

**COUNCIL BILL 087
REDEVELOPMENT AGREEMENT
EXHIBIT B**

**TAX INCREMENT FINANCING
REDEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF HARRISONVILLE, MISSOURI
AND
D. J. CHRISTIE, INC.
FOR THE
HARRISONVILLE TOWNE CENTER
TAX INCREMENT FINANCING PLAN**

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REDEVELOPMENT AGREEMENT

THIS AGREEMENT, is hereby entered into this 21st day of November, 2005, by and between THE CITY OF HARRISONVILLE, MISSOURI (the "City") and D. J. Christie, Inc., the developer selected by the City (the "Developer") to implement its Plan of redevelopment more fully described herein.

Recitals

A. The Tax Increment Financing Commission of Harrisonville, Missouri (the "Commission") on September 14, 2005, recommended that the City approve the Harrisonville Towne Center Tax Increment Financing Plan (the "Redevelopment Plan") in an area described in the Redevelopment Plan and determined to be a Blighted Area and as set forth in Exhibit A, attached hereto and incorporated herein by reference (the "Redevelopment Area"). The Redevelopment Plan provides for the construction of one (1) redevelopment project in Harrisonville, Missouri ("Project I"), which anticipates the construction of approximately 157,900 gross square feet of improvements to be used for the operation of businesses conducting retail sales, in the portion of the Redevelopment Area ("Redevelopment Area – Project I") designated on Exhibit B as "Redevelopment Area – Project I", together with the installation, repair, construction, reconstruction and relocation of certain streets and utilities; and

B. The Commission further recommended that the City select D. J. Christie, Inc. as the Developer to implement Project I of the Redevelopment Plan.

C. By Ordinance No. 2940, adopted by the Board of Aldermen of the City of Harrisonville (the "Board of Aldermen") on November 21, 2005, the City approved the Redevelopment Plan, declared the Redevelopment Area as a Blighted Area, selected the Developer to implement Project I of the Redevelopment Plan, and authorized the City to enter into an agreement with the Developer for the implementation of Project I described in the Redevelopment Plan.

D. The Redevelopment Plan contemplates that Project I will be designated by Ordinance as a redevelopment project in conformance with Missouri's Real Property Tax Increment Allocation Redevelopment Act Sections 99.800 to 99.865 R.S.Mo. 2000, as amended (the "Act").

NOW, THEREFORE, in consideration of the premises, and the mutual covenants herein contained, the City and Developer agree as follows:

1. Rules of Interpretation.

a. All capitalized words or terms used in this Agreement and defined in the Redevelopment Plan shall have the meaning ascribed to them in the Redevelopment Plan. In addition thereto, and in addition to words and terms defined elsewhere in this Agreement, the following words and terms shall have the meanings ascribed to them in this section unless the context in which such words and terms are used clearly requires otherwise.

b. Unless the context clearly indicates to the contrary or unless otherwise provided herein, the following rules of interpretation shall apply to this Agreement:

(1) The terms defined in this Agreement which refer to a particular agreement, instrument or document also refer to and include all renewals, extensions, modifications, amendments and restatements of such agreement, instrument or document; provided however, that nothing contained in this sentence shall be construed to authorize any such renewal, extension, modification, amendment or restatement other than in accordance with Section 36 of this Agreement.

(2) The words "hereof", "herein" and "hereunder" and words of similar import when used in this Agreement shall refer to this Agreement as a whole and not to any particular provision of this Agreement. Section, subsection and exhibit references are to this Agreement unless otherwise specified. Whenever an item or items are listed after the word "including", such listing is not intended to be a listing that excludes items not listed.

(3) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders. Unless the context shall otherwise indicate, words importing the singular number shall include the plural and vice versa, and words importing person shall include individuals, corporations, partnerships, joint ventures, associations, joint stock companies, trusts, unincorporated organizations and governments and any agency or political subdivision thereof.

(4) The table of contents, captions and headings in this Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or sections of this Agreement.

2. Definitions.

(a) "Blighted Area," an area which, by reason of the predominance of defective or inadequate street layout, unsanitary or unsafe conditions, deterioration of site improvements, improper subdivision or obsolete plating, or the existence of conditions which endanger life or property by fire and other causes, or any combination of such factors, retards the provision of housing accommodations or constitutes an economic or social liability or a menace to the public health, safety, morals or welfare in its present condition and use;

(b) "City," the City of Harrisonville, Missouri;

(c) "City Code," the Code of Ordinances of the City of Harrisonville, Missouri;

(d) "Board of Aldermen," the governing body of Harrisonville, Missouri;

(e) "City Treasurer," the Financial Services Director of the City of Harrisonville, Missouri, or his or her designee;

(f) "Commission," the Tax Increment Financing Commission of Harrisonville, Missouri;

- (g) "County Assessor," the assessor of Cass County, Missouri;
- (h) "County Collector," the collector of Cass County, Missouri;
- (i) "Debt Service," the amount required for the payment of interest and principal on TIF Obligations as they come due, for the payment of mandatory or optional redemption payments and for payments to reserve funds required by the terms of the TIF Obligations to retire or secure the TIF Obligations;
- (j) "Developer," D. J. Christie, Inc., its successors and assigns;
- (k) "Economic Activity Account," the separate segregated account within the Special Allocation Fund into which Economic Activity Taxes are to be deposited;
- (l) "Economic Activity Taxes," fifty percent (50%) of the total additional revenue from taxes that are imposed by the City or other Taxing Districts, which are generated by economic activities within Redevelopment Area - Project I, while tax increment financing remains in effect, excluding licenses, fees or special assessments, other than payments in lieu of taxes, until the designation is terminated pursuant to subsection 2 of Section 99.850 of the Act;
- (m) "Ordinance," an ordinance enacted by the Board of Aldermen;
- (n) "Payment in Lieu of Taxes," those estimated revenues from real property in the Redevelopment Area, which revenues are to be used to retire TIF Obligations and pay other Reimbursable Project Costs, which Taxing Districts would have received had the City not adopted tax increment allocation financing, and which would result from levies made after the time of the adoption of tax increment allocation financing during the time the current equalized value of real property in the Redevelopment Area exceeds the Total Initial Equalized Value of real property in such area until the designation is terminated pursuant to subsection 2 of Section 99.850 of the Act, which shall not be later than 23 years after Project I to be developed in the Redevelopment Area is approved by an Ordinance of the Board of Aldermen. Payments in lieu of taxes that are due and owing shall constitute a lien against the real estate in the Redevelopment Area from which they are derived, the lien of which may be foreclosed in the same manner as a special assessment lien as provided in Section 88.861 R.S.Mo.;
- (o) "Payment in Lieu of Taxes Account," the separate segregated account within the Special Allocation Fund into which payments in lieu of taxes are to be deposited;
- (p) "Redevelopment Plan," the The Harrisonville Towne Center Tax Increment Financing Plan;
- (q) "Redevelopment Project Costs," include the sum total of all reasonable or necessary costs incurred or estimated to be incurred, any such costs incidental to the Redevelopment Plan and Project I as shown on Exhibit C attached hereto. Such costs include, but are not limited to, the following:

(1) Costs of studies, surveys, plans and specifications; professional service costs, including, but not limited to, architectural, engineering, legal, marketing, financial, planning or special services, and including the reasonable costs incurred by the City or the Commission established in the Act for the administration of the Redevelopment Plan, such costs shall be allowed only as an initial expense which, to be recoverable, shall be included in the costs of the Redevelopment Plan and Project I;

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

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

(4) Financing costs, including, but not limited to, (i) all necessary and incidental expenses related to any interim loans obtained by the Developer for the purpose of funding the Reimbursable Project Costs and (ii) all necessary and incidental expenses related to the issuance of TIF Obligations, and which may include payment of interest on any TIF Obligations issued hereunder accruing during the estimated period of construction of the Redevelopment Projects for which such TIF Obligations are issued and including reasonable reserves related thereto;

(5) Costs of construction of public works or improvements;

(6) Relocation costs to the extent that the City determines that relocation costs shall be paid or are required to be paid by federal or state law; and

(7) Payments in lieu of taxes.

