survival. The termination or expiration of this Agreement shall not supersede or affect the
obligations of the Parties with respect to the protection of Proprietary Information, as set
forth in the Non-Disclosure Agreement, which shall survive such termination or expiration
and remain in full force and effect.

16. Notices. All notices, certificates, acknowledgments or other written communications
(hereinafter referred to as “Notices”) required to be given under this Agreement shall be in
writing and shall be deemed to have been given and properly delivered if duly mailed by
certified or registered mail to the other Party at its address as follows, or to such other
address as either Party may, by written notice, designate to the other. Additionally, Notices
sent by any other means (i.e., facsimile, overnight delivery, courier, and the like) are
acceptable subject to written confirmation of both the transmission and receipt of the Notice.

Developer
XYZ

________________________________________

Attn:__________________________________________

Phone:__________________________________________

Fax:__________________________________________

Independent Contractor
ABC

________________________________________

Attn:__________________________________________

Phone:__________________________________________

Fax:__________________________________________

17. Relationship of Parties. This Agreement is not intended by the Parties to constitute or create
a joint venture, limited liability company, pooling arrangement, partnership, or other formal
business organization of any kind, other than a team arrangement, and the rights and
obligations of the Parties shall be only those expressly set forth herein. Neither Party shall
have authority to bind the other except to the extent expressly authorized herein. Nothing in
this Agreement shall be construed as providing for the sharing of profits or losses arising out
of the efforts of either or both Parties. It is also understood that no division of markets is
attempted by this Agreement.

18. Assignment. This Agreement may not be assigned, novated or otherwise transferred by
operation of law or otherwise by either Party without the prior written consent of the other
Party. Any change of control of a Party shall be deemed an assignment of this Agreement.
that requires the prior written consent of the other Party. For purposes of this Agreement, “change of control” means any merger, consolidation, sale of all or substantially all of the assets or sale of a substantial block of stock, of a Party. Any such assignment, novation or transfer by one Party not in accordance with this provision shall be a material breach of this Agreement and shall be grounds for immediate termination thereof by the non-breaching Party, in addition to any other remedies that may be available at law or in equity to the non-breaching Party.

19. Modifications/Non-Waiver of Rights. This Agreement shall not be amended, modified or extended, nor shall any waiver of any right hereunder be effective, unless set forth in a document executed by duly authorized representatives of both Parties, specifically referencing the provision of this Agreement to be amended, modified, extended or waived. The failure of either Party to insist upon performance of any provision of this Agreement, or to exercise any right, remedy or option provided herein, shall not be construed or deemed as a waiver of the right to assert any of the same at any time thereafter.

20. Commission’s Right to Negotiate. Nothing herein is intended to affect the rights of the Commission to negotiate directly with the Developer on any basis the Commission may desire.

21. Entire Agreement. This Agreement, including any and all Exhibits hereto which are incorporated herein by reference, constitutes the entire agreement and understanding between the Parties hereto, and supersedes and replaces any and all previous or contemporaneous understandings, commitments, agreements, proposals or representations of any kind, whether oral or written, relating to the subject matter hereof.

22. Severability. If any term, condition or provision of this Agreement is held or finally determined to be void, invalid, illegal, or unenforceable in any respect, in whole or in part, such term, condition or provision shall be severed from this Agreement, and the remaining terms, conditions and provisions contained herein shall continue in force and effect, and shall in no way be affected, prejudiced or disturbed thereby.

23. Governing Law. This Agreement shall be governed by and construed, enforced and interpreted under the laws of Missouri, without regard to its laws relating to conflict or choice of laws. Any dispute, claim, action or suit arising out of or relating to this Agreement may only be brought exclusively in a court of competent jurisdiction in Missouri.

24. Headings. The headings and titles of the various sections of this Agreement are intended solely for convenience of reference and are not intended to define, limit, explain, expand, modify or place any construction on any of the provisions of this Agreement.
IN WITNESS WHEREOF, the Parties represent and warrant that this Agreement is executed by duly authorized representatives of each Party as set forth below on the date first stated above.

**Developer**

By: ________________________________

Name: ______________________________

Title: ______________________________

Date: ______________________________

**Independent Contractor**

By: ________________________________

Name: ______________________________

Title: ______________________________

Date: ______________________________
EXHIBIT I

SCOPE OF WORK
EXHIBIT II

NON-DISCLOSURE AGREEMENT

This is an Agreement, effective __________, between XYZ (hereinafter referred to as "Developer") and ABC (hereinafter referred to as "Independent Contractor"). It is recognized that it may be necessary or desirable to exchange information between the Developer and Independent Contractor for the purpose of teeming in pursuit of the implementation of the __________ Redevelopment Plan.

It may be necessary for either Party to provide proprietary information to the other. With respect to such information, the Parties agree as follows:

(1) “Proprietary Information” shall include, but not be limited to, performance, sales, financial, contractual and special marketing information, ideas, technical data and concepts originated by the disclosing Party, not previously published or otherwise disclosed to the general public, not previously available without restriction to the receiving Party or others, nor normally furnished to others without compensation, and which the disclosing Party desires to protect against unrestricted disclosure or competitive use, and which is furnished pursuant to this Non-Disclosure Agreement and appropriately identified as being proprietary when furnished.

