

**ORDINANCE #68430**  
**Board Bill No. 109**

An Ordinance Amending Ordinance No. 68101 Adopted By The Board Of Aldermen On July 28, 2008; Authorizing The Execution Of An Amendment To Redevelopment Agreement By And Between The City And Laurel TIF, Inc.; Prescribing The Form And Details Of Said Amendment; Making Certain Findings With Respect Thereto; Authorizing Other Related Actions; And Containing A Severability Clause.

**WHEREAS**, pursuant to Ordinance No. 68100, the City designated a portion of the City a Redevelopment Area and approved The Laurel/555 Washington TIF Redevelopment Plan (the "Redevelopment Plan") and the Redevelopment Project, all as described therein; and

**WHEREAS**, pursuant to Ordinance No. 68100, the City adopted tax increment allocation financing within the Redevelopment Area, and established the Special Allocation Fund for the Redevelopment Project, all as provided for and in accordance with the TIF Act and described therein; and

**WHEREAS**, pursuant to Ordinance No. 68101, the City authorized the execution of a TIF Redevelopment Agreement (the "Redevelopment Agreement") between the City and Laurel TIF, Inc. (the "Initial Developer") in furtherance of the Redevelopment Plan, with such Redevelopment Agreement to be in the form attached thereto; and

**WHEREAS**, to assist in securing financing for the Redevelopment Project, Initial Developer desires to amend Ordinance No. 68101 and the Redevelopment Agreement to permit the City to enter into a redevelopment agreement with Laurel TIF Apartments, Inc. ("Apartments Developer") pertaining to the redevelopment of a portion of the Redevelopment Area to be developed into apartments uses ("Apartments Component"), and a redevelopment agreement with Laurel TIF Hotel, Inc. ("Hotel Developer") pertaining to the redevelopment of a portion of the Redevelopment Area to be developed into retail and hotel uses ("Hotel Component"), in order that the Apartments Developer and the Hotel Developer may complete the respective components of the Redevelopment Project.

**WHEREAS**, it is hereby found and determined that it is necessary and advisable and in the best interest of the City and of its inhabitants to authorize the City to execute a redevelopment agreement with Apartments Developer pertaining to the Apartments Component, and a redevelopment agreement with Hotel Developer pertaining to the Hotel Component, in order that the Apartments Developer and the Hotel Developer may complete the respective components of the Redevelopment Project, which will provide for the promotion of the general welfare through redevelopment of the Redevelopment Area in accordance with the Redevelopment Plan; and

**WHEREAS**, Initial Developer desires to implement the Redevelopment Project through, and desires assign its rights and interests in and to the Redevelopment Agreement to, Apartments Developer for the Apartments Component and Hotel Developer for the Hotel Component; and

**WHEREAS**, pursuant to the provision of the TIF Act, the City is authorized to enter into a redevelopment agreement with the Apartments Developer setting forth the respective rights and obligations of the City and Apartments Developer with regard to the redevelopment of the Apartments Component of the Redevelopment Area (the "Apartments Agreement"); and

**WHEREAS**, pursuant to the provision of the TIF Act, the City is authorized to enter into a redevelopment agreement with the Hotel Developer setting forth the respective rights and obligations of the City and Hotel Developer with regard to the redevelopment of the Hotel Component of the Redevelopment Area (the "Hotel Agreement"); and

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

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

**SECTION ONE.** The Board of Aldermen hereby approves, and the Mayor and Comptroller of the City are hereby

authorized and directed to execute and enter into, on behalf of the City, (i) the Apartments Agreement attached hereto as **Exhibit A** with the Apartments Developer to enable the completion of the Apartments Component of the Redevelopment Area, and (ii) the Hotel Agreement attached hereto as **Exhibit B** with the Hotel Developer to enable the completion of the Hotel Component of the Redevelopment Area, and the City Register is hereby authorized and directed to attest to the Apartments Agreement and the Hotel Agreement and to affix the seal of the City thereto. Each Agreement shall be in substantially the form attached, with such changes therein as shall be approved by said Mayor and Comptroller executing the same and as may be consistent with the intent of this Ordinance and necessary and appropriate in order to carry out the matters herein authorized.

**SECTION TWO.** The Mayor and Comptroller of the City or their designated representatives are hereby authorized and directed to take any and all actions to execute and deliver for and on behalf of the City any and all additional certificates, documents, agreements or other instruments as may be necessary and appropriate in order to carry out the matters herein authorized, with no such further action of the Board of Aldermen necessary to authorize such action by the Mayor and the Comptroller or their designated representatives.

**SECTION THREE.** The Mayor and the Comptroller or their designated representatives, with the advice and concurrence of the City Counselor and after approval by the Board of Estimate and Apportionment, are hereby further authorized and directed to make any changes to the documents, agreements and instruments approved and authorized by this Ordinance as may be consistent with the intent of this Ordinance and necessary and appropriate in order to carry out the matters herein authorized, with no such further action of the Board of Aldermen necessary to authorize such changes by the Mayor and the Comptroller or their designated representatives.

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

**EXHIBIT A**  
Apartments Agreement

**EXHIBIT B**  
Hotel Agreement

**AMENDED AND RESTATED  
REDEVELOPMENT AGREEMENT  
Between the  
CITY OF ST. LOUIS, MISSOURI  
And  
LAUREL TIF APARTMENTS, INC.**

Dated as of

\_\_\_\_\_, 2009

**THE LAUREL / 555 WASHINGTON REDEVELOPMENT PROJECT  
(APARTMENTS COMPONENT)**

**ARTICLE I. DEFINITIONS**

1.1 Definitions ..... 2

**ARTICLE II. ACCEPTANCE OF PROPOSAL**

2.1 Developer Designation ..... 7  
2.2 Developer to Advance Costs ..... 7

**ARTICLE III. CONSTRUCTION OF REDEVELOPMENT PROJECT**

3.1	Acquisition of Property	8
3.2	Condemnation	9
3.3	Relocation	9
3.4	Developer to Construct the Work	9
3.5	Governmental Approvals	9
3.6	Construction Plans; Changes	9
3.7	Certificate of Commencement of Construction	10
3.8	Certificate of Substantial Completion	10

**ARTICLE IV. REIMBURSEMENT OF DEVELOPER COSTS**

4.1	City's Obligation to Reimburse Developer	11
4.2	Reimbursements Limited to Reimbursable Redevelopment Project Costs; Developer's Right to Substitute	11
4.3	Cost Savings and Excess Profits	11
4.4	City's Obligations Limited to Special Allocation Fund and Bond Proceeds	13

**ARTICLE V. TIF OBLIGATIONS**

5.1	Conditions Precedent to the Issuance of TIF Notes	13
5.2	Issuance of TIF Notes	13
5.3	Issuance of TIF Bonds.	14
5.4	Application of TIF Bond Proceeds	16
5.5	Cooperation in the Issuance of TIF Obligations	16
5.6	Subordinate Notes	16
5.7	City to Select Underwriter and Financial Advisor; Term and Interest Rate	17

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

6.1	Creation of Special Allocation Fund	17
6.2	Certification of Base for PILOTS and EATS.	17
6.3	Application of Available Revenues	18
6.4	Cooperation in Determining TIF Revenues	18
6.5	Obligation to Report TIF Revenues	18
6.6	Notice to City of Transfer	18

**ARTICLE VII. GENERAL PROVISIONS**

7.1	Developer's Right of Termination	19
7.2	City's Right of Termination	19
7.3	Successors and Assigns.	19
7.4	Remedies	20
7.5	Force Majeure	21
7.6	Notices	21
7.7	Conflict of Interest	22
7.8	Damage or Destruction of Redevelopment Project	23
7.9	Inspection	23
7.10	Choice of Law	23
7.11	Entire Agreement; Amendment	23
7.12	Counterparts	24
7.13	Severability	24
7.14	Representatives Not Personally Liable	24
7.15	Attorney's Fees	24
7.16	Actions Contesting the Validity and Enforceability of the Redevelopment Plan	24
7.17	Release and Indemnification	24

7.18 Survival . . . . . 26  
 7.19 Maintenance of the Property . . . . . 26  
 7.20 Non-Discrimination . . . . . 26  
 7.21 Fair Employment . . . . . 26

**ARTICLE VIII. REPRESENTATIONS OF THE PARTIES**

8.1 Representations of the City . . . . . 27  
 8.2 Representations of the Developer . . . . . 27

**EXHIBITS**

EXHIBIT A Legal Description of the Redevelopment Area  
 EXHIBIT B Reimbursable Redevelopment Project Costs  
 EXHIBIT C Form of Certificate of Commencement of Construction  
 EXHIBIT D Form of Certificate of Reimbursable Redevelopment Project Costs  
 EXHIBIT E Form of Certificate of Substantial Completion  
 EXHIBIT F Equal Opportunity and Nondiscrimination Guidelines  
 EXHIBIT G Form of MBE/WBE Subcontractor’s List  
 EXHIBIT H Form of MBE/WBE Utilization Statement

**AMENDED AND RESTATED REDEVELOPMENT AGREEMENT**

**THIS AMENDED AND RESTATED REDEVELOPMENT AGREEMENT** (this “*Agreement*”) is made and entered into as of this \_\_\_\_ day of \_\_\_\_\_, 2009, by and between the **CITY OF ST. LOUIS, MISSOURI** (the “*City*”), a city and political subdivision duly organized and existing under its charter and the Constitution and laws of the State of Missouri, and **LAUREL TIF APARTMENTS, INC.** (the “*Apartments Developer*” or “*Developer*”), a corporation duly incorporated and existing under the laws of the State of Missouri. (All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in Article I of this Agreement.)

**RECITALS**

- A. Pursuant to Ordinance No. 62477, adopted and approved on December 20, 1991, the Board of Aldermen duly formed the Tax Increment Financing Commission of the City of St. Louis, Missouri (the “TIF Commission”), in accordance with the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 through 99.865 of the Revised Statutes of Missouri, (2000) (the “TIF Act”), and empowered the TIF Commission to transact business and exercise its powers as authorized by the TIF Act.
- B. The City published a notice on April 2, 2008 and April 9, 2008 in the St. Louis Daily Record, a newspaper of general circulation within the City, soliciting proposals for the redevelopment of the Redevelopment Area (as hereinafter defined), and made such requests for proposals available for potential developers of the Redevelopment Area.
- C. Dillard’s Building, LLC, an affiliate of Laurel TIF, Inc. (“Initial Developer”), submitted its development proposal dated March 24, 2008 (as may be amended from time to time, the “Redevelopment Proposal”) to the TIF Commission for redevelopment of the Redevelopment Area.
- D. On May 16, 2008, following a public hearing held on that date, in accordance with the TIF Act, the TIF Commission adopted a resolution approving the Redevelopment Plan titled “The Laurel / 555 Washington TIF Redevelopment Plan” dated March 28, 2008, (as amended from time to time, the “Redevelopment Plan”), the Redevelopment Project described in the Redevelopment Plan (the “Redevelopment Project”) and the Redevelopment Area, and recommending that the Board of Aldermen: (1) adopt tax increment financing with respect to the Redevelopment Area by passage of an ordinance complying with the terms of Section 99.845 of the Act; and (2) adopt an ordinance in the form required by the Act: (a) approving the Redevelopment Plan, (b) approving and designating the Redevelopment Area as a “redevelopment area” as provided in the Act, (c) approving the Redevelopment Project, and (d) creating the The Laurel / 555 Washington Special Allocation Fund.
- E. On July 28, 2008, after due consideration of the TIF Commission’s recommendations, the Mayor signed Ordinance No. 68100 [Board Bill No. 163] designating the Redevelopment Area as a “redevelopment area” as provided in the TIF

Act, approving the Redevelopment Plan, approving the Redevelopment Project described in the Redevelopment Plan, adopting tax increment allocation financing within the Redevelopment Area and establishing the Special Allocation Fund.