(r) "Reimbursable Project Costs," the portion of Redevelopment Project Costs that, pursuant to the Redevelopment Plan and this Agreement, are to be funded or reimbursed with Payments in Lieu of Taxes, Economic Activity Taxes or the proceeds of TIF Obligations and Special District Revenues, and which costs include those as are set forth in Exhibit C attached hereto plus all actual Financing Costs and Reimbursable Project Costs to include those costs incurred by the City or the Developer as a result of preparing, reviewing and adopting the Redevelopment Plan and Project I; designation of the Redevelopment Area and the Redevelopment Area - Project I; planning, financing, acquiring and constructing Project I and any other work authorized by the Redevelopment Plan; the oversight of the construction of Project I; the implementation of the Redevelopment Plan; and the management of the Special Allocation Fund as well as any and all costs associated with formation of the Special District;

(s) "School District," the Harrisonville R-IX School District;

(t) "Special Allocation Fund," the fund established by the City into which, as required by the Act, all Payments in Lieu of Taxes and Economic Activity Taxes are

deposited for the purpose of paying Redevelopment Project Costs and TIF Obligations incurred in the payment thereof;

(u) "Special District Obligations," bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by a Transportation Development District;

(v) "Special District," a Missouri Transportation Development District pursuant to Sections 238.200 to 238.275 RSMo 2000, as amended;

(w) "Taxing Districts," any political subdivision of this state having the power to levy taxes;

(x) "TIF Obligations," bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by the City pursuant to the Act to carry out Project I and related improvements or to fund outstanding obligations;

(y) "Total Initial Equalized Assessed Value," that amount certified by the County Assessor which equals the most recently ascertained equalized land assessed value of each taxable lot, block, tract or parcel of real property within Redevelopment Area - Project I immediately after tax increment financing for such area has been approved by the Board of Aldermen by an Ordinance.

3. Redevelopment Area. The Redevelopment Area consists of the area described in the Redevelopment Plan determined to be a Blighted Area and set forth in Exhibit A, attached hereto.

4. Redevelopment Project Area. The Redevelopment Area will be developed within the area more specifically identified in Exhibit B as Redevelopment Area - Project I, all in accordance with the provisions of the Redevelopment Plan. Tax increment financing for Redevelopment Area - Project I shall become effective only upon the approval thereof by an Ordinance of the Board of Aldermen; provided, however, that any such Ordinance may be changed, modified and/or amended only in accordance with the Act by appropriate Ordinance passed by the Board of Aldermen, upon the recommendation of the Commission. The Developer has been designated by the City as Developer for Redevelopment Area – Project I.

5. Project I and Project Improvements. In accordance with the Act and the terms and conditions of the Redevelopment Plan and this Agreement, to ameliorate or satisfy those conditions that are the basis for eligibility and designation of the Redevelopment Area as a Blighted Area, the Developer shall cause Redevelopment Area – Project I to be developed as Project I. In conjunction with Project I, the Developer shall fund and/or construct or cause to be constructed those improvements as set forth in the Redevelopment Plan (the "Project Improvements"). The Project Improvements include those improvements associated with the construction of a retail center of approximately 157,900 gross square feet and related public infrastructure improvements as identified in Exhibit E attached hereto in accordance with the Redevelopment Plan, this Agreement, a plan document as required for the applicable zoning district for each parcel, and all other applicable laws and regulations.

6. Funding Sources and Uses of Funds.

a. Private Funds. Private funds (the "Private Funds") will be the total of the Developer's equity, equity investment provided by third parties, and debt incurred by the Developer. Private Funds shall be used for funding of the Project Improvements. As provided in this Agreement and pursuant to Exhibit C, the Developer shall be reimbursed for that portion of the Project Improvement costs that are described as Reimbursable Project Costs from the proceeds of TIF Obligations or, in the event TIF Obligations are not issued, from Economic Activity Taxes and Payments in Lieu of Taxes generated by Project I and deposited in the Special Allocation Fund.

b. TIF Obligations. The proceeds from TIF Obligations may be used to fund actual Reimbursable Project Costs in accordance with Exhibit C, along with underwriting fees, original issue discounts, legal fees and other costs of issuance associated with the TIF Obligations.

7. Reimbursable Cost Categories. The Developer shall have the right and ability to adjust Developer Reimbursable Project Costs (as defined in the Redevelopment Plan) within, and among, reimbursable expense categories as shown on Exhibit C, so long as the total amount of Developer Reimbursable Project Costs does not exceed the total principal aggregate amounts shown on Exhibit C plus any actual Financing Costs, any actual costs associated with the formation of the Special District or any actual costs attributable to City's administrative costs as contemplated by Section 41 of this Agreement.

8. Project Budget.

a. The Project Improvements shall be constructed substantially in accordance with the Project Budget attached hereto as Exhibit C.

b. The Developer shall promptly notify the City of any material changes in Exhibit C that occur after the City's approval of the Redevelopment Plan.

9. Development Schedule.

a. It is the intention of the parties that development activities for Redevelopment Area - Project I be substantially commenced and completed on or before the dates set forth in Exhibit D, attached hereto and incorporated herein by reference (the "Development Schedule"). The parties hereto recognize and agree that market conditions, timely approval, funding and completion of Project Improvements and other conditions may affect the Development Schedule for the Project Improvements. Therefore, the Development Schedule for the Project Improvements is subject to change and/or modification, with the written approval of the City, which shall not be unreasonably withheld. In order to implement the Development Schedule, the City will endeavor to facilitate the timely passage of the Ordinance approving Project I referred to in Section 4. The Developer shall render such reasonable aid and assistance as requested by the City to insure favorable consideration of such Ordinances referred to in Section 4 by the Board of Aldermen. If the Developer does not comply with the Development Schedule as set forth above for reasons other than a City failure to complete its obligations under this Agreement, then, unless the Developer requests an amendment of such Development Schedule prior to such failure and as a result of such request for an amendment of the Development

Schedule, the amendment is so approved by the City, the City may require the Developer to appear before the Board of Aldermen to show cause why this Agreement shall not be terminated in accordance with Section 33 hereof.

b. The City shall not be obligated to issue any certificates of occupancy for structures within Redevelopment Area – Project I until the public infrastructure improvements identified on Exhibit E are substantially complete as determined by the City. The City shall determine that said improvements described herein are substantially complete at such time that each improvement is sufficiently complete in accordance with the applicable construction specifications so that the improvement is functional and can be utilized for its intended use; provided that, the City has received all required approvals, licenses, and other documents from any other governmental authority having jurisdiction over the improvement.