(2) In order for proprietary information disclosed by one Party to the other to be protected in accordance with this Non-Disclosure Agreement, it must be: (a) in writing; (b) clearly identified as proprietary information at the time of its disclosure by each page thereof being marked with an appropriate legend indicating that the information is deemed proprietary by the disclosing Party; and (c) delivered by letter of transmittal to the individual designated in Paragraph 3 below, or his designee. Where the proprietary information has not been or cannot be reduced to written form at the time of disclosure and such disclosure is made orally and with prior assertion of proprietary rights therein, such orally disclosed proprietary information shall only be protected in accordance with this Non-Disclosure Agreement provided that complete written summaries of all proprietary aspects of any such oral disclosures shall have been delivered to the individual identified in Paragraph 3 below, within 20 calendar days of said oral disclosures. Neither Party shall identify information as proprietary which is not in good faith believed to be confidential, privileged, a trade secret, or otherwise entitled to such markings or proprietary claims.
(3) In order for either Party’s proprietary information to be protected as described herein, it must be submitted in written form as set forth in Paragraph (2) above to the individuals identified below:

XYZ
Name: ______________________________
Title: ______________________________
Address: ____________________________
Telephone No.: ______________________
FAX No.: ____________________________

ABC
Name: ______________________________
Title: ______________________________
Address: ____________________________
Telephone No.: ______________________
FAX No.: ____________________________

(4) Each Party covenants and agrees that it will, notwithstanding that this Non-Disclosure Agreement may have terminated or expired, keep in confidence, and prevent the disclosure to any person or persons outside its organization or to any unauthorized person or persons, any and all information which is received from the other under this Non-Disclosure Agreement and has been protected in accordance with paragraphs 2 and 3 hereof; provided however, that a receiving Party shall not be liable for disclosure of any such information if the same:

A. Was in the public domain at the time it was disclosed, or

B. Becomes part of the public domain without breach of this Agreement, or

C. Is disclosed with the written approval of the other Party, or

D. Is disclosed after 3 years from receipt of the information, or

E. Was independently developed by the receiving Party, or

F. Is or was disclosed by the disclosing Party to a third Party without restriction, or

G. Is disclosed pursuant to the provisions of a court order.

As between the Parties hereto, the provisions of this Paragraph 4 shall supersede the provisions of any inconsistent legend that may be affixed to said data by the disclosing Party, and the inconsistent provisions of any such legend shall be without any force or effect.

Any protected information provided by one Party to the other shall be used only in furtherance of the purposes described in this Agreement, and shall be, upon request at any time, returned to the disclosing Party. If either Party loses or makes unauthorized disclosure of the other Party’s protected information, it shall notify such other Party immediately and
take all steps reasonable and necessary to retrieve the lost or improperly disclosed information.

(5) The standard of care for protecting Proprietary Information imposed on the Party receiving such information, will be that degree of care the receiving Party uses to prevent disclosure, publication or dissemination of its own proprietary information.

(6) Neither Party shall be liable for the inadvertent or accidental disclosure of Proprietary Information if such disclosure occurs despite the exercise of the same degree of care as such Party normally takes to preserve its own such data or information.

(7) In providing any information hereunder, each disclosing Party makes no representations, either express or implied, as to the information's adequacy, sufficiency, or freedom from defect of any kind, including freedom from any patent infringement that may result from the use of such information, nor shall either Party incur any liability or obligation whatsoever by reason of such information, except as provided under Paragraph 4, hereof.

(8) Notwithstanding the termination or expiration of any Teaming Agreement executed in conjunction with this Agreement, the obligations of the Parties with respect to proprietary information shall continue to be governed by this Non-Disclosure Agreement.

(9) This Non-Disclosure Agreement contains the entire agreement relative to the protection of information to be exchanged hereunder, and supersedes all prior or contemporaneous oral or written understandings and agreements regarding this issue. This Non-Disclosure Agreement shall not be modified or amended, except in a written instrument executed by the Parties.

(10) Nothing contained in this Non-Disclosure Agreement shall, by express grant, implication, estoppel or otherwise, create in either Party any right, title, interest, or license in or to the inventions, patents, technical data, computer software, or software documentation of the other Party.

(11) Nothing contained in this Non-Disclosure Agreement shall grant to either Party the right to make commitments of any kind for or on behalf of any other Party without the prior written consent of that other Party.

(12) The effective date of this Non-Disclosure Agreement shall be the date stipulated at the beginning of this Agreement.

(13) This Non-Disclosure Agreement shall be governed and construed in accordance with the laws of the State of Missouri.

IN WITNESS WHEREOF, the Parties represent and warrant that this Agreement is executed by duly authorized representatives of each Party as set forth below on the date first stated above.
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