F. On July 28, 2008, the Mayor signed Ordinance No. 68101 [Board Bill No. 164] affirming adoption of the Redevelopment Area, Redevelopment Plan and Redevelopment Project, designating the Initial Developer as developer of the Redevelopment Area, and authorizing the City to enter into a Agreement with Initial Developer.

G. On July 28, 2008, the Mayor signed Ordinance No. 68102 [Board Bill No. 165] authorizing the issuance of TIF Notes as evidence of the City's obligation to pay certain Redevelopment Project Costs incurred in furtherance of the Redevelopment Plan and the Redevelopment Project and pledging TIF Revenues to the payment of the TIF Notes.

H. On June \_\_\_\_\_, 2009, the Mayor signed Ordinance No. \_\_\_\_\_ [Board Bill No. \_\_\_\_\_] amending Ordinance No. 68101 and permitting the completion of the Apartments Component of the Redevelopment Project by Apartments Developer, and designating Apartments Developer as developer of the Apartments Component of the Redevelopment Area, and authorizing the City to enter into an Agreement with Apartments Developer.

I. Initial Developer desires to assign its rights and interest in and to the Apartments Component of the Redevelopment Project to Apartments Developer hereunder to assist in securing financing for the Redevelopment Project.

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

K. Pursuant to provisions of the TIF Act and Ordinance Nos. 68100, 68101 (as amended by Ordinance No. \_\_\_\_\_) and 68102 [Board Bill Nos. 163, 164 (as amended by Board Bill No. \_\_\_\_\_), and 165], the City is authorized to enter into this Agreement, to issue TIF Notes as evidence of the City's obligation to pay certain Redevelopment Project Costs incurred in furtherance of the Redevelopment Plan and the Redevelopment Project, and to pledge TIF Revenues to the payment of the TIF Notes.

## AGREEMENT

Now, therefore, in consideration of the premises and promises contained herein and other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### ARTICLE I. DEFINITIONS

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

"*Acquisition Costs*" means the consideration paid by Developer or its Related Entity to a third party to acquire fee simple interest in the Apartments Phase Property.

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

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

"*Apartments Component*" means that certain portion of the Redevelopment Area to be developed into apartments uses.

"*Apartments Developer*" means Laurel TIF Apartments, Inc., a corporation duly incorporated and existing under the laws of the State of Missouri, or its permitted successors or assigns in interest.

"*Apartments Phase*" means that portion of the Redevelopment Project consisting of the rehabilitation of the existing building within the Redevelopment Area into apartments all as further set forth in the Redevelopment Plan, and as approved by the Approving Ordinance.

“*Apartments Phase Property*” means a portion of the real property (including without limitation all options held by third parties, fee interests, leasehold interests, tenant-in-common interests and such other like or similar interests) within the Redevelopment Area, as identified as the “Apartments Phase Property” and described in **Exhibit A**, attached hereto and incorporated herein by reference.

“*Apartments Phase Revenues*” means: (1) payments in lieu of taxes (as that term is defined in Section 99.805(10) of the TIF Act) attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property located within the Apartments Phase Property over and above the initial equalized assessed value (as that term is used and described in Sections 99.845.1 and 99.855.1 of the TIF Act) of each such unit of property, as paid to the City Treasurer by the City Collector of Revenue during the term of the Redevelopment Plan and the Redevelopment Project, and (2) payments in lieu of taxes (as that term is defined in Section 99.805(10) of the TIF Act) attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property located within the Hotel Phase Property over and above the initial equalized assessed value (as that term is used and described in Sections 99.845.1 and 99.855.1 of the TIF Act) of each such unit of property, as paid to the City Treasurer by the City Collector of Revenue during the term of the Redevelopment Plan and the Redevelopment Project, but subject to a cap equal to the base PILOTS paid by the Apartments Phase Property.

“*Apartments Phase TIF Notes*” means any tax increment revenue notes issued by the City subject to this Agreement between the City and the Apartments Developer and the Note Ordinance, to evidence the City’s limited obligation to reimburse the Apartments Developer for certain costs incurred by the Apartments Developer on behalf of the City in accordance with the TIF Act.

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

“*Approving Ordinance*” means Ordinance No. 68100 [Board Bill No. 163] designating the Redevelopment Area, approving the Redevelopment Plan, approving the Redevelopment Project, adopting tax increment allocation financing within the Redevelopment Area, and establishing the Special Allocation Fund.

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

“*Authorizing Ordinance*” means Ordinance No. 68101 [Board Bill No. 164] (as amended by Ordinance \_\_\_\_\_) affirming approval and adoption of the Redevelopment Plan, Redevelopment Project, and designation of the Redevelopment Area, designating Developer as the developer of the Apartments Component of the Redevelopment Area, and authorizing the City to enter into a Redevelopment Agreement for the Apartments Component with Developer.

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

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

“*Bond Counsel*” means Armstrong Teasdale LLP, St. Louis, Missouri, or an attorney at law or a firm of attorneys acceptable to the City of nationally recognized standing in matters pertaining to the tax-exempt nature of interest on obligations issued by states and their political subdivisions duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia.

“*Bond Proceeds*” means the gross cash proceeds from the sale of TIF Bonds before payment of Issuance Costs, together with any interest earned thereon.

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

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

“*Certificate of Substantial Completion*” means a document substantially in the form of **Exhibit E**, attached hereto and incorporated herein by reference, issued by the Developer to the City in accordance with this Agreement and evidencing the Developer’s satisfaction of all obligations and covenants to construct the Apartments Phase in accordance with the Redevelopment Plan and this Agreement.

“*CID*” or “*Community Improvement District*” means the Laurel Community Improvement District, a community improvement district and political subdivision of the State of Missouri formed or to be formed by the City pursuant to Sections 67.1401 to 67.1571 RSMo. (2000) (the “CID Act”), which includes a portion of the Redevelopment Area.

“*CID Project Costs*” means the costs incurred by or on behalf of Developer with respect to the “Project” identified in that certain Petition to Establish the CID filed with the City (as amended and as may be further amended from time to time).

“*CID Revenues*” shall mean the proceeds, after deduction for costs of collection and/or administration, from the imposition of the CID Sales Tax which are not captured as EATs but are instead pledged by the CID to the City for deposit in the CID Revenue Fund of the Revenue Fund of the Special Allocation Fund for the repayment of TIF Notes.

“*CID Sales Tax*” means a sales and use tax imposed by the CID of up to one percent (1%) upon all taxable retail sales within the CID pursuant to the CID Act.

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

“*City Clerk*” means the Register of the City.

“*Comptroller*” means the Comptroller of the City.

“*Construction Plans*” means plans, drawings, specifications and related documents, and construction schedules for the construction of the Work, together with all supplements, amendments or corrections, submitted by the Developer and approved by the City in accordance with applicable law.

“*Disclosure Counsel*” means Armstrong Teasdale LLP, St. Louis, Missouri, or an attorney at law or a firm of attorneys acceptable to the City of nationally recognized standing in matters pertaining to offerings of municipal securities duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia.

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

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

“*Hotel Component*” means that certain portion of the Redevelopment Area to be developed into hotel and retail uses.

“*Hotel Developer*” means Laurel TIF Hotel, Inc., a corporation duly incorporated and existing under the laws of the State of Missouri, or its permitted successors or assigns in interest.

“*Hotel Phase*” means that portion of the Redevelopment Project consisting of the rehabilitation of the existing building within the Redevelopment Area into a mix of retail and hotel uses, all as further set forth in the Redevelopment Plan, and as approved by the Approving Ordinance.

“*Hotel Phase Property*” means the real property (including without limitation all options held by third parties, fee interests, leasehold interests, tenant-in-common interests and such other like or similar interests) within the Redevelopment Area, such property being identified as the “Hotel Phase Property” and described in **Exhibit A**, attached hereto and incorporated herein by reference.

*“Hotel Phase Revenues”* means: (1) payments in lieu of taxes (as that term is defined in Section 99.805(10) of the TIF Act) attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property located within the Hotel Phase Property over and above the initial equalized assessed value (as that term is used and described in Sections 99.845.1 and 99.855.1 of the TIF Act) of each such unit of property, as paid to the City Treasurer by the City Collector of Revenue during the term of the Redevelopment Plan and the Redevelopment Project, less that portion of the Hotel Phase Property PILOTS attributable to the Apartments Phase Revenues, (2) subject to annual appropriation by the Board of Aldermen, fifty percent (50%) of the total additional revenues from taxes which are imposed by the City or other taxing districts (as that term is defined in Section 99.805(16) of the TIF Act) and which are generated by economic activities within the Hotel Phase Property and the Apartments Phase Property over the amount of such taxes generated by economic activities within the Hotel Phase Property and the Apartments Phase Property in the calendar year ending December 31, 2007 (subject to annual appropriation by the City as provided in the TIF Act), as defined and described in Sections 99.805(4) and 99.845 of the TIF Act, but excluding therefrom personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to Section 70.500 of the Revised Statutes of Missouri, as amended, taxes levied for the purpose of public transportation pursuant to Section 94.660 of the Revised Statutes of Missouri, as amended, and licenses, fees or special assessments other than payments in lieu of taxes and penalties and interest thereon, all as provided in Section 99.845 of the TIF Act, (3) CID Revenues generated within the Hotel Phase Property and the Apartments Phase Property, (4) TDD Revenues generated within the Hotel Phase Property and the Apartments Phase Property, and (5) the Hotel Revenues (defined below). Notwithstanding the foregoing, Hotel Phase Revenues shall not include the operating levy for school purposes imposed by or any sales tax imposed by the Transitional School District of the City of St. Louis.

*“Hotel Phase TIF Notes”* means any tax increment revenue notes issued by the City subject to an agreement between the City and the Hotel Developer and the Note Ordinance, to evidence the City’s limited obligation to reimburse the Hotel Developer for certain costs incurred by the Hotel Developer on behalf of the City in accordance with the TIF Act.

*“Hotel Revenues”* means all revenues received by the City from the following taxes enumerated below imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels within the Redevelopment Area, which taxes do not constitute EATs and which shall be deposited in the Hotel Revenue Fund of the Revenue Fund of the Special Allocation Fund, in each case less the costs of collection thereof and excluding (i) any amount paid under protest until such protest is withdrawn or resolved against the taxpayer or (ii) any such amount received by the City which is the subject of a suit or other claim communicated to the City which suit or claim challenges the collection of such sum:

- (a) the general municipal sales tax levied pursuant to Ordinance No. 62884, or any successor thereto;
  - (b) the general municipal sales tax levied pursuant to Ordinance No. 55497, as amended by Ordinance Nos. 57179 and 57979, or any successor thereto;
  - (c) the transportation sales tax levied pursuant to Ordinance No. 56553, or any successor thereto;
  - (d) the capital improvements sales tax levied pursuant to Ordinance No. 62885, or any successor thereto;
- and
- (e) the parks and recreation sales tax levied pursuant to Ordinance No. 67195, or any successor thereto.

*“Initial Developer”* means Laurel TIF, Inc., a corporation duly incorporated and existing under the laws of the State of Missouri, or its permitted successors or assigns in interest.

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

*“MBE/WBE Compliance Officer”* means the City’s Assistant Airport Director, Department of MBE/WBE Certification and Compliance.