10. Developer's Duties. Subject to the City's full compliance with all of its respective covenants and agreements and the satisfaction of the conditions precedent in Section 12 herein, the Developer's duties are as follows:

a. The Developer shall comply with all applicable laws, ordinances, rules and regulations, and the provisions of this Agreement. The Developer shall also comply with the provisions of the Redevelopment Plan to the extent said documents are not inconsistent with this Agreement.

b. Subject to the provisions of Section 8, the Developer shall acquire or obtain control of all real property in Redevelopment Area – Project I as set forth in Exhibit B in accordance with the Development Schedule (Exhibit D).

c. Subject to the provisions of Section 8, the Developer shall construct all Project Improvements and shall complete all other development-related activities including, but not necessarily limited to: design, land preparation, environmental evaluation and remediation, construction, management, maintenance and procurement of private financing in sufficient time to comply with the Development Schedule (Exhibit D). Changes in the redevelopment program contemplated by the Redevelopment Plan that do not require a statutorily mandated Redevelopment Plan amendment may be made only by agreement of the parties hereto.

d. Subject to the provisions of Section 8 and Section 9, the Developer shall complete all redevelopment activities on or before the dates set forth in the Development Schedule, Exhibit D attached hereto, for such activities.

e. Subject to the provisions of Section 8, the Developer shall construct or cause the construction of the public infrastructure portions of the Project Improvements in accordance with the provisions of the City Code applicable requirements and of any other governmental authority having jurisdiction over the improvement.

f. The Developer shall take all necessary actions that are within the reasonable control of the Developer to establish a Transportation Development District pursuant to Chapter 238 RSMo 2000, as amended ("TDD") promptly after execution of this Agreement, said TDD to include the real property owned by the Developer in Project I (said TDD being referred to herein as "Special District"). The City hereby consents to such TDD formation so long as the petition

of formation is in a form attached as Exhibit F (the "TDD Petition") and the TDD project to be funded by the TDD includes the street improvements described therein. After the Special District has been formed, the Special District shall enter into a cooperative contract with the City in a form attached hereto as Exhibit G (the "Special District Contract"). Neither the Developer nor its successors in the ownership of any parcel in the Redevelopment Area shall contest the imposition of a sales tax within the boundaries of the Special District at the rate of one percent (1%).

g. The Developer shall use all reasonable efforts to acquire easements through that portion of the Redevelopment Area that is not included in Redevelopment Area – Project I as are necessary for sewer and other utility extensions as shown on the approved Preliminary Plat for the Harrisonville Towne Center.

11. City's Duties. Subject to the Developer's full compliance with all of its respective covenants and agreements and the satisfaction of the conditions precedent in Section 12 herein, the City hereby agrees as follows:

a. The City, as to such funds as are received by the City, shall, upon receipt of appropriate documentation and information, direct all Payments in Lieu of Taxes and Economic Activity Taxes as set forth in the Act generated from the Redevelopment Area to the Special Allocation Fund, and upon receipt of such funds collected by other Taxing Jurisdictions from such Taxing Jurisdictions, the City shall deposit such funds in the Special Allocation Fund.

b. The City shall take all necessary actions to issue TIF Obligations on or before February 1, 2006, in such amount as is necessary to produce a net project fund in an amount not less than the Reimbursable Project Costs.

c. The City shall use revenues deposited in the Special Allocation Fund to pay Reimbursable Project Costs as specified in Sections 24 and 25, as appropriate, herein; subject, however, to the provisions of Section 12 hereof.

d. Tax Increment Financing for Redevelopment Area - Project I shall become effective upon the approval thereof by a separate Ordinance of the Board of Aldermen. The City shall take all such actions as are necessary to ensure the timely consideration by the Board of Aldermen of such Ordinance.

e. The City shall take all reasonable actions to cooperate with the Developer in the Developer's duty to establish the Special District as specified in Section 10.f. herein, including entering into the Special District Contract.

12. Conditions Precedent.

a. To City's Duties. The City's obligations to issue TIF Obligations as described in Section 11(b) of this Agreement shall be subject to the occurrence of the following events.

(1) Loan term sheet commitments to the Developer for the total private financing for the Project Improvements (excluding Reimbursable Project Costs), shall be made by Gold Bank or such other financial institutions or entities reasonably acceptable

to the City. Such commitments shall include, without limitation, equity and/or construction loan financing.

(2) A Special District as defined herein, has been established, a Special District sales tax at a rate of one percent (1%) has been imposed on all properties within the boundaries of the Special District, and the Special District Contract has been executed as specified in Section 11.e. herein.

(3) The City has entered into an agreement with the Developer and Sutherland Lumber Company of Kansas City, LLC, obligating Sutherland Lumber to construct, open and operate a 135,000 square foot or larger retail home improvement anchor store in the Redevelopment Area – Project I for a period of no less than five (5) years.

b. To Developer's Duties. The Developer's obligations hereunder are expressly conditioned upon the occurrence of each of the following events on or before the dates set forth in the Development Schedule, Exhibit D hereto:

(1) The City's approval of the Developer's financing plan.

(2) The City's timely approval of all required zoning, subdivision and permit applications.

(3) The successful establishment of the Special District as provided in Section 10.f. herein and issuance of TIF Obligations in amounts sufficient to pay all Reimbursable Project Costs.

13. Tenant Approvals. The Developer shall have complete and exclusive control over the leasing or sales of property that it owns within the Redevelopment Area – Project I including, without limitation, the fixing of rentals and the selection or rejection of users; provided, however, that the City shall have the right to review and approve the following users within the Redevelopment Area:

a. Existing Users in the City. Without City approval, which approval shall not be unreasonably withheld, the Developer shall not cause the relocation of a tenant into the Redevelopment Area – Project I other than in the retail strip center, which has the following characteristics: (i) directly causes a reduction in the tax revenues generated for the affected taxing jurisdictions by the existing business at its current location and/or (ii) reduces the revenues that would otherwise be generated within the Redevelopment Area and deposited into the Special Allocation Fund for purposes of assisting in funding the Redevelopment Project Costs and (iii) is then open and operating in the City. Relocation of any existing users in the City in the retail strip center shall be limited to such businesses where any such relocation results in an expansion of the amount of net operating space of the business by a minimum of twenty-five percent (25%) as compared to the amount of net operating space being used at said business' existing location in the City.

b. Restaurants. Without City approval, which approval shall not be unreasonably withheld, the Developer shall not lease or sell more than one (1) of the outparcel lots in the Redevelopment Area – Project I for use as a Fast Food Restaurant as hereinafter defined. For the

purpose of this section a Fast Food Restaurant shall be defined as a restaurant that typically has one or more of the following characteristics:

- (1) A "drive through" window;
- (2) Less than 15 tables for the service of customers;
- (3) No menu items in excess of \$6.00;
- (4) No waiter or waitress service; and
- (5) No Liquor, wine or beer sales.