“*MBE/WBE Subcontractor’s List*” means the form of City of St. Louis MBE/WBE Subcontractor’s List published by the Board of Public Service of the City, such form being attached hereto as **Exhibit G** and incorporated herein by this reference.

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

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

“*Note Ordinance*” means Ordinance No. 68102 [Board Bill No. 165] adopted by the Board of Aldermen and signed by the Mayor authorizing the TIF Note(s) and TIF Obligations, any trust indenture relating thereto, and all related proceedings.

“*Original Purchaser*” the Initial Developer, Developer, a Related Entity, the Project Lender or a Qualified Institutional Buyer; provided, however, that any such Related Entity or Project Lender shall also qualify as an Approved Investor and shall be designated in writing by the developer as the Original Purchaser.

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

“*Post Completion Funding Source*” means each of the following sources:

(i) Tax Credits:

(a) the total value of the proceeds from the sale of any transferable tax credits approved for the Apartments Phase of the Redevelopment Project, based on the amounts approved by the tax credit issuing authority and the purchase prices for such credits set forth in any tax credit purchase agreement; if, pursuant to such purchase agreement, any portion of the proceeds is to be paid subsequent to the date upon which the statement required by Section 4.3 is submitted, the present value of such portion shall be calculated by the City using a time period determined by the City to be reasonable and a 7% present value rate; if no tax credit purchase agreement has been executed, then the total value of such proceeds shall be calculated as 87% of the amount approved by the tax credit issuing authority.

(b) the equity and/or loan proceeds available from investor members or partners in the Apartments Phase of the Redevelopment Project who will be entitled to receive any non-transferable tax credits approved for the Apartments Phase of the Redevelopment Project, per the ownership documentation for the Apartments Phase of the Redevelopment Project property; if, pursuant to such purchase agreement, any portion of the proceeds is to be paid subsequent to the date upon which the statement required by Section 4.3 is submitted, the present value of such portion shall be calculated by the City using a time period determined by the City to be reasonable and a 7% present value rate ; provided, that, if the Project has been approved for a New Markets Tax Credit investment by a New Markets Tax Credit allocate, but has not yet entered into any agreement pursuant to which such loan or equity proceeds shall be made available, then the value of such proceeds shall be 25% of the face value of the approved New Markets Tax Credit investment.

The Developer shall substantiate the amount of any tax credits approved for the Apartments Phase of the Redevelopment Project and the proceeds or equity related thereto by providing to the City documentation from accountants, tax credit authorities and tax credit purchasers or investors.

(ii) Sales Proceeds:

(a) all net sales proceeds actually derived from the sale of any portion of the Apartments Phase of the Redevelopment Project, which net sales proceeds shall be documented by copies of the seller’s closing statements for such sales, and (b) if, at the time of the submittal required pursuant to Section 4.3 of this Agreement, there remain units or portions of the Apartments Phase of the Redevelopment Project which are being marketed and listed as for-sale but are unsold, ninety percent (90%) of the average sale price for all sold units or portions, taking into account the size, location and amenities associated with such sold units as compared to the unsold units or portion, discounted by (a) a percentage equal to the average sales commissions paid to unrelated third parties and applied to the discounted listing price; and (b) closing costs for sold units (stated as the average amount of closing costs for such sold units).

(iii) TIF Financing: the maximum amount of TIF financing available to the Apartments Phase of the Redevelopment

Project, as such amount is set forth in Section 4.1 hereof; and

(iv) Value of Income-Producing Space:

if the Apartments Phase of the Redevelopment Project includes any leased space or space intended for lease (such space being the "Income-Producing Space"), the value of such Income Producing Space, which value shall be calculated by dividing the Stabilized Net Operating Income (as defined below) of such Income Producing Space by a capitalization rate of nine and one-half percent (9.5%). The square footage of Income-Producing Space in the Apartments Phase of the Redevelopment Project shall not exceed the square footage of Income-Producing Space set forth in the TIF Application. In addition to the other materials required to be submitted by subparagraph 4.3 hereof, Developer shall submit a 10-year operating proforma, including income and expense projections, for all Income-Producing Space in the Apartments Phase of the Redevelopment Project, together with copies of all leases, letters of intent, and operating expense documentation, if any, related to such Income-Producing Space.

"*Project Fund*" means the Project Fund created in the Note Ordinance.

"*Project Lender*" means a commercial bank, savings bank, savings and loan association, credit union or other financial institution that has loaned funds to the Developer to be used for construction of the Apartments Phase of the Redevelopment Project and has secured such loan with a mortgage or security interest in the Apartments Phase Property.

"*Qualified Institutional Buyer*" means a "qualified institutional buyer" under Rule 144A promulgated under the Securities Act of 1933.

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

"*Redevelopment Plan*" means the plan titled "The Laurel / 555 Washington TIF Redevelopment Plan" dated March 28, 2008, as may be amended from time to time, approved by the City pursuant to the Approving Ordinance; as such plan may from time to time be amended in accordance with the TIF Act.

"*Redevelopment Project*" means the Redevelopment Project identified by the Redevelopment Plan, consisting of the rehabilitation and redevelopment of the building in the Redevelopment Area commonly known as 601 Washington Avenue into a mix of commercial space and residential space, together with ancillary improvements, as further set forth in the Redevelopment Plan, all of which is comprised of the Apartments Phase and the Hotel Phase.

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

"*Redevelopment Proposal*" means the document on file with the City and incorporated herein by reference, titled "The Laurel / 555 Washington TIF Application," dated March 24, 2008 and submitted by an affiliate of the Developer to the City.

"*Reimbursable Redevelopment Project Costs*" means those Redevelopment Project Costs with respect to the Apartments Phase as described in **Exhibit B**, attached hereto and incorporated herein by reference, for which the Developer is eligible for reimbursement in accordance with this Agreement.

"*Related Entity*" means any party or entity related to the Developer by one of the relationships described in Section 267(b), Section 707(b)(1)(A) or Section 707(b)(1)(B) of the Internal Revenue Code of 1986, as amended.

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

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

"*Special Allocation Fund*" means The Laurel / 555 Washington Special Allocation Fund, created by the Approving Ordinance in accordance with the TIF Act, and including the accounts and sub-accounts for the Redevelopment Project into which TIF Revenues are from time to time deposited in accordance with the TIF Act and this Agreement.

“*Stabilized Net Operating Income*” shall be calculated as follows:

- (a) For any portion of the Income Producing Space which has actually been leased, the annualized rental income from such space, less annualized actual and/or reasonable operating expenses as determined by the City (excluding debt service);

PLUS

- (b) For any portion of the Income Producing Space which is available for lease but has not been leased, the result of the following equation:

- (i) the amount of net leaseable square footage multiplied by the average annual rent per square foot of the Income Producing Space which has been actually leased, taking into account the size, location and amenities associated with such space not yet leased as compared to the space leased (provided, that if no such space has been actually leased, the lease rate(s) used shall be the the lease rate(s) specified by the Developer in the TIF;

LESS

- (ii) the amount of net leaseable square footage multiplied by the average annualized actual and/or reasonable operating expenses as determined by the City (excluding debt service) per square foot of the Income Producing Space .

The City shall incorporate a 7% vacancy rate for all Income-Producing Space.

“*TDD*” or “*Transportation Development District*” means the Laurel Transportation Development District, a transportation development district and political subdivision of the State of Missouri formed or to be formed pursuant to Sections 238.200 to 238.275 RSMo. (2000) (the “*TDD Act*”), which includes a portion of the Redevelopment Area.

“*TDD Project Costs*” means the costs incurred by or on behalf of Developer with respect to that certain “*Transportation Project*” as defined in that certain Petition to Establish a Transportation Development District filed with the Circuit Court of the City of St. Louis with respect to the TDD.

“*TDD Revenues*” shall mean the proceeds, after deduction for costs of collection and/or administration, from the imposition of the TDD Sales Tax which are not captured as EATs but are instead pledged by the TDD to the City for deposit in the TDD Revenue Fund of the Revenue Fund of the Special Allocation Fund for the repayment of TIF Notes.

“*TDD Sales Tax*” means a sales and use tax imposed by the TDD of up to one percent (1%) upon all taxable retail sales within the TDD pursuant to the TDD Act.

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

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

“*TIF Notes*” means the Apartments Phase TIF Notes and the Hotel Phase TIF Notes collectively.

“*TIF Obligations*” means TIF Bonds, TIF Notes or other obligations, singly or in series, issued by the City or the Authority, as the case may be, pursuant to the TIF Act and in accordance with this Agreement.

“*TIF Revenues*” means all the Apartments Phase Revenues and the Hotel Phase Revenues.

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

“*Verified Total Project Costs*” means the sum total of all reasonable or necessary costs incurred, and any such costs incidental to the Apartments Phase or the Work, including, but not limited to, all Acquisition Costs, Redevelopment Project Costs and Reimbursable Redevelopment Project Costs, as limited by the provisions of Section 4.3 hereof.

“Work” means, with respect to the Apartments Phase, all work necessary to prepare the Apartments Phase Property and to construct or cause the construction and completion of the Apartments Phase described in the Redevelopment Proposal, Redevelopment Plan and this Agreement, including but not limited to: (1) property acquisition; (2) site preparation and environmental remediation; (3) rehabilitation, renovation or reconstruction of existing structures or construction of new improvements within the Redevelopment Area; (4) construction, reconstruction, renovation and/or rehabilitation of related infrastructure and/or public improvements, including without limitation surrounding roads, sidewalks, sewer, water, electrical, parking and other utilities; (5) professional services, including, but not limited to, architecture, engineering, surveying, financing, legal, planning and consulting; (6) and all other work described in the Redevelopment Proposal, Redevelopment Plan and this Agreement with respect to the Apartments Phase, or reasonably necessary to effectuate the intent of this Agreement.

## ARTICLE II. ACCEPTANCE OF PROPOSAL

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

**2.2 Developer to Advance Costs.** The Developer agrees to advance all Redevelopment Project Costs as necessary to acquire the Apartments Phase Property and to complete the Work with respect to the Apartments Phase, all subject to the Developer’s right to abandon the Apartments Phase of the Redevelopment Project and to terminate this Agreement as set forth in **Section 7.1** of this Agreement. Additionally, and not by way of limitation:

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

(ii) the City acknowledges that, prior to the execution of this Agreement, the Initial Developer paid the sum of Eleven Thousand Four Hundred and no/100 Dollars (\$11,400.00) (which sum represents 0.3% of the maximum amount of TIF Notes allowed to be issued by the City pursuant to **Section 4.1** of this Agreement), which monies have been paid one half to the Comptroller and one half to the SLDC to reimburse the Comptroller and the SLDC for their administrative costs in reviewing the Redevelopment Plan and the Redevelopment Proposal;

(iii) the Developer shall, within ten (10) days after the date of execution of this Agreement, pay the sum of Eleven Thousand Four Hundred and no/100 Dollars (\$11,400.00) (which sum represents 0.3% of the maximum amount of TIF Notes allowed to be issued by the City pursuant to **Section 4.1** of this Agreement), which monies shall be paid one half to the Comptroller and one half to the SLDC to reimburse the Comptroller and the SLDC for their administrative costs in reviewing the Redevelopment Plan and the Redevelopment Proposal;

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

(v) the Developer shall, concurrently with the issuance of any Apartments Phase TIF Notes, pay to the City a flat fee to be reasonably determined by the City in its sole discretion at the time of issuance to pay for the City’s Issuance Costs of such Apartments Phase TIF Notes; and

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

**ARTICLE III.  
CONSTRUCTION OF REDEVELOPMENT PROJECT**

**3.1 Acquisition of Property.** Developer represents that, as of the date of this Agreement, Developer or a Related Entity is the fee owner or owner under contract of the property commonly known as 601 Washington Avenue. Any additional properties acquired by the Developer for completion of the Work shall be held in the name of the Developer or a Related Entity and shall be subject to the terms, conditions and covenants contained herein and in the Redevelopment Plan immediately upon acquisition.

**3.2 Condemnation.** As of the date of this Agreement, it is not anticipated that the exercise of the power of eminent domain will be necessary to acquire any portion of the Apartments Phase Property in the Redevelopment Area.

**3.3 Relocation.** The Developer shall identify any Displaced Person (as defined in Ordinance No. 62481 of the City) that is entitled to relocation payments or relocation assistance under the Relocation Plan. The City shall, at the Developer's sole cost and expense, subject to reimbursement as a Reimbursable Redevelopment Project Cost in accordance with **Article IV** of this Agreement, coordinate such relocation payments and relocation assistance in accordance with the Relocation Plan.

**3.4 Developer to Construct the Work.** The Developer shall commence or cause the commencement of the construction of the Work within three hundred sixty (360) days of the date of this Agreement, which Work shall be constructed in a good and workmanlike manner in accordance with the terms of this Agreement and the Redevelopment Plan. The Developer shall substantially complete or cause the Work to be substantially complete not later than December 31, 2011 absent an event of Force Majeure. In the event of any delay caused by an event of Force Majeure as defined in **Section 7.5** of this Agreement, Developer shall be granted additional time to complete the Work, but under no circumstance shall such time to complete the Work extend beyond December 31, 2012.

The Developer may enter into or cause to be entered into one or more construction contracts to complete the Work. Prior to the commencement of construction of any portion of the Work, the Developer shall obtain or shall require that any of its contractors obtain workers' compensation, comprehensive public liability and builder's risk insurance coverage in amounts customary in the industry for similar type projects. The Developer shall require that such insurance be maintained by any of its contractors for the duration of the construction of such portion of the Work. To the extent that laws pertaining to prevailing wage and hour apply to any portion of the Work the Developer agrees to take all actions necessary to apply for the wage and hour determinations and otherwise comply with such laws.

**3.5 Governmental Approvals.** The City and, at its direction, the SLDC agree to employ reasonable and good faith efforts to cooperate with the Developer and to process and timely consider and respond to all applications for the Governmental Approvals as received, all in accordance with the applicable City ordinances and laws of the State of Missouri.

**3.6 Construction Plans; Changes.** The Construction Plans shall be prepared by a professional engineer or architect licensed to practice in the State of Missouri and the Construction Plans and all construction practices and procedures with respect to the Work shall be in conformity with all applicable state and local laws, ordinances and regulations. During the progress of the Work, the Developer may make such reasonable changes, including without limitation modification of the construction schedule, subject to the provisions of **Section 3.4**, including but not limited to, dates of commencement and completion (subject to the time limitations set forth in this Agreement), modification of the areas in which the Work is to be performed, relocation, expansion or deletion of items, revisions to the areas and scope of Work, and any and all such other changes as site conditions or orderly development may dictate or as may be necessary or desirable, in the sole determination of the Developer, to enhance the economic viability of the Redevelopment Project and as may be in furtherance of the general objectives of the Redevelopment Plan; provided that (a) the Developer shall comply with all laws, regulations and ordinances of the City and (b) prior to any material changes, the Developer shall obtain the advance written consent of the SLDC, which consent shall not be unreasonably withheld or delayed. For purposes of this **Section 3.6**, "material changes" shall mean (i) any change that could reasonably be expected to result in a decrease in the aggregate amount of TIF Revenues generated within the Redevelopment Area to an amount less than 90% of the aggregate amount of TIF Revenues as projected in that certain *Cost-Benefit Analysis for The Laurel / 555 Washington TIF Redevelopment Plan dated as of March 28, 2008* (as may be amended), and placed on file with SLDC.

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

same.

**3.8 Certificate of Substantial Completion.** Promptly after substantial completion of the Work, the Developer shall furnish to the City and the SLDC a Certificate of Substantial Completion. The Mayor or his designee and the SLDC shall, within thirty (30) days following delivery of the Certificate of Substantial Completion, carry out such inspections as it deems necessary to verify to its reasonable satisfaction the accuracy of the certifications contained in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be deemed accepted by the City and the SLDC unless, within thirty (30) days following delivery of the Certificate of Substantial Completion, the Mayor or his designee or SLDC furnishes the Developer with specific written objections to the status of the Work, describing such objections and the measures required to correct such objections in reasonable detail. In the case where the Mayor or his designee or SLDC, within thirty (30) days following delivery of the Certificate of Substantial Completion provides the Developer with specific written objections to the status of the Work, the Developer shall have such amount of time as is reasonably necessary to address such objections and when addressed shall re-submit the Certificate of Substantial Completion to the Mayor or his designee or the SLDC in accordance with this Section and the thirty (30) day period shall begin anew. Upon acceptance of the Certificate of Substantial Completion by the Mayor or his designee and the SLDC for the Apartments Phase, or upon the lapse of thirty (30) days after delivery thereof to the Mayor or his designee and the SLDC without any written objections thereto, the Developer may record the Certificate of Substantial Completion with the City's Recorder of Deeds, and the same shall constitute evidence of the satisfaction of the Developer's agreements and covenants to perform all the Work. The Certificate of Substantial Completion shall be in substantially the form attached as **Exhibit E**, attached hereto and incorporated by referenced herein.

#### **ARTICLE IV. REIMBURSEMENT OF DEVELOPER COSTS**

**4.1 City's Obligation to Reimburse Developer.** Subject to the terms of the Note Ordinance and this Agreement, the City agrees to reimburse Developer for the verified Reimbursable Redevelopment Project Costs in a total amount not to exceed Three Million Eight Hundred Thousand Dollars and no/100 (\$3,800,000.00) plus Issuance Costs to be allocated to the Redevelopment Project.

Subject to the terms of the Note Ordinance and this Agreement, the City agrees to issue TIF Notes to Developer to evidence the City's obligation to reimburse Developer for verified Reimbursable Redevelopment Project Costs in an amount not to exceed **Three Million Eight Hundred Thousand Dollars and no/100 (\$3,800,000.00), plus Issuance Costs** and interest as provided in **Section 5.2** of this Agreement, subject to the limitations of **Article IV** of this Agreement.

**4.2 Reimbursements Limited to Reimbursable Redevelopment Project Costs; Developer's Right to Substitute.** Nothing in this Agreement shall obligate the City to issue TIF Notes or to reimburse the Developer for any cost that is not incurred pursuant to Section 99.820.1 of the TIF Act or that does not qualify as a "redevelopment project cost" under Section 99.805(14) of the TIF Act. The Developer shall provide to the City (a) itemized invoices, receipts or other information evidencing such costs; and (b) a Certificate of Reimbursable Redevelopment Project Costs constituting certification by the Developer that such cost is eligible for reimbursement under the TIF Act. Within thirty (30) days of the City's receipt from the Developer of a Certificate of Reimbursable Redevelopment Project Costs, the City shall review and act upon such Certificate of Reimbursable Redevelopment Project Costs. The parties agree that each of the categories of costs set forth in **Exhibit B**, attached hereto and incorporated herein by this reference, shall constitute Reimbursable Redevelopment Project Costs which are eligible for reimbursement in accordance with the TIF Act and this Agreement. The Developer shall be entitled to reimbursement for Redevelopment Project Costs from any of the categories set forth in **Exhibit B** up to the maximum aggregate amount established in **Section 4.1** of this Agreement; provided, that the Developer shall be obligated to advance to the City the full amounts identified in **Section 2.2, clauses (i)-(v)**, of this Agreement. If the City determines that any cost identified as a Reimbursable Redevelopment Project Cost is not a "redevelopment project cost" under Section 99.805(14) of the TIF Act, the City shall so notify the Developer in writing within the thirty (30) day period referenced in this **Section 4.2**, identifying the ineligible cost and the basis for determining the cost to be ineligible, whereupon the Developer shall have the right to identify and substitute other Redevelopment Project Costs as Reimbursable Redevelopment Project Costs with a supplemental application for payment and the thirty (30) day period shall begin anew. If the City fails to approve or disapprove any Certificate of Reimbursable Redevelopment Project Costs within thirty (30) days after receipt thereof, the Certificate of Reimbursable Redevelopment Project Costs shall be deemed approved.

**4.3 Cost Savings and Excess Profits.** Within one hundred eighty (180) days after the submission of the Certificate of Substantial Completion by Developer in accordance with **Section 3.8** of this Agreement, Developer also shall furnish to the City for the City's review and approval, (a) a statement of Verified Total Project Costs, with evidence of billings and payments for each

expenditure, including itemized invoices, receipts, and pay applications or other evidence of payment as appropriate for the type of cost; and (b) a statement of each and every Post Completion Funding Source for the Apartments Phase of the Redevelopment Project.

If the Apartments Phase of the Redevelopment Project includes a for-sale condominium component, the statements required by this Section 4.3 shall not be submitted until a minimum of 80% of the condominium units included in the Apartments Phase of the Redevelopment Project have been sold, and such statements shall be submitted within sixty (60) days following such sale of 80% of such condominium units.

Developer shall not include developer fees, project management, construction management or consultant fees for any service typically performed by the Developer in the Verified Total Project Costs. With respect to any other costs for any services provided by the Developer or any entity related to Developer, the amount of such costs shall not exceed the amount set forth in the Redevelopment Plan for such services, or, if the cost for such service is not explicitly set forth in the Redevelopment Plan as an individual line item, an amount determined by the City as acceptable. Moreover, if any of the owners, officers, principals or members of the construction contractor for the Apartments Phase of the Redevelopment Project are the same as any owner, officer, principal or member of Developer or general partner in the owner of the development, amounts allowed for aggregate contractor fees shall not exceed eighteen percent (18%) of construction costs as provided for in the Missouri Housing Development Commission's 2005 Qualified Allocation Plan for the Low Income Housing Tax Credit Program, and Developer shall include documentation, including detailed invoices and receipts for payment, for each and every item of costs traceable to third parties with no relationship to Developer, in addition to summary pay applications submitted to Developer by the construction contractor. The City shall determine whether particular costs are general requirements and includable in the contractor's fee allowance or are construction costs to which the aggregate contractor's fee allowance shall be applied, using the Cost Certification Guide promulgated by the Missouri Housing Development Commission as a guide for such determinations. The City shall complete its review of the statements and other documentation provided by the Developer pursuant to this Section and shall notify Developer if such documentation is acceptable and complete within forty-five (45) days of receipt by the City. Should the City notify Developer that the documentation submitted by the Developer is not acceptable or is not complete, the City shall specify which items of documentation are missing or unacceptable and the manner in which Developer may remedy such deficiencies, and Developer may make supplemental submissions to address such deficiencies, provided, however, that such supplemental submissions shall not include any materials with respect to costs incurred or other events that have taken place subsequent to the date the original submission was made. If requested by the City, Developer shall also submit an affidavit as to the accuracy of the statements as to the costs, the relationship of any payee to the Developer, the accuracy of the statements as to the amounts and types of tax credits received or other funding sources received, and the veracity of any other aspect of the statements of verified total project costs or Post-Completion Funding Sources. The City shall review any supplemental materials provided by the Developer within forty-five (45) days of receipt and shall notify Developer if such documentation is acceptable and complete within forty-five (45) days of receipt by the City. Developer shall respond to any notification by the City pursuant to this section within sixty (60) days of receipt of such notification. Once the City has issued any such notification, the City shall not be required to make the calculations specified in the following paragraph until the City has received all documentation deemed necessary by the City in order to make such calculations, provided, however, that if Developer fails to respond to any notification within such sixty (60) day period, the City shall have the right to finalize the calculations specified in the following paragraph based on the information and documentation then available to the City and the Developer shall accept the results of such finalized calculations for purposes of the discharge of TIF notes as specified in the following paragraph. Either the City or the Developer may waive or extend the time periods for notification and response set forth herein.