For the purpose of this section and notwithstanding the foregoing, (i) the following restaurants or reasonably similar restaurants shall be considered to be Fast Food Restaurants: McDonalds, Wendy's, Burger King, White Castle, Hardees, Jack in the Box, and Carl's Jr. and (ii) the following restaurants or reasonably similar restaurants shall not be considered to be fast food restaurants: Panera Bread, Chipotle, Red Robin, Steak 'n Shake, and Starbucks.

c. Used or Second Hand Merchandise Stores. Without City approval, the Developer shall not lease or sell space in the Redevelopment Area – Project I to a store whose primary business is the sale of used or second hand merchandise, a thrift shop or a flea market.

d. Gasoline Station/Convenience Stores. Without City approval, the Developer shall not by sale or lease locate more than one (1) gasoline station/convenience store on an outparcel lot in the Redevelopment Area – Project I. For the purpose of this section a gasoline station/convenience store shall be defined as a facility where as the primary business gasoline, diesel fuel and oil is be dispensed at retail with no automobile repair facilities. Uses may also include the sale of cold drinks, packaged foods, prepared foods that would otherwise constitute fast foods, tobacco and similar household convenience goods for station customers. As used herein, a gasoline station/convenience store shall not include a gasoline sales facility constructed and operated by a retail store whose primary business is not gasoline sales.

e. Auto Repair Businesses or Lube Shops. The Developer shall not, without City approval, sell or lease any of the Redevelopment Area – Project I to a store whose primary business is as an automobile repair or lube shop or similar business that includes garage doors as a primary feature of its facility; provided that an auto repair business or lube shop or similar business as described herein shall not include a retail business whose primary business is the sale of and installation of tires for motor vehicles. Without City approval, the Developer shall not by sale or lease locate more than one (1) such retail tire business in the Redevelopment Area – Project I except in the retail strip center where any garage doors are located at the rear of the building and there is no outdoor storage of goods or merchandise.

f. Non-Sales Tax Generating Businesses. The Developer shall not, without City approval, sell or lease any of the Redevelopment Area – Project I other than in the retail strip center to non-sales tax generating businesses such as office uses, banks, or fitness centers; provided that the total amount of space leased or sold to any such non-sales tax generating

businesses in the retail strip center shall not exceed in the aggregate twenty percent (20%) of the total finished floor space of the retail strip center portion of Project I.

14. Reserved.

15. Design Criteria and Review Procedures.

a. The Developer shall comply with and/or follow controls and design criteria relating to exterior improvements as a part of all zoning (including preliminary and final site development plans) and subdivision approvals (hereinafter collectively referred to as "Land Use Approvals") in order to create an integrated, unified design.

b. Construction plans for the Project Improvements shall conform to the Redevelopment Plan, Land Use Approvals, Commercial Design Guidelines attached hereto as Exhibit H, and this Agreement. In order to insure that the Project Improvements and their construction will be in accordance with the provisions of this Agreement, and in substantial agreement with proposals made by the Developer to the City, the parties agree as follows:

(1) No Project Improvements shall be commenced or made unless and until all the construction plans therefore, in the detail herein required, or any changes thereto, shall have been submitted to and approved in writing by the City or the City staff all in accordance with the Redevelopment Plan and Land Use Approvals.

(2) The City shall have the absolute right in its judgment and discretion at any time to approve a variance from conformance to, or a waiver of compliance with, the approved controls and design criteria relating to exterior improvements, or to eliminate any one or more of such requirements in connection with the approval or disapproval of the above construction plans or changes thereto, subject to all applicable City ordinance provisions.

(3) Subsequent to commencement of Project Improvements and until said Project Improvements have been completed, the Developer shall, as part of the report required by Section 16, describe in such detail as may reasonably be required by the City, the progress of the Developer in construction. During such period the work of the Developer shall be subject to inspection by representatives of the City as described in Section 17.

(4) Neither the City, nor any officer, director, commissioner, member, employee or agent of the same, shall be liable to the Developer with respect to construction plans or modifications submitted for approval, or for any other action in connection with its or their duties hereunder. The Developer agrees that it will not bring any action or suit to recover any damages against the City or any officer, director, commissioner, member, employee, or agent of any of them, arising or in any way connected with the approval of or failure to approve any construction plans or changes submitted by the Developer.

(5) In no event shall the review and approval by the City of construction plans or changes, or any information submitted in connection therewith, be deemed or

construed to be a determination that the same are in compliance with any laws, regulations or ordinances, nor shall review and approval relieve the Developer of any liability or responsibility in connection with such compliance.

16. Progress Reports.

a. On October 31 of each year until all Project Improvements are completed, the Developer shall report to the Board of Aldermen the progress of its implementation of Project I. At the first regularly-scheduled meeting of the Board of Aldermen following the fifth anniversary of the date of the approval of the Redevelopment Plan by the City, and on each five-year anniversary thereafter so long as Project I shall remain in effect, the Developer shall prepare and submit to the Board of Aldermen a detailed report on the progress of implementation of Project I. Such report shall include at least the following information and may contain such other information with regard to Project I as the Developer wishes to submit or the City may reasonably require:

- (1) Project Improvements completed;
- (2) status of Project Improvements in progress but not yet completed;
- (3) actual assessed value of Redevelopment Area - Project I before and after completion of the Project Improvements as compared to Redevelopment Plan estimates;
- (4) actual payments in lieu of taxes as compared to Redevelopment Plan estimates;
- (5) actual Redevelopment Project Costs in Redevelopment Area - Project I compared to Redevelopment Plan estimates;
- (6) actual start and completion dates of Project Improvements in Redevelopment Area - Project I compared to Redevelopment Plan estimates; and
- (7) estimated start date of Project Improvements not yet commenced at date of report.

b. Developer shall from time to time furnish such other reports on specific matters not addressed by the foregoing as the City may reasonably require.

17. Control of Project. Except as otherwise provided in this Agreement, the Developer shall have complete and exclusive control over the construction of the Project Improvements that it owns or controls; subject, however, to all applicable laws, rules and regulations, including, but not limited to, all ordinances, rules and regulations of the City such as zoning ordinances, subdivision ordinances, building codes, property maintenance codes, and all other applicable provisions of the City Code. As to all parts of Project I, the Developer hereby grants to the City, its agents and employees the right to enter at reasonable times after reasonable notice for the purpose of inspecting Project I.

18. Compliance with Laws. At all times during the term of this Agreement and until termination of the Redevelopment Plan, but subject to the Developer's rights to contest the same

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in any manner permitted by law, the Developer, its officers, directors and principals, at its sole cost and expense, shall comply in every respect with all applicable laws, ordinances, rules and regulations of all federal, state, county and municipal governments, agencies, bureaus or instrumentalities thereof now in force, or that may be enacted hereafter which pertain to the ownership, occupancy, use and operation of Project I and Redevelopment Area - Project I.

19. Certificate of Compliance. Upon the completion of each of Project I, the Developer shall submit a report certifying that the Project Improvements necessary or appropriate for that project have been completed in accordance with the Redevelopment Plan and that it is in compliance with all other provisions of this Agreement. The Developer shall, as part of its report, submit its certificate setting forth (a) the total cost of completing the Project Improvements and (b) Redevelopment Project Costs incurred that are eligible for reimbursement pursuant to the Redevelopment Plan or that have been paid for with private funds. The City may conduct an investigation and if the City determines that such project has been completed in accordance with the provisions of the Redevelopment Plan, as evidenced by a Certificate of Occupancy where appropriate and other required governmental approvals, and that all of Developer's duties pursuant to this Agreement have been performed, including formation of the Special District, then it shall issue a Certificate of Completion and Compliance and certify Redevelopment Project Costs as eligible for reimbursement. If the City determines that such project has not been completed in accordance with the provisions of the Redevelopment Plan, or that Redevelopment Project Costs have not been incurred as certified, or that the Developer is not in compliance with the terms of this Agreement, then it shall not issue a Certificate of Completion and Compliance and shall specify in writing the reason or reasons for withholding its certification. Upon request of the Developer, the City shall hold a hearing at which the Developer may present new and/or additional evidence.

a. The certification by the City shall be the determination of the satisfaction and release of the covenants in this Agreement, with respect to the obligations of the Developer to complete the Project Improvements within the dates for the beginning and completion thereof, but shall not prevent the City from action in the event of any subsequent default by the Developer in the performance of any of its other obligations under this Agreement.

b. Each such certificate issued by the City shall contain a description of the real property affected thereby and shall be in such form acceptable to the Parties.