To the extent that, in the City's determination, the sum of Post Completion Funding Sources as identified by the City exceeds the sum of: (x) Verified Total Project Costs, plus (y) four percent (4%) of the Acquisition Costs, plus (z) fifteen percent (15%) of all Verified Total Project Costs other than Acquisition Costs, then Developer hereby agrees that the maximum amount of Reimbursable Redevelopment Project Costs for which the Developer shall be reimbursed by the City as provided for in Section 4.1 of this Agreement and the maximum amount of any Apartments Phase TIF Notes which shall be issued by the City in accordance with Section 5.2 of this Agreement shall be reduced by an amount in the aggregate equal to seventy-five percent (75%) of the total amount of such excess, as calculated by the City in accordance herewith. Developer agrees that the City may discharge any Apartments Phase TIF Notes already issued at the time of such calculation in an amount in the aggregate equal to seventy-five percent (75%) of the total excess.

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

**ARTICLE V.  
TIF OBLIGATIONS**

**5.1 Conditions Precedent to the Issuance of TIF Notes.** No Apartments Phase TIF Notes shall be issued until such time as the City has (i) accepted a Certificate of Substantial Completion in accordance with the procedures set forth in **Section 3.8** of this Agreement; (ii) approved a Certificate of Reimbursable Redevelopment Project Costs in substantially the form of **Exhibit D**, attached hereto and incorporated herein by reference, in accordance with the procedures set forth in **Section 4.2** of this Agreement; (iii) obtained an opinion of Bond Counsel regarding the taxable nature of the Apartments Phase TIF Notes; (iv) received the full payment of all advances required to be paid under **Section 2.2** of this Agreement; and (v) received such other documentation as the City shall reasonably require of Developer in order for the City to obtain an opinion of Bond Counsel as required by this **Section 5.1**.

**5.2 Issuance of TIF Notes.** The City agrees to issue one or more Apartments Phase TIF Notes with respect to the Apartments Component as provided in this Agreement and the Note Ordinance to reimburse the Developer for Reimbursable Redevelopment Project Costs up to the maximum amount established in **Section 4.1** of this Agreement, subject to the limitations of Article IV of this Agreement. The Apartments Phase TIF Notes shall be in the form attached to the Note Ordinance as Exhibit B-1, provided that if the Note Ordinance is repealed or otherwise amended to amend such form of TIF Notes, the Apartments Phase TIF Notes shall not be amended for the purposes of this Agreement without the written consent of Developer.

**5.2.1 Terms.** Each Apartments Phase TIF Note shall bear interest at a fixed rate per annum determined on the date that is not less than ten (10) and not more than sixty (60) business days prior to the scheduled closing date for issuance of the Apartments Phase TIF Notes (the "Pricing Date") based on the municipal yield curve for general obligation bonds (the "MMD") compiled by Municipal Market Data Line © (or its successors) and published by Thomson Financial, an operating unit of The Thomson Corporation (or its successors) using the MMD yield published as of the Issuance Date for general obligation bonds rated "AAA" that mature in the same year as the Apartments Phase TIF Notes, (i) plus four percent (4%) if the interest on such Apartments Phase TIF Note, in the opinion of Bond Counsel, is not exempt from Federal income taxation (the "Taxable Rate"), or (ii) plus two percent (2%) if the interest on such Apartments Phase TIF Note, in the opinion of Bond Counsel, is exempt from Federal income taxation (the "Tax Exempt Rate"); provided, in no event shall the interest rate on the Apartments Phase TIF Notes exceed ten percent (10%) per annum. All Apartments Phase TIF Notes shall have a stated maturity of the Maturity Date. Interest shall be computed on the basis of a 360-day year of twelve 30-day months. The Apartments Phase TIF Notes shall bear interest from their registration date or from the most recent Payment Date to which interest has been paid or duly provided for.

**5.2.2 Procedures for Issuance of Apartments Phase TIF Notes.** Within a reasonable period of time not to exceed ninety (90) days of Apartments Developer's satisfaction of the conditions of **Section 5.1** of this Agreement with respect to the Apartments Phase the City shall issue an Apartments Phase TIF Note to an Original Purchaser evidencing reimbursement of Reimbursable Redevelopment Project Costs. Notwithstanding anything contained in this Agreement to the contrary, upon the acceptance by the City of a Certificate of Reimbursable Redevelopment Project Costs and the issuance by the City of an Apartments Phase TIF Note as provided in this **Section 5.2.2**, the Apartments Developer shall be deemed to have advanced funds necessary to purchase such Apartments Phase TIF Notes and the City shall be deemed to have deposited such funds in the Project Fund and shall be deemed to have reimbursed the Apartments Developer in full for such costs from the amounts deemed to be on deposit in the Project Fund from time to time.

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

**5.3 Issuance of TIF Bonds.**

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

**5.3.2** Upon receipt of a written request by Developer and upon the City's underwriter's recommendation in favor of issuing TIF Bonds and recommendation of the principal amount thereof based on the criteria set forth below, the



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

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

- (i) Acceptance by the City of the Certificate of Substantial Completion for the Apartments Phase;
- (ii) Review of projections of Apartments Phase Revenues available for debt service as proposed by an independent qualified consultant. Such projections must show that (A) if all available Apartments Phase Revenues were to be applied to the immediate repayment of the TIF Bonds, the TIF Bonds would reasonably be anticipated to be retired within twenty-three (23) years from the effective date of the Approving Ordinance, and (B) based on a maturity date twenty-three (23) years from the effective date of the Approving Ordinance, the TIF Bonds are reasonably likely to achieve debt service coverage ratio reasonably acceptable to the City's underwriter;
- (iii) Developer's documentation of stabilization of the Apartments Phase of the Redevelopment Project for a minimum period of two (2) years after substantial completion as evidenced in a report to the City prepared by a qualified independent consultant to be paid for by the City, which report also sets forth TIF revenue projections for the Apartments Phase of the Redevelopment Project in connection with the issuance of the TIF Bonds;
- (iv) The aggregate net projected debt service on the TIF Bonds (taking into account the principal portion of the TIF Bonds that are issued to establish a reserve fund and to pay Issuance Costs, and including any reserve fund earnings) will be lower than the net average annual debt service on the outstanding Apartments Phase TIF Notes, unless the Developer voluntarily elects to defer or forgive principal of and/or interest on the Apartments Phase TIF Notes in an amount necessary to make the aggregate net projected debt service on the TIF Bonds lower than the net average annual debt service on the outstanding Apartments Phase TIF Notes; and
- (v) The TIF Bonds can be sold at an aggregate net interest cost which is less than the aggregate net interest cost of the Apartments Phase TIF Notes to be redeemed.

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

- 5.4.1** To the payment of costs relating to the issuance of the TIF Bonds;
- 5.4.2** To the payment of outstanding principal of and interest on the Apartments Phase TIF Notes to be refunded;
- 5.4.3** To the payment of capitalized interest on the TIF Bonds; and
- 5.4.4** To the establishment of a debt service reserve fund for the TIF Bonds in a reasonable amount of the principal amount of TIF Bonds to be issued, as to be determined by the City's underwriter.

**5.5 Cooperation in the Issuance of TIF Obligations.** Developer covenants to cooperate and take all reasonable actions necessary to assist the City and its Bond Counsel, the Authority, underwriters and financial advisors in the preparation of offering statements, private placement memorandum or other disclosure documents and all other documents necessary to market and sell the TIF Obligations, including disclosure of tenants of the Redevelopment Area and the non-financial terms of the leases between Developer and such tenants. Developer will not be required to disclose to the general public or any investor any proprietary or confidential information, including financial information, pertaining to Developer, but upon the execution of a confidentiality agreement acceptable to Developer, Developer will provide such information to the City's financial advisors, underwriters and their counsel to enable such parties to satisfy their due diligence obligations. Developer shall make such compliance obligation a covenant running with the land, enforceable as if any subsequent transferee thereof were originally a party to and bound by this Agreement, provided, that Developer shall satisfy this and any other obligation under this Agreement to make any provision a covenant running with the land by recording this Agreement in the Office of the Recorder of Deeds of the City of St. Louis.

**5.6 Subordinate Notes.**

Apartments Phase TIF Notes may be issued in two series, with one series subordinate to Apartments Phase TIF Notes of the other series issued hereunder (the "Subordinate Notes"), such that no payment of principal or interest on any such Subordinate Notes may be made while any Apartments Phase TIF Notes are outstanding. All such Subordinate Notes shall be payable as to principal and interest according to the terms set forth in **Sections 5.2** and **6.3** of this Agreement.

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

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

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

**6.1 Creation of Special Allocation Fund.** The City agrees to cause its Comptroller or other financial officer to maintain the Special Allocation Fund, including a "PILOTs Account," an "EATs Account," and such further accounts or sub-accounts as are required by this Agreement or as the Comptroller may deem appropriate in connection with the administration of the Special Allocation Fund pursuant to this Agreement. Subject to the requirements of the TIF Act and, with respect to Economic Activity Taxes, subject to annual appropriation by the Board of Aldermen, the City will promptly upon receipt thereof deposit all Payments in Lieu of Taxes into the PILOTs Account and all Economic Activity Taxes into the EATs Account.

**6.2 Certification of Base for PILOTS and EATS.**

**6.2.1** Upon the reasonable written request of the City, Developer shall use its best efforts to provide or cause to be provided to the Comptroller or its authorized representative any documents necessary for the City to calculate the base for PILOTs and EATs including, but not limited to: (i) the address and locator number of all parcels of real property located within the Redevelopment Area; and (ii) information related to payment of utility taxes by any businesses, owners or other occupants of the Redevelopment Area in the calendar year ending December 31, 2007.

**6.2.2** Within ninety (90) days after execution of the Redevelopment Agreement, the City shall provide to the Developer (i) a certificate of the City Assessor's calculation of the total initial equalized assessed valuation of the taxable real property within the Redevelopment Area based upon the most recently ascertained equalized assessed valuation of each taxable lot, block, tract, or parcel of real property within the Redevelopment Area and the Apartments Phase Property; and (ii) a certification of the amount of revenue from taxes, penalties and interest which are imposed by the City and other taxing districts and which are generated by economic activities within the Redevelopment Area and the

Apartments Phase Property for the calendar year ending December 31, 2007, but excluding those personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to Section 70.500 of the Revised Statutes of Missouri, taxes levied for the purpose of public transportation, or licenses, fees or special assessments identified as excluded in Section 99.845.3 of the TIF Act.

### **6.3 Application of Available Revenues.**

The City hereby agrees for the term of this Agreement to apply the Available Revenues and any taxes, fees or assessments subsequently enacted and imposed in substitution therefor and allocable to the Special Allocation Fund under the TIF Act or this Agreement to the repayment of TIF Notes issued under Article V of this Agreement as provided in the Note Ordinance and this Agreement.

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

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

The City agrees that it will comply with the Charter of The City of St. Louis, Article XVI, Section 3 for each fiscal year that TIF Obligations are outstanding and the City will request an appropriation of all Available Revenues on deposit in the Special Allocation Fund for application to the payment of the principal of (including, but not limited to, payment of a premium, if any) and interest on the TIF Obligations.