20. Payments in Lieu of Taxes.

a. Pursuant to the provisions of the Redevelopment Plan and the Act, including, but not limited to, Section 99.845 thereof, when tax increment financing is established by Ordinance for Redevelopment Area - Project I, the real property located therein is subject to assessment for annual Payments in Lieu of Taxes. Payments in Lieu of Taxes shall be due November 30 of each year in which said amount is required to be paid and will be considered delinquent if not paid by December 31 of each such year. The obligation to make said Payments in Lieu of Taxes shall be a covenant running with the land and shall create a lien in favor of the City on each such tax parcel as constituted from time to time and shall be enforceable against the Developer and its successors and assigns in ownership of property in the Redevelopment Area.

b. Failure to pay Payments in Lieu of Taxes as to any property in Redevelopment Area - Project I shall constitute a default by the owner, assignee and/or tenant of such property of the provisions of Section 33 hereof, and shall entitle the City, the County Collector or any other government official or body charged with the collection of any such sums (any one or more of such persons hereinafter individually or collectively referred to as the "Collection Authority") to proceed against such property and/or the owner thereof in such Redevelopment Area - Project I as in other delinquent property tax cases, or otherwise as permitted at law or in equity, and, if applicable, such failure shall entitle the Collection Authority to seek all other legal and equitable remedies it may have to insure the timely payment of all such sums, or of the principal of and interest on, any outstanding TIF Obligations secured by such payments; provided, however, that the failure of any property in Redevelopment Area - Project I to yield sufficient payments in lieu of taxes because the increase in the current equalized assessed value of such property is or was not as great as expected, shall not by itself constitute a breach or default. Promptly upon the designation and approval of each of Redevelopment Area - Project I by Ordinance of the Board of Aldermen, the City shall use all reasonable and diligent efforts to promptly notify the County Collector, the City Treasurer and all other appropriate officials and persons and seek to fully implement the payments in lieu of taxes and reimbursements of Redevelopment Project Costs as provided in this Agreement and in the Redevelopment Plan.

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

21. Economic Activity Taxes.

In addition to the payments in lieu of taxes described herein, and pursuant to Section 99.845.3 of the Act, Economic Activity Taxes shall be allocated to, and paid by the City Treasurer, who shall deposit such funds in the Economic Activity Account. Following the approval of Project I, for as long as Redevelopment Area - Project I is subject to tax increment financing, Economic Activity Taxes shall be determined and deposited into the Economic Activity Account within the Special Allocation Fund in accordance with the following procedures (subject, however, to the provisions of Section 99.835 of the Act):

a. Documentation of Economic Activity Taxes. The Developer, its successors and assigns shall provide the City with documentation of sales tax receipts for each business in Redevelopment Area - Project I, indicating the type and amount of the Economic Activity Taxes paid by each such business located within Redevelopment Area - Project I. The Developer shall include provisions substantially similar to the provision as specified in Section 27 herein in all lease documents with tenants located within Redevelopment Area - Project I requiring said sales tax information to be provided to the City. A similar provision shall be included in all sales agreements with purchasers of property located in Redevelopment Area - Project I requiring said sales tax information to be provided to the City. The Developer shall enforce said provisions to the maximum extent permitted by law, and the Developer hereby agrees that each such lease or

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sales agreement shall provide that the City is an intended third party beneficiary of such provisions and has a separate and independent right to enforce such provisions directly against any such tenant or purchaser. City shall comply with all applicable state laws limiting disclosure of sales tax information related to individual businesses provided to the City as documentation of Economic Activity Taxes.

b. Certification by City. The City, following reasonable research and investigation, using independent consultants, accountants and counsel shall certify the nature and amount of Economic Activity Taxes payable by each Taxing District that imposes Economic Activity Taxes from which Economic Activity Taxes are due.

c. Presentation to Taxing Districts. The City shall deliver by mail or hand delivery its certification of Economic Activity Taxes payable by each Taxing District that imposes Economic Activity Taxes to the governing body of each such Taxing District with a request that such Taxing District shall within thirty (30) days of receiving the certification or within thirty (30) days after receiving any such Economic Activity Tax, whichever is later, appropriate the amount of Economic Activity Taxes actually received and pay the appropriate sum to the City Treasurer.

d. Deposit of Funds. The City Treasurer shall deposit the payments of Economic Activity Taxes received from the respective Taxing Districts in the Economic Activity Account in the Special Allocation Fund, to be utilized and expended in accordance with the Act and the Redevelopment Plan.

22. Special Allocation Fund. The City Treasurer shall establish and maintain the Special Allocation Fund, which shall contain two separate segregated accounts. Payments in Lieu of Taxes shall be deposited into the PILOT Account within the Special Allocation Fund and Economic Activity Taxes shall be deposited into the Economic Activity Account within the Special Allocation Fund. Payments in Lieu of Taxes and Economic Activity Taxes so deposited and any interest earned on such deposits will be used for the payment of Reimbursable Project Costs, including the retirement of TIF Obligations, and for the possible distribution to the Taxing Districts in the manner set forth in the Redevelopment Plan.

23. Disbursements From Special Allocation Fund. All disbursements from the Special Allocation Fund will be made out of the two separate segregated accounts maintained within the Special Allocation Fund for Payments in Lieu of Taxes and Economic Activity Taxes. Such disbursements shall be made in the following manner and order of preference:

a. Debt Service. Funds in the Special Allocation Fund shall first be disbursed to pay Debt Service at the times and in the amounts provided by the terms of outstanding TIF Obligations, if any; provided, however, that all conditions precedent to the City's duties specified in Section 12.a. have occurred and further provided that if TIF Obligations are issued for only a portion of the Reimbursable Project Costs and the remainder of the Reimbursable Project Costs are to be reimbursed to the Developer from the Special Allocation Fund on an "as collected" basis as provided in Section 25, the amount of funds disbursed from the Special Allocation Fund to pay the Debt Service for said TIF Obligations shall be limited to an amount that is proportional to the amount of Reimbursable Project Costs funded by TIF Obligations as compared to the amount of the total Reimbursable Project Costs that have been incurred.

b. Reimbursable Project Costs. Funds in the Special Allocation Fund shall be disbursed to pay the Developer's reasonable Reimbursable Project Costs as they come due; provided, however, that such disbursement may only be made if, after such disbursement, the funds remaining in the Special Allocation Fund are sufficient to pay Debt Service payable in the then current calendar year, if any, and all conditions precedent to the City's duties specified in Section 12.a. herein have occurred.

24. Payment of Project Costs - Issuance of TIF Obligations. After the execution of this Agreement, the City may approve the issuance of TIF Obligations. TIF Obligations shall be payable from all or any portion of the moneys in the Special Allocation Fund as described in the Redevelopment Plan on terms and at an interest rate determined by market conditions at the time of issuance, the proceeds of which will be used to finance Reimbursable Project Costs incurred or to be incurred. Upon the Developers' presentation to the City of a certificate that details Reimbursable Project Costs (the "Certificate") incurred, the City shall review, verify and confirm the information included in the Certificate. If the City determines that the Certificate accurately reflects Reimbursable Project Costs and that all conditions precedent to the City's duties specified in Section 12.a. herein have occurred, it shall approve the same and, within thirty (30) days after said approval, make disbursement to the Developer of sufficient proceeds of the obligations to pay for the Reimbursable Project Costs identified in the Certificate.