**6.4 Cooperation in Determining TIF Revenues.** The City and the Developer agree to cooperate and take all reasonable actions necessary to cause the Apartments Phase Revenues to be paid into the Special Allocation Fund, including, but not limited to, the City's enforcement and collection of all such payments through all reasonable and ordinary legal means of enforcement.

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

**6.6 Notice to City of Transfer.** The Developer agrees to notify the City in writing of any sale, transfer or other disposition of the Apartments Phase Property or any interest therein as permitted by **Section 7.3.2** of this Agreement at least fifteen (15) days prior to such sale, transfer or other disposition. Said notice shall specify the name and address of the person so acquiring any or all of the Apartments Phase Property or any interest therein and shall identify the Apartments Phase Property to be sold, transferred or otherwise disposed, whether by voluntary transfer or otherwise. Notwithstanding the foregoing, Developer shall not be required to notify the City of the lease or transfer of a residential unit, commercial unit or parking space in the ordinary course of business except as may be required by **Section 4.3**.

## **ARTICLE VII. GENERAL PROVISIONS**

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

**7.2 City's Right of Termination.** The City may terminate this Agreement if (i) the Developer fails to submit to the MBE/WBE Compliance Officer a copy of Developer's MBE/WBE Subcontractor's List and its MBE/WBE Utilization Statement

within three hundred sixty (360) days of the date of this Agreement; provided, however, that termination under this Section 7.2(i) may be waived in the sole discretion of the MBE/WBE Compliance Officer; or (ii) the Developer fails to submit its Certificate of Substantial Completion, acceptable to the City, in accordance with **Section 3.8** of this Agreement and the schedule set forth in **Section 3.4** of this Agreement. Upon such termination, the City shall have no obligation to issue an Apartments Phase TIF Note or to reimburse the Developer for any amounts advanced under this Agreement or costs otherwise incurred or paid by Developer.

### **7.3 Successors and Assigns.**

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

**7.3.2 Assignment or Sale.** Without limiting the generality of the foregoing, all or any part of the Apartments Phase Property or any interest therein may be sold, transferred, encumbered, leased, or otherwise disposed of at any time, and the rights of the Developer named herein or any successors in interest under this Agreement or any part hereof may be assigned at any time before, during or after redevelopment of the Redevelopment Project, whereupon the party disposing of its interest in the Apartments Phase Property or assigning its interest under this Agreement shall be thereafter released from further obligation under this Agreement (although any such Apartments Phase Property so disposed of or to which such interest pertains shall remain subject to the terms and conditions of this Agreement), provided, however, that until substantial completion of the Apartments Phase of the Redevelopment Project, the fee title to the Apartments Phase Property shall not be sold, transferred or otherwise disposed of and the rights, duties and obligations of the Developer under this Agreement shall not be assigned in whole or in part without the prior written approval of the City, which approval shall not be unreasonably withheld or delayed upon a reasonable demonstration by the Developer of the proposed transferee's or assignee's experience and financial capability to undertake and complete such portions of the Work and perform the Developer's obligations under this Agreement, all in accordance with this Agreement. Notwithstanding anything herein to the contrary, the City hereby approves, and no prior consent shall be required in connection with: (a) the right of the Developer to encumber or collaterally assign its interest in the Apartments Phase Property or any portion thereof or its rights, duties and obligations under this Agreement to secure loans, advances or extensions of credit to finance or from time to time refinance all or any part of the Redevelopment Project Costs with respect to the Apartments Phase, or the right of the holder of any such encumbrance or transferee of any such collateral assignment (or trustee or agent on its behalf) to transfer such interest by foreclosure or transfer in lieu of foreclosure under such encumbrance or collateral assignment; and (b) the right of Developer to transfer the Apartments Phase Property or to assign the Developer's rights, duties and obligations under this Agreement to any Related Entity; (c) the right of the Developer to sell, lease or transfer a residential unit, commercial unit or parking space in the ordinary course of business; provided that in each such event (i) the Developer named herein (Laurel TIF Apartments, Inc.) shall remain liable hereunder for the substantial completion of the Apartments Phase of the Redevelopment Project, subject, however, to Developer's right of termination pursuant to **Section 7.1** of this Agreement, and shall be released from such liability hereunder only upon substantial completion of the Apartments Phase of the Redevelopment Project and (ii) the Developer provides to the City fifteen (15) days' advance written notice of the proposed assignment or transfer other than of the sale or lease of a residential unit, commercial unit or parking space in the ordinary course of business which shall require no notice except as may be required by **Section 4.3**.

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

**7.4 Remedies.** Except as otherwise provided in this Agreement and subject to the Developer's and the City's respective rights of termination, in the event of any default in or breach of any term or conditions of this Agreement by either party, or any successor, the defaulting or breaching party (or successor) shall, upon written notice from the other party specifying such default or breach, proceed immediately to cure or remedy such default or breach, and shall, in any event, within thirty (30) days after receipt of notice, cure or remedy such default or breach. In the event that the defaulting or breaching party (or successor) diligently and in good faith commences to cure or remedy such default or breach but is unable to cure or remedy such default or breach within thirty (30) days after receipt of notice, the defaulting or breaching party (or successor) shall, prior to the end of such thirty (30) days, provide notice to the other party that it has in good faith commenced to cure or remedy such default or breach, whereupon the

defaulting or breaching party (or successor) shall have an additional thirty (30) days to cure or remedy such default or breach. In case such cure or remedy is not taken or not diligently pursued, or the default or breach shall not be cured or remedied prior to the end of the additional thirty (30) day period, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including without limitation proceedings to compel specific performance by the defaulting or breaching party.

**7.5 Force Majeure.** Neither the City nor the Developer nor any successor in interest shall be considered in breach or default of their respective obligations under this Agreement, and times for performance of obligations hereunder shall be extended in the event of any delay caused by force majeure (except as expressly limited in **Section 3.4**), including without limitation damage or destruction by fire or casualty; strike; lockout; civil disorder; war; restrictive government regulations; lack of issuance of any permits and/or legal authorization by the governmental entity necessary for the Developer to proceed with construction of the Work or any portion thereof; shortage or delay in shipment of material or fuel; acts of God; unusually adverse weather or wet soil conditions; or other like causes beyond the parties' reasonable control, including without limitation any litigation, court order or judgment resulting from any litigation affecting the validity of the Redevelopment Plan, the Redevelopment Project or the TIF Obligations or this Agreement; provided that (i) such event of force majeure shall not be deemed to exist as to any matter initiated or sustained by the Developer in bad faith, and (ii) the Developer notifies the City in writing within thirty (30) days of the commencement of such claimed event of force majeure.

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

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

Laurel TIF Apartments, Inc.  
906 Olive, Suite 1212  
St. Louis, Missouri 63101  
Attention: Amos Harris  
Facsimile: (314) 231-1548

With a copy to:

Husch Blackwell Sanders LLP  
190 Carondelet Plaza, Suite 600  
St. Louis, Missouri 63105  
Attention: David Richardson  
Facsimile: (314) 480-1505

- (ii) In the case of the City, to:

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

And

City of St. Louis  
Office of the Comptroller

City Hall  
 1200 Market Street, Room 212  
 St. Louis, Missouri 63103  
 Attention: Ivy Neyland-Pinkston, Deputy Comptroller  
 Facsimile: 314-588-0550

With a copy to:

City of St. Louis  
 City Counselor  
 City Hall  
 1200 Market Street, Room 314  
 St. Louis, Missouri 63102  
 Attention: Rebecca Wright, Associate City Counselor  
 Facsimile: 314-622-4956

And

Armstrong Teasdale LLP  
 One Metropolitan Square, Suite 2600  
 St. Louis, Missouri 63102  
 Attention: Thomas J. Ray  
 Facsimile: 314-621-5065

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

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

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

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

**7.9 Inspection.** The City may conduct such periodic inspections of the Work as may be generally provided in the

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

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

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

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

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

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

**7.15 Attorney's Fees.** In any dispute arising out of or relating to this Agreement, including any action to enforce this Agreement against a defaulting or breaching party pursuant to **Section 7.4**, the prevailing party shall recover from the non-prevailing party the prevailing party's attorney's fees, in addition to any other damages to which it is entitled.

**7.16 Actions Contesting the Validity and Enforceability of the Redevelopment Plan.** In the event a third party brings an action against the City or the City's officials, agents, attorneys, employees or representatives contesting the validity or legality of the Redevelopment Area, the Redevelopment Plan, the TIF Obligations, or the ordinance approving this Agreement, Developer may, at its option, join the City in defense of such claim or action. The parties expressly agree that, so long as no conflicts of interest exist between them with regard to the handling of such litigation, the same attorney or attorneys may simultaneously represent the City and the Developer in any such proceeding. The Developer shall be responsible for all reasonable and necessary costs and expenses incurred by the City and by the Developer in connection with the defense of such claim or action, provided that if the City does not approve a settlement or compromise to which the Developer would agree, the Developer shall not be responsible for any costs or expenses incurred thereafter in the defense of such claim or action. All cost of any such defense, whether incurred by the City or the Developer, shall be deemed to be Reimbursable Redevelopment Project Costs and reimbursable from any amounts in the Special Allocation Fund, subject to Article IV of this Agreement.

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

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

**7.17.2** The Developer releases from and covenants and agrees that the City and its governing body members, officers, agents, attorneys, employees and independent contractors shall not be liable for, and agrees to indemnify and hold harmless the City, its governing body members, officers, agents, attorneys, employees and independent contractors against any and all claims, demands, liabilities and costs, including reasonable attorneys' fees, costs and expenses, arising from damage or injury, actual or claimed (excluding consequential and punitive damages), to persons or property occurring or

allegedly occurring as a result of any negligent or malicious acts or omissions of the Developer, its governing body members, officers, agents, attorneys, employees and independent contractors, in connection with its or their activities conducted pursuant to this Agreement.

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

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

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

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

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

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

**7.20 Non-Discrimination.** The Developer agrees that, during the term of this Agreement and as an independent covenant running with the land, there shall be no discrimination upon the basis of race, creed, color, national origin, sex, age, marital status or physical handicap in the sale, lease, rental, occupancy or use of any of the facilities under its control within the



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

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

**7.22 MBE/WBE Compliance**

The Developer shall comply with the Mayor’s Executive Order #28, as amended as of the date of this Agreement, during the design and construction of the Redevelopment Project and with respect to ongoing services provided by third parties to the Developer in connection with the Redevelopment Project.

**ARTICLE VIII.  
REPRESENTATIONS OF THE PARTIES**

**8.1 Representations of the City.** The City hereby represents and warrants that it has full constitutional and lawful right, power and authority, under current applicable law, to execute and deliver and perform the terms and obligations of this Agreement, including without limitation the right, power and authority to issue and sell the Apartments Phase TIF Notes, and all of the foregoing have been or will be, upon adoption of ordinances authorizing the issuance of the Apartments Phase TIF Notes, duly and validly authorized and approved by all necessary City proceedings, findings and actions. Accordingly, this Agreement constitutes the legal, valid and binding obligation of the City, enforceable in accordance with its terms.

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

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

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

“CITY”

**CITY OF ST. LOUIS, MISSOURI**

By: \_\_\_\_\_  
Francis G. Slay, Mayor

By: \_\_\_\_\_  
Darlene Green, Comptroller

(SEAL)

Attest:

\_\_\_\_\_

Parrie May, City Register

Approved as to Form:

\_\_\_\_\_

Patricia A. Hageman, City Counselor

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

“DEVELOPER”

Laurel TIF Apartments, Inc., a Missouri corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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

On this \_\_\_\_ day of \_\_\_\_\_, 2009, before me appeared Francis G. Slay, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen, and said individual acknowledged said instrument to be the free act and deed of said City.

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

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

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

On this \_\_\_\_ day of \_\_\_\_\_, 2009, before me appeared Darlene Green, to me personally known, who, being by me duly sworn, did say that she is the Comptroller of the CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen, and said individual acknowledged said instrument to be the free act and deed of said City.

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

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_

STATE OF MISSOURI     )  
  ) SS.  
City OF St Louis     )

On this \_\_\_\_ day of \_\_\_\_\_, 2009, before me appeared Amos Harris, to me personally known, who, being by me duly sworn, did say that he is President of Laurel TIF Apartments, Inc., a Missouri corporation, and that he is authorized

to sign the instrument on behalf of said corporation by authority of its board of directors, and acknowledged to me that he executed the within instrument as said company's free act and deed.

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

\_\_\_\_\_  
Notary Public

My Commission Expires:  
  
\_\_\_\_\_

#### EXHIBIT A

#### Legal Description of the Redevelopment Area, Apartments Phase Property and Hotel Phase Property

##### Redevelopment Area:

Entire City Block 125 and the land and first floor of those buildings located in City Block 120 in the City of St. Louis, Missouri as bounded by Washington Avenue to the South, 7th Street to the West, Lucas Street to the North and Broadway Street to the East.

##### Apartments Phase Property:

All apartments within the Redevelopment Area

##### Hotel Phase Property:

All areas within the Redevelopment Area, except the Apartments Phase Property, being used for retail and/or hotel uses

#### EXHIBIT B

#### TIF Reimbursable Redevelopment Project Costs

CATEGORY	
(a)	Acquisition Costs (as defined in Section 1.1 of this Agreement).
(b)	Demolition Costs (includes, but is not limited to, demolition of existing buildings and structures or parts thereof).
(c)	Site Preparation and Public Improvements Costs (includes, but is not limited to, street and sidewalk improvements, parking facilities, utility work and resetting of curbs and landscaping and lighting in the right of way areas)
(d)	Rehabilitation, renovation, or reconstruction of any existing structures or construction of new improvements.
(e)	Financing Costs (includes, but is not limited to, loan fees, disbursing fees, lender's legal fees, loan appraisals, flood certificates, tax credit investor fees and any and all other costs incurred by the Developer in connection with obtaining financing for and a tax credit investor in the Redevelopment Project).
(f)	Environmental Testing, Remediation and/or Abatement Costs (includes, but is not limited to, the testing for and removal and disposal of toxic or hazardous substances or materials).
(g)	Professional Service Costs (includes, but is not limited to, architectural, engineering, legal, marketing, financial, planning, sales commissions or special services).
(h)	TIF Costs & Issuance Costs incurred by the Developer pursuant to <b>Section 2.2(i) – 2.2.(v)</b> of this Agreement.

<sup>1</sup> Subject to the limitations set forth in **Section 4.2** of this Agreement, provided that such costs shall not exceed the aggregate amount

of \$3,800,000.00 plus Issuance Costs as provided in the Agreement.

**EXHIBIT C**

**Form of Certificate of Commencement of Construction**

To:	City of St. Louis Office of Comptroller 1200 Market St., Room 212 St. Louis, MO 63103 Attention: Ivy Neyland-Pinkston, Deputy Comptroller	City of St. Louis St. Louis Development Corp 1015 Locust St., Ste. 1200 St. Louis, MO 63103 Attention: Dale Ruthsatz
-----	--	--

DELIVERED BY

LAUREL TIF APARTMENTS, INC.

The undersigned, Laurel TIF Apartments, Inc. (the "Developer"), pursuant to that certain Redevelopment Agreement dated as of \_\_\_\_\_, 2008, between the City of St. Louis, Missouri (the "City") and Developer (the "Agreement") hereby certifies to the City as follows:

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

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

IN WITNESS WHEREOF, the undersigned has hereunto set his/her hand this day of \_\_\_\_\_, 20\_\_.

**LAUREL TIF APARTMENTS, INC.**, a Missouri corporation

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

**EXHIBIT D**

**Form of Certificate of Reimbursable Redevelopment Project Costs**

TO:  
 City of St. Louis  
 Office of Comptroller  
 1200 Market Street, Room 212  
 St. Louis, Missouri 63103

Attention: Ivy Neyland-Pinkston, Deputy Comptroller

**Re: City of St. Louis, Missouri, The Laurel / 555 Washington Redevelopment Project**

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Redevelopment Agreement dated as of \_\_\_\_\_, 2008 (the "Agreement"), between the City and Laurel TIF Apartments, Inc., a Missouri corporation (the "Developer"). In connection with said Agreement, the undersigned hereby states and certifies that:

1. Each item listed on **Schedule 1** hereto is a Reimbursable Redevelopment Project Cost and was incurred in connection with the construction of the Apartments Phase of the Redevelopment Project.

2. These Reimbursable Redevelopment Project Costs have been have been paid by the Developer and are reimbursable under the Note Ordinance and the Agreement.

3. Each item listed on **Schedule 1** has not previously been paid or reimbursed from money derived from the Special Allocation Fund or any money derived from any project fund established pursuant to the Note Ordinance, and no part thereof has been included in any other certificate previously filed with the City.

4. There has not been filed with or served upon the Developer any notice of any lien, right of lien or attachment upon or claim affecting the right of any person, firm or corporation to receive payment of the amounts stated in this request, except to the extent any such lien is being contested in good faith.

5. All necessary permits and approvals required for the portion of the Work for which this certificate relates have been issued and are in full force and effect.

6. All Work for which payment or reimbursement is requested has been performed in a good and workmanlike manner and in accordance with the Redevelopment Plan and the Agreement.

7. If any cost item to be reimbursed under this Certificate is deemed not to constitute a "redevelopment project cost" within the meaning of the TIF Act and the Agreement, the Developer shall have the right to substitute other eligible Reimbursable Redevelopment Project Costs for payment hereunder.

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

Yes: \_\_\_\_\_ No: \_\_\_\_\_

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

Dated this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**Laurel TIF Apartments, Inc.**, a Missouri corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

Approved for payment this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**SLDC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**Schedule 1**

The Developer has incurred the following Reimbursable Redevelopment Project Costs:

Payee:	Amount:	Description of Reimbursable Redevelopment Project Costs:
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**EXHIBIT E  
Form of Certificate of Substantial Completion**

**CERTIFICATE OF SUBSTANTIAL COMPLETION**

The undersigned, Laurel TIF Apartments, Inc., a Missouri corporation (the “Developer”), pursuant to that certain Redevelopment Agreement dated as of \_\_\_\_\_, 2008, between the City of St. Louis, Missouri (the “City”), and the Developer (the “Agreement”), hereby certifies to the City as follows:

1. That as of \_\_\_\_\_, \_\_\_\_\_, the construction of the Apartments Phase of the Redevelopment Project (as that term is defined in the Agreement) has been substantially completed in accordance with the Agreement.
2. That the Work has been substantially completed or funded pursuant to Exhibit B to the Agreement.
3. The Work has been performed in a workmanlike manner and substantially in accordance with the Construction Plans (as those terms are defined in the Agreement).
4. This Certificate of Substantial Completion is accompanied by the project architect’s or owner representative’s certificate of substantial completion on AIA Form G-704 (or the substantial equivalent thereof), a copy of which is attached hereto as Appendix A and incorporated herein by reference, certifying that the Apartments Phase of the Redevelopment Project has been substantially completed in accordance with the Agreement.
5. Mechanics lien waivers for applicable portions of the Work in excess of Five Thousand Dollars (\$5,000) have been obtained.
6. This Certificate of Substantial Completion is being issued by the Developer to the SLDC and the City in accordance with the Agreement to evidence the Developer’s satisfaction of all material obligations and covenants with respect to the Apartments Phase of the Redevelopment Project.
7. The acceptance (below) or the failure of the SLDC and the Mayor or his designee to object in writing to this Certificate within thirty (30) days of the date of delivery of this Certificate to the SLDC and the City (which written objection, if any, must be delivered to the Developer prior to the end of such thirty (30) days) shall evidence the satisfaction of the Developer’s agreements and covenants to perform the Work.

Upon such acceptance by the SLDC and the Mayor or his designee, the Developer may record this Certificate in the office of the City’s Recorder of Deeds. This Certificate is given without prejudice to any rights against third parties which exist as of the date hereof or which may subsequently come into being. Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

IN WITNESS WHEREOF, the undersigned has hereunto set his/her hand this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**LAUREL TIF APARTMENTS, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ACCEPTED:**

**SLDC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CITY OF ST. LOUIS, MISSOURI**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Insert Notary Form(s) and Legal Description)

**EXHIBIT F  
Equal Opportunity and Nondiscrimination Guidelines**

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

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

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

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

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

**EXHIBIT G  
MBE/WBE Subcontractors List**

**On the spaces provided below please list all subcontractors and suppliers, including M/WBES, proposed for utilization on this project. Work to be self-performed by the bidder is to be included.**

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

**EXHIBIT H**

**MBE/WBE Utilization Statement**

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

**Project and Bid Identification:**

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

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

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

\_\_\_\_\_ Meet or exceed contract award goals and provide participation as shown above.



\_\_\_\_\_ Fail to meet contract award goals but will demonstrate that good faith efforts were made to meet the goals and my company will provide participation as shown above.

Name of Prime Contractor(s): \_\_\_\_\_

Prime Contractor Authorized Signature

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**AMENDED AND RESTATED  
REDEVELOPMENT AGREEMENT  
Between the  
CITY OF ST. LOUIS, MISSOURI  
And  
LAUREL TIF HOTEL, INC.**

**Dated as of**

\_\_\_\_\_, 2009

**THE LAUREL / 555 WASHINGTON REDEVELOPMENT PROJECT  
(HOTEL COMPONENT)**

**ARTICLE I. DEFINITIONS**

1.1 Definitions ..... 2

**ARTICLE II. ACCEPTANCE OF PROPOSAL**

2.1 Developer Designation ..... 7  
2.2 Developer to Advance Costs ..... 7

**ARTICLE III. CONSTRUCTION OF REDEVELOPMENT PROJECT**

3.1 Acquisition of Property ..... 8  
3.2 Condemnation ..... 9  
3.3 Relocation ..... 9  
3.4 Developer to Construct the Work ..... 9  
3.5 Governmental Approvals ..... 9  
3.6 Construction Plans; Changes ..... 9  
3.7 Certificate of Commencement of Construction ..... 10  
3.8 Certificate of Substantial Completion ..... 10

**ARTICLE IV. REIMBURSEMENT OF DEVELOPER COSTS**

4.1 City’s Obligation to Reimburse Developer ..... 11  
4.2 Reimbursements Limited to Reimbursable Redevelopment Project Costs; Developer’s Right to Substitute ..... 11  
4.3 Cost Savings and Excess Profits ..... 11  
4.4 City’s Obligations Limited to Special Allocation Fund and Bond Proceeds ..... 13

**ARTICLE V. TIF OBLIGATIONS**

5.1 Conditions Precedent to the Issuance of TIF Notes ..... 13  
5.2 Issuance of TIF Notes ..... 13  
5.3 Issuance of TIF Bonds ..... 14

5.4 Application of TIF Bond Proceeds . . . . . 16  
 5.5 Cooperation in the Issuance of TIF Obligations . . . . . 16  
 5.6 Subordinate Notes . . . . . 16  
 5.7 City to Select Underwriter and Financial Advisor; Term and Interest Rate . . . . . 17