25. Payment of Project Costs - "As Collected" Basis. If the Reimbursable Project Costs as estimated in Exhibit C are to be reimbursed from the Special Allocation Fund on an "as collected" basis rather than paid with proceeds from the sale of TIF Obligations, the Developer shall present to the City a Certificate which details the costs submitted for reimbursement or direct payment and certifies that said costs are reasonable Reimbursable Project Costs. The City shall review, verify and confirm the information included in said certificate and, if the City determines that it accurately reflects reasonable Reimbursable Project Costs, it shall approve the same and, within thirty (30) days after said approval, make disbursement to the Developer of sufficient proceeds of the Special Allocation Fund, to the extent such funds are available in the Special Allocation Fund, to pay for the Reimbursable Project Costs. If the City, pursuant to its review of such Certificate and supporting documentation, determines that any portion of the request for reimbursement are not properly Reimbursable Project Costs it shall state the reasons for such disapproval to the Developer immediately. Any such disapproval may be appealed to the Board of Aldermen.

26. Sale or Disposition of Project Property.

a. Purchasing Entity. As a condition precedent to the transfer of any property interest held by the Developer within the boundaries of the Redevelopment Area – Project I to any transferee, other than a Lender, the Developer shall require the transferee to enter into, and shall deliver to the City, an agreement obligating the transferee to comply with the requirements of the Redevelopment Plan and the obligations in this Agreement relating to the property. Upon execution of such agreement, the Developer shall be released from its obligations in this Agreement relating to said transferred property.

b. Continuation of Payments in Lieu of Taxes. Subject to the provisions of Section 26.a. above, the Developer, or any third party, may sell, transfer, convey or otherwise dispose of real property within Redevelopment Area - Project I. In the event of the sale or other

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voluntary or involuntary disposition of any or all of the real property of the Developer or any third party in Redevelopment Area - Project I, payments in lieu of taxes with respect to the real property so sold or otherwise disposed of shall continue and shall constitute a lien against the property from which they are derived, and such obligations shall inure to and be binding upon the Developer and its successors and assigns in ownership of said property as if they were in every case specifically named and shall be construed as a covenant running with the land and enforceable as if such purchaser, transferee or other possessor thereof were originally a party to and bound by this Agreement.

c. Obligation to Ameliorate Existing Conditions. The Developer's undertakings pursuant to Section 5 hereof; unless earlier satisfied and certified pursuant to Section 19 hereof, shall inure to and be binding upon the heirs, executors, administrators, successors and assigns of the respective parties as if they were in every case specifically named and shall be construed as a covenant running with the land and enforceable against purchasers or other transferees as if such purchaser or transferee were originally a party to and bound by this Agreement.

d. Incorporation. The restrictions set forth above in Section 20.a. and b. (regarding PILOTs) as well as those set forth in Section 21 (regarding EATs) and Section 31 (regarding Permitted Uses), shall be incorporated into any deed or other instrument conveying an interest in real property, other than a lease agreement, within Redevelopment Area - Project I and shall provide that said obligations or restrictions shall constitute a benefit held by both the Developer and the City. Failure of the Developer to require that such restrictions be placed in any such deed or other instrument shall in no way modify, lessen or diminish the obligations and restrictions set forth herein relating to the Redevelopment Area or Redevelopment Area - Project I.

27. Lease of Project Property.

a. The Developer, or any third party, may lease, use or sell real property within Redevelopment Area - Project I. The Developer, or any third party, shall insert in any such transfer agreement a provision in substantial conformity with the following language and shall have such transfer agreement signed by the user indicating acknowledgment and agreement to the following provision:

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

Failure of the Developer to require that such restrictions be placed in any such lease or agreement shall in no way modify, lessen or diminish the obligations and restrictions set forth herein relating to the Redevelopment Area or Redevelopment Area - Project I. The City shall comply with all applicable state laws limiting disclosure of sales tax information related to individual businesses provided to the City as documentation of Economic Activity Taxes.

28. Full Assessment.

a. Redevelopment Area - Project I. After all TIF Obligations and Reimbursable Project Costs have been paid, but not later than twenty-three (23) years from the adoption of an Ordinance approving and designating each of Redevelopment Area - Project I, all property in the applicable Redevelopment Project Areas shall be subject to assessments and payment of all ad valorem taxes, including, but not limited to, City, State, and County taxes, based on the full true value of the real property and the standard assessment ratio then in use for similar property by the County Assessor, and Redevelopment Area - Project I shall be owned and operated by the Developer or its successors and assigns free from the conditions, restrictions, and provisions of the Act, of any rules or regulations adopted pursuant thereto, of the Ordinance, or the Redevelopment Plan, or of this Agreement.

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

29. Assignment of Developer's Obligations.

a. The Developer represents that its undertakings pursuant to this Agreement are for the purpose of redevelopment.

b. Without limiting the rights of the Developer or any third party under Section 26.b. hereof, the Developer agrees that this Agreement and the rights, duties and obligations hereunder may not and shall not be assigned by the Developer, except as otherwise provided in this Section 29. The Developer will not assign its rights or delegate its duties and obligations under this Agreement without the prior written consent of the City, not to be unreasonably withheld, delayed or conditioned. For purposes of this section, it will be presumptively unreasonable for the City to withhold its consent to Developer conveying the Redevelopment Area, and assigning its rights and delegating its obligations under this Agreement, to a shopping center developer who, individually or when combined with a property management entity, demonstrates to the reasonable satisfaction of the City, the following: (i) a net worth using generally accepted accounting practices of in excess of \$5,000,000; (ii) management of in excess of 300,000 square feet of Class A retail shopping center properties, and (iii) the ability to fulfill the duties and obligations of the Developer at a level equal to or higher than that of Developer. Any purported

assignment without consent of the City will be null and void. As a condition to the City granting consent, an assignee will expressly assume in writing the obligations of Developer hereunder. For purposes of this section, any sale, transfer, assignment, pledge or hypothecation of an interest in Developer (other than to an Affiliate of Developer) that results in a change in management control of Developer will constitute an assignment of this Agreement. Notwithstanding the foregoing:

(1) Developer may at any time without the City's consent convey the Redevelopment Area, assign its rights, and delegate its duties and obligations under this Agreement to any entity controlled by the Developer or the principals of the Developer, provided that the management of the entity is provided by the principals, or by an entity which they together or individually control.

(2) For so long as any of the principals of the Developer or their entities continues to be the managing member or managing partner of Developer or any successor entity to Developer, no sale, transfer, assignment, pledge or hypothecation of an interest in Developer, to an investor, or other person will be construed as resulting in a change of control or construed as constituting an assignment of this Agreement that requires the City's consent.

(3) No consent will be required under this section for any pledge or assignment of this Agreement or pledge or assignment of an interest in Developer or any interest in any member of Developer as collateral security for Developer's financing.

(4) No consent will be required under this section for any sale or lease of a parcel for the construction thereon of improvements to be used by the purchaser or lessee of the parcel or its affiliate or borrower (such as the sale, lease, or transfer of a retail building area for the construction and operation thereon).

Upon execution of an assignment agreement between Developer and any authorized assignee under this Section 29, Developer shall be released in full for any and all obligations set out in this Agreement that are assumed in writing by such authorized assignee.

30. Transfer of Interests in Developer. Members of the Developer shall, prior to the sale, conveyance or other transfer by any member of any interest in the Developer which involves participation in management except to another member, request approval of such transfer, and no such transfer shall be permitted except with the prior approval of the City, such approval not to be unreasonably conditioned, withheld or delayed. Upon submission by the Developer of any member request for transfer to the City, the City shall have the right to request such documentation and information as the City shall reasonably determine to be necessary or desirable to determine whether such transfer is acceptable to the City. Notwithstanding the foregoing, any member of and member of the Developer, may, without notice to or approval of the City, transfer interests in the member if such transfer does not result in a material change in the controlling interests of the Developer. In addition, this section shall not be construed to prohibit or require approval of the City for any transfers that occur by operation of law.

31. Permitted Uses. The Developer shall not take any action to permit uses within Redevelopment Area - Project I that do not conform to and are not permitted by the Redevelopment Plan or by this Agreement.

32. Indemnification.

a. The Developer shall indemnify, protect, defend and hold the City and its officers, directors, members, commissioners, employees and agents (collectively, the "Indemnified Parties" or, individually, an "Indemnified Party") harmless from and against any and all claims, demands, liabilities and costs, including reasonable attorneys' fees, costs and expenses, arising from damage or injury, actual or claimed, of whatsoever kind or character (including consequential and punitive damages), to persons or property occurring or allegedly occurring as a result of any acts or omissions of the Developer, its constituent members or partners, their employees, agents, independent contractors, licensees, invitees or others acting by, through or under such indemnifying parties, in connection with its or their activities conducted pursuant to this Agreement and/or in connection with the ownership, use or occupancy and development or redevelopment of the Redevelopment Area, Redevelopment Area - Project I or a portion thereof and the Project Improvements.

b. In the event any suit, action, investigation, claim or proceeding (collectively, an "Action") is begun or made as a result of which the Developer may become obligated to one or more of the Indemnified Parties hereunder, the Indemnified Party shall give prompt notice to the Developer of the occurrence of such event, but the failure to notify the Developer will not relieve the Developer of any liability that it may have to an Indemnified Party. After receipt of such notice, the Developer may elect to defend, contest or otherwise protect the Indemnified Party against any such Action, at the cost and expense of the Developer, utilizing counsel of the Developer's choice. The Indemnified Party shall have the right, but not the obligation, to participate, at the Indemnified Party's own cost and expense, in the defense thereof by counsel of the Indemnified Party's choice. In the event that the Developer shall fail timely to defend, contest or otherwise protect an Indemnified Party against such Action, the Indemnified Party shall have the right to do so, and (if such defense is undertaken by the Indemnified Party after notice to the Developer asserting the Developer's failure to timely defend, contest or otherwise protect against such Action), the Indemnified Party may submit any bills for fees and costs received from its counsel to the Developer for payment and, within five (5) business days after such submission, the Developer shall transfer to the Indemnified Party sufficient funds to pay such bills. The Developer acknowledges that such bills may be redacted to delete any information that would constitute attorney-client communication or attorney work product.

c. An Indemnified Party shall submit to the Developer any settlement proposal that the Indemnified Party shall receive. The Developer shall be liable for the payment of any amounts paid in settlement of any Action to the extent that the Developer consents to such settlement. Neither the Developer nor the Indemnified Party will unreasonably withhold its consent to a proposed settlement.

d. The Developer expressly confirms and agrees that it has provided this indemnification and assumes the obligations under this Agreement imposed upon the Developer in order to induce the City to enter into this Agreement. To the fullest extent permitted by law, an Indemnified Party shall have the right to maintain an action in any court of competent

jurisdiction to enforce and/or to recover damages for breach of the rights to indemnification created by, or provided pursuant to, this Agreement. If such court action is successful, the Indemnified Party shall be reimbursed by the Developer for all fees and expenses (including attorneys' fees) actually and reasonably incurred in connection with such action (including, without limitation, the investigation, defense, settlement or appeal of such action).

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

33. Breach-Compliance.

a. If the Developer or the City does not comply with provisions of this Agreement, including provisions of the Redevelopment Plan, within the time limits and in the manner for the completion of Project I as therein stated, except for Excusable Delays (as defined in Section 34), in that the Developer or the City shall do, permit to be done, or fail or omit to do, or shall be about so to do, permit to be done, or fail or omit to have done, anything contrary to or required of it by this Agreement or the Act, and if, within ninety (90) days after notice of such default by the nondefaulting party to the defaulting party, the defaulting party shall not have cured such default or commenced such cure and be diligently pursuing the same if such cure would reasonably take longer than said ninety (90) day period (but in any event if the defaulting party shall not have cured such default within one hundred twenty (120) days), then the nondefaulting party may institute such proceedings as may be necessary in its opinion to cure the default, including, but not limited to, proceedings to compel specific performance by the party in default of its obligations and, in the case of default by the Developer, the City is granted the right to terminate this Agreement, the right to apply any deposit or other funds submitted by the Developer to the City in payment of the damages suffered by it, the right to withhold or apply funds from the Special Allocation Fund to such extent as is necessary to protect the City from loss or to ensure that the Redevelopment Plan and Project I are fully and successfully implemented in a timely fashion, and the right to withhold issuance of a Certificate of Completion and Compliance. Notwithstanding the remedies set forth above, under no circumstances shall the City refuse to reimburse the Developer for reimbursement of any valid Reimbursable Project Costs incurred by Developer on or before the date of any event of default in question. If any action is instituted by either party hereunder, the nonprevailing party in such action shall pay any and all costs, fees and expenses, including attorneys' fees incurred by the prevailing party in enforcing this Agreement.

b. The rights and remedies of the parties to this Agreement, whether provided by law or by this Agreement, shall be cumulative and the exercise by either party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach. No waiver made by either party shall apply to obligations beyond those expressly waived.

c. The Developer (for itself and its successors and assigns, and for all other persons who are or who shall become liable, by express or implied assumption or otherwise, upon or subject to any obligation or burden under this Agreement), waives to the fullest extent permitted by law and equity all claims or defenses otherwise available on the ground of being or having become a surety or guarantor, whether by agreement or operation of law. This waiver includes, but is not limited to, all claims and defenses based upon extensions of time, indulgence or modification of terms of this Agreement.

d. Any delay by either party in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this paragraph shall not operate as a waiver of such rights or limit them in any way. No waiver in fact made by either party of any specific default by the other party shall be considered or treated as a waiver of the rights with respect to any other defaults, or with respect to the particular default except to the extent specifically waived.

34. Excusable Delays. The parties understand and agree that the Developer shall not be deemed to be in default of this Agreement because of delays or temporary inability to commence, complete or proceed in accordance with Exhibit D hereto, Development Schedule, due in whole or in part to causes beyond the reasonable control or without the material fault of the Developer, which are caused by the action or inaction of any governmental body, including, but not limited to, failure to approve complete applications for permits that comply with all applicable laws and regulations within thirty (30) days of submission and failure to provide any consent required by this Agreement where all applicable requirements for said consent have been complied with within twenty (20) days of submission, acts of war or civil insurrection, breach of this Agreement by the City or any natural occurrence, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, labor disputes, governmental restrictions or priorities, embargoes, litigation, tornadoes, shortage of available materials, acts of terrorism, or periods of inclement weather such as days of rain (collectively "Excusable Delays"). The time of performance hereunder shall be extended for the period of any delay or delays caused or resulting from any of the foregoing causes, which approval shall not be arbitrarily or unreasonably withheld. Nothing herein shall excuse the Developer from any obligation to pay money hereunder, nor shall this section excuse the Developer from performance of its obligations because of a lack of funds or inability to obtain financing, except as provided in Section 12.b. hereof and except if financing commitments obtained by the Developer and approved by the City as provided in this Agreement are not fulfilled by the party issuing such commitment through no fault of the Developer, in which case the Developer shall be entitled to additional time not to exceed one hundred eighty (180) days to obtain new financing commitments to be approved by the City in the same manner as provided herein for the initial financing commitments.