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

6.1 Creation of Special Allocation Fund . . . . . 17  
 6.2 Certification of Base for PILOTS and EATS. . . . . 17  
 6.3 Application of Available Revenues . . . . . 18  
 6.4 Cooperation in Determining TIF Revenues . . . . . 18  
 6.5 Obligation to Report TIF Revenues . . . . . 18  
 6.6 Notice to City of Transfer . . . . . 18

**ARTICLE VII. GENERAL PROVISIONS**

7.1 Developer’s Right of Termination . . . . . 19  
 7.2 City’s Right of Termination . . . . . 19  
 7.3 Successors and Assigns. . . . . 19  
 7.4 Remedies . . . . . 20  
 7.5 Force Majeure . . . . . 21  
 7.6 Notices . . . . . 21  
 7.7 Conflict of Interest . . . . . 22  
 7.8 Damage or Destruction of Redevelopment Project . . . . . 23  
 7.9 Inspection . . . . . 23  
 7.10 Choice of Law . . . . . 23  
 7.11 Entire Agreement; Amendment . . . . . 23  
 7.12 Counterparts . . . . . 24  
 7.13 Severability . . . . . 24  
 7.14 Representatives Not Personally Liable . . . . . 24  
 7.15 Attorney’s Fees . . . . . 24  
 7.16 Actions Contesting the Validity and Enforceability of the Redevelopment Plan . . . . . 24  
 7.17 Release and Indemnification . . . . . 24  
 7.18 Survival . . . . . 26  
 7.19 Maintenance of the Property . . . . . 26  
 7.20 Non-Discrimination . . . . . 26  
 7.21 Fair Employment . . . . . 26

**ARTICLE VIII. REPRESENTATIONS OF THE PARTIES**

8.1 Representations of the City . . . . . 27  
 8.2 Representations of the Developer . . . . . 27

**EXHIBITS**

EXHIBIT A Legal Description of the Redevelopment Area  
 EXHIBIT B Reimbursable Redevelopment Project Costs  
 EXHIBIT C Form of Certificate of Commencement of Construction  
 EXHIBIT D Form of Certificate of Reimbursable Redevelopment Project Costs  
 EXHIBIT E Form of Certificate of Substantial Completion  
 EXHIBIT F Equal Opportunity and Nondiscrimination Guidelines  
 EXHIBIT G Form of MBE/WBE Subcontractor’s List  
 EXHIBIT H Form of MBE/WBE Utilization Statement

**AMENDED AND RESTATED REDEVELOPMENT AGREEMENT**

**THIS AMENDED AND RESTATED REDEVELOPMENT AGREEMENT** (this "*Agreement*") is made and entered into as of this \_\_\_\_\_ day of \_\_\_\_\_, 2009, by and between the **CITY OF ST. LOUIS, MISSOURI** (the "*City*"), a city and political subdivision duly organized and existing under its charter and the Constitution and laws of the State of Missouri, and **LAUREL TIF HOTEL, INC.** (the "*Hotel Developer*" or "*Developer*"), a corporation duly incorporated and existing under the laws of the State of Missouri. (All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in Article I of this Agreement.)

**RECITALS**

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

B. The City published a notice on April 2, 2008 and April 9, 2008 in the St. Louis Daily Record, a newspaper of general circulation within the City, soliciting proposals for the redevelopment of the Redevelopment Area (as hereinafter defined), and made such requests for proposals available for potential developers of the Redevelopment Area.

C. Dillard's Building, LLC, an affiliate of Laurel TIF, Inc. ("Initial Developer"), submitted its development proposal dated March 24, 2008 (as may be amended from time to time, the "Redevelopment Proposal") to the TIF Commission for redevelopment of the Redevelopment Area.

D. On May 16, 2008, following a public hearing held on that date, in accordance with the TIF Act, the TIF Commission adopted a resolution approving the Redevelopment Plan titled "The Laurel / 555 Washington TIF Redevelopment Plan" dated March 28, 2008, (as amended from time to time, the "Redevelopment Plan"), the Redevelopment Project described in the Redevelopment Plan (the "Redevelopment Project") and the Redevelopment Area, and recommending that the Board of Aldermen: (1) adopt tax increment financing with respect to the Redevelopment Area by passage of an ordinance complying with the terms of Section 99.845 of the Act; and (2) adopt an ordinance in the form required by the Act: (a) approving the Redevelopment Plan, (b) approving and designating the Redevelopment Area as a "redevelopment area" as provided in the Act, (c) approving the Redevelopment Project, and (d) creating the The Laurel / 555 Washington Special Allocation Fund.

E. On July 28, 2008, after due consideration of the TIF Commission's recommendations, the Mayor signed Ordinance No. 68100 [Board Bill No. 163] designating the Redevelopment Area as a "redevelopment area" as provided in the TIF Act, approving the Redevelopment Plan, approving the Redevelopment Project described in the Redevelopment Plan, adopting tax increment allocation financing within the Redevelopment Area and establishing the Special Allocation Fund.

F. On July 28, 2008, the Mayor signed Ordinance No. 68101 [Board Bill No. 164] affirming adoption of the Redevelopment Area, Redevelopment Plan and Redevelopment Project, designating the Initial Developer as developer of the Redevelopment Area, and authorizing the City to enter into a Agreement with Initial Developer.

G. On July 28, 2008, the Mayor signed Ordinance No. 68102 [Board Bill No. 165] authorizing the issuance of TIF Notes as evidence of the City's obligation to pay certain Redevelopment Project Costs incurred in furtherance of the Redevelopment Plan and the Redevelopment Project and pledging TIF Revenues to the payment of the TIF Notes.

H. On June \_\_\_\_\_, 2009, the Mayor signed Ordinance No. \_\_\_\_\_ [Board Bill No. \_\_\_\_\_] amending Ordinance No. 68101 and permitting the completion of the Hotel Component of the Redevelopment Project by Hotel Developer, and designating Hotel Developer as developer of the Hotel Component of the Redevelopment Area, and authorizing the City to enter into an Agreement with Hotel Developer.

J. Initial Developer desires to assign its rights and interest in and to the Hotel Component of the Redevelopment Project to Hotel Developer hereunder to assist in securing financing for the Redevelopment Project.

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

the public purposes specified in the Redevelopment Plan.

L. Pursuant to provisions of the TIF Act and Ordinance Nos. 68100, 68101 (as amended by Ordinance No. \_\_\_\_\_) and 68102 [Board Bill Nos. 163, 164 (as amended by Board Bill No. \_\_\_\_\_), and 165], the City is authorized to enter into this Agreement, to issue TIF Notes as evidence of the City's obligation to pay certain Redevelopment Project Costs incurred in furtherance of the Redevelopment Plan and the Redevelopment Project, and to pledge TIF Revenues to the payment of the TIF Notes.

## AGREEMENT

Now, therefore, in consideration of the premises and promises contained herein and other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

### ARTICLE I. DEFINITIONS

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

*"Acquisition Costs"* means the consideration paid by Developer or its Related Entity to a third party to acquire fee simple interest in the Hotel Phase Property.

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

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

*"Apartments Component"* means that certain portion of the Redevelopment Area to be developed into apartments uses.

*"Apartments Developer"* means Laurel TIF Apartments, Inc., a corporation duly incorporated and existing under the laws of the State of Missouri, or its permitted successors or assigns in interest.

*"Apartments Phase"* means that portion of the Redevelopment Project consisting of the rehabilitation of the existing building within the Redevelopment Area into apartments all as further set forth in the Redevelopment Plan, and as approved by the Approving Ordinance.

*"Apartments Phase Property"* means a portion of the real property (including without limitation all options held by third parties, fee interests, leasehold interests, tenant-in-common interests and such other like or similar interests) within the Redevelopment Area, as identified as the "Apartments Phase Property" and described in **Exhibit A**, attached hereto and incorporated herein by reference.

*"Apartments Phase Revenues"* means: (1) payments in lieu of taxes (as that term is defined in Section 99.805(10) of the TIF Act) attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property located within the Apartments Phase Property over and above the initial equalized assessed value (as that term is used and described in Sections 99.845.1 and 99.855.1 of the TIF Act) of each such unit of property, as paid to the City Treasurer by the City Collector of Revenue during the term of the Redevelopment Plan and the Redevelopment Project, and (2) payments in lieu of taxes (as that term is defined in Section 99.805(10) of the TIF Act) attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property located within the Hotel Phase Property over and above the initial equalized assessed value (as that term is used and described in Sections 99.845.1 and 99.855.1 of the TIF Act) of each such unit of property, as paid to the City Treasurer by the City Collector of Revenue during the term of the Redevelopment Plan and the Redevelopment Project, but subject to a cap equal to the base PILOTS paid by the Apartments Phase Property.

*"Apartments Phase TIF Notes"* means any tax increment revenue notes issued by the City subject to this Agreement between the City and the Apartments Developer and the Note Ordinance, to evidence the City's limited obligation to reimburse the Apartments Developer for certain costs incurred by the Apartments Developer on behalf of the City in accordance with the TIF Act.

*"Approved Investors"* means (a) the Developer or a Related Entity, (b) an "accredited investor" under Rule 501(a) of

Regulation D promulgated under the Securities Act of 1933, (c) a “qualified institutional buyer” under Rule 144A promulgated under the Securities Act of 1933 or (d) any general business company or enterprise with total assets in excess of \$50,000,000.

“*Approving Ordinance*” means Ordinance No. 68100 [Board Bill No. 163] designating the Redevelopment Area, approving the Redevelopment Plan, approving the Redevelopment Project, adopting tax increment allocation financing within the Redevelopment Area, and establishing the Special Allocation Fund.

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

“*Authorizing Ordinance*” means Ordinance No. 68101 [Board Bill No. 164] (as amended by Ordinance \_\_\_\_\_) affirming approval and adoption of the Redevelopment Plan, Redevelopment Project, and designation of the Redevelopment Area, designating Developer as the developer of the Apartments Component of the Redevelopment Area, and authorizing the City to enter into a Redevelopment Agreement for the Apartments Component with Developer.

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

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

“*Bond Counsel*” means Armstrong Teasdale LLP, St. Louis, Missouri, or an attorney at law or a firm of attorneys acceptable to the City of nationally recognized standing in matters pertaining to the tax-exempt nature of interest on obligations issued by states and their political subdivisions duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia.

“*Bond Proceeds*” means the gross cash proceeds from the sale of TIF Bonds before payment of Issuance Costs, together with any interest earned thereon.

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

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

“*Certificate of Substantial Completion*” means a document substantially in the form of **Exhibit E**, attached hereto and incorporated herein by reference, issued by the Developer to the City in accordance with this Agreement and evidencing the Developer’s satisfaction of all obligations and covenants to construct the Hotel Phase in accordance with the Redevelopment Plan and this Agreement.

“*CID*” or “*Community Improvement District*” means the Laurel Community Improvement District, a community improvement district and political subdivision of the State of Missouri formed or to be formed by the City pursuant to Sections 67.1401 to 67.1571 RSMo. (2000) (the “CID Act”), which includes a portion of the Redevelopment Area.

“*CID Project Costs*” means the costs incurred by or on behalf of Developer with respect to the “Project” identified in that certain Petition to Establish the CID filed with the City (as amended and as may be further amended from time to time).

“*CID Revenues*” shall mean the proceeds, after deduction for costs of collection and/or administration, from the imposition of the CID Sales Tax which are not captured as EATs but are instead pledged by the CID to the City for deposit in the CID Revenue Fund of the Revenue Fund of the Special Allocation Fund for the repayment of TIF Notes.

“*CID Sales Tax*” means a sales and use tax imposed by the CID of up to one percent (1%) upon all taxable