35. Notice. Any notice required by this Agreement shall be deemed to be given if it is mailed by United States registered mail, postage prepaid, and addressed as hereinafter specified.

Any notice to the City shall be addressed to:

City Administrator
300 East Pearl Street
Harrisonville, Missouri 64701

With a copy to:

T. Chris Williams
Williams & Campo, P.C.
200 NE Missouri Road, Suite 200
Lee's Summit, Missouri 64086

Any notice to the Developer shall be addressed to:

David Christie
D.J. Christie, Inc.
9400 Reeds Road, Suite 100
Overland Park, Kansas 66207

With a copy to:

James Grice
Spencer Fane Britt & Browne, LLP
1000 Walnut, Suite 1400
Kansas City, Missouri 64106

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

36. Modification. The terms, conditions, and provisions of this Agreement and of the Redevelopment Plan can be neither modified nor eliminated except in writing and by mutual agreement between the City and the Developer. Any modification to this Agreement so approved shall be attached hereto and incorporated herein by reference.

37. Effective Date. This Agreement shall become effective on the date set forth herein and shall remain in full force and effect until the completion of all Project I Improvements in Project I of the Redevelopment Plan, as described herein, and so long as any TIF Obligations or Redevelopment Project Costs remain outstanding and unpaid.

38. Recording. Upon full execution by the City and the Developer, this Agreement shall be recorded by the City in the Cass County Office of the Recorder of Deeds.

39. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri.

40. Covenant Running With the Land. The provisions of this Agreement shall be covenants running with the land and shall remain in effect for the duration of the Redevelopment Plan and any renewal period or periods of the Redevelopment Plan at the end of which time they shall cease. They shall be binding, to the fullest extent permitted by law and equity, for the benefit and in favor of, and be enforceable by, the City, its successors and assigns, against the Developer, its successors and assigns, and every successor in interest to the subject real property, or any part of it or any interest in it and any party in possession or occupancy of the real property

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or any part thereof (provided, subject to the provisions of Section 28.b. hereof, that any such covenants shall be binding on the Developer itself, such successor in interest to the subject property, and every part of the subject real property, and each party in possession or occupancy of the subject real property or any part thereof, only during their period of ownership).

41. Administrative Costs and Expenses. Subject to the successful issuance of TIF Obligations in accordance with this Agreement, the Developer shall reimburse the City for all reasonable documented, out-of-pocket expenses incurred in connection with the Redevelopment Area, the Redevelopment Plan, this Agreement, and the issuance of the TIF Obligations including attorney's fees, postage, mileage, copying costs, recording costs and similar expenses. Said reimbursements to the City shall be deemed Reimbursable Project Costs. As soon as the TIF Obligations are issued and proceeds are made available, the Developer shall have no further obligation to pay administrative costs hereunder. The City may withhold an administrative service fee to cover the administration and other City costs during the duration of the Redevelopment Plan. The administrative service fee shall be an amount equal to 1.00% of the annual collections in the Special Allocation Fund.

42. Validity and Severability. It is the intention of the parties hereto that the provisions of this Agreement shall be enforced to the fullest extent permissible under the laws and public policies of the State of Missouri and that the unenforceability (or modification to conform with such laws or public policies) of any provision hereof shall not render unenforceable, or impair, the remainder of this Agreement. Accordingly, if any provision of this Agreement shall be deemed invalid or unenforceable in whole or in part, this Agreement shall be deemed amended to delete or modify, in whole or in part, if necessary, the invalid or unenforceable provision or provisions, or portions thereof, and to alter the balance of this Agreement in order to render the same valid and enforceable. All exhibits attached hereto are hereby incorporated into this Agreement by reference.

43. Good Faith; Consent or Approval. In performance of this Agreement or in considering any requested extension of time, the parties agree that each will act in good faith, cooperate in expeditious and timely approvals, and will not act unreasonably, arbitrarily, capriciously or unreasonably withhold or delay any approval required by this Agreement. Except as otherwise provided in this Agreement, whenever consent or approval of either party is required, such consent or approval will not be unreasonably withheld, conditioned or delayed. The City agrees to reasonably cooperate with the Developer with respect to (i) applications for building permits from the City, and any permits or approvals required from any governmental agency, whenever reasonably requested to do so; provided, however, that all applications for such permits and approvals are in compliance with the applicable ordinances and regulations, approved plans and specifications, and all applicable codes, and (ii) securing any construction and permanent financing that the Developer may reasonably require in connection with the performance of its obligations under this Agreement. The Developer, in recognition of the significant public investment of the City; and the City, in recognition of the substantial financial commitment of the Developer, agree to cooperate in good faith to accomplish the expeditious and optimal utilization of the retail space in Redevelopment Area. The Developer agrees and acknowledges that in each instance in this Agreement or elsewhere where the City is required or has the right to review or give its approval or consent, no such review, approval or consent will imply or be deemed to constitute an opinion by the City, nor impose upon the City any

responsibility for the design or construction of building elements, including but not limited to the structural integrity or life/safety requirements or adequacy of budgets or financing or compliance with any applicable federal or state law, or local ordinance or regulation, including the environmental laws. All reviews, approval and consents by the City under the terms of this Agreement are for the sole and exclusive benefit of the Developer and no other person or party will have the right to rely thereon.

44. Time and Performance are of the Essence. Time and specific performance are of the essence of this Agreement.

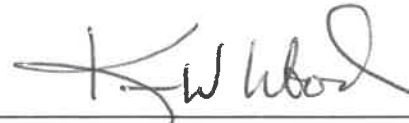
IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

CITY OF HARRISONVILLE,
MISSOURI

ATTEST:



City Clerk

By: 

Mayor, Kevin Wood

APPROVED AS TO FORM:

City Attorney

STATE OF MISSOURI)
) ss.
COUNTY OF CASS)

BE IT REMEMBERED, that on this 16th day of December, 2005, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Kevin W. Wood the Mayor of the City of Harrisonville, Missouri, a City duly incorporated and existing under and by virtue of the laws of the State of Missouri, who are personally known to me to be the same persons who executed, as such officials, the within instrument on behalf of and with the authority of said City, and such persons duly acknowledged the execution of the same to be the act and deed of said City.

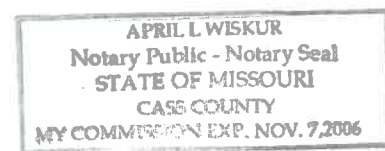
IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.

My Commission Expires:

November 7, 2006

[SEAL]

April L. Wiskur
NOTARY PUBLIC
April L. Wiskur



STATE OF MISSOURI)
) ss.
COUNTY OF _____)

BE IT REMEMBERED, that on this _____ day of _____, 2005, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came _____, the _____ of D. J. Christie, Inc., a _____ company, who is personally known to me to be the same person who executed the within instrument on behalf of D. J. Christie, Inc., and such person duly acknowledged the execution of the same to be the act and deed of D. J. Christie, Inc..

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

NOTARY PUBLIC

My Commission Expires:

[SEAL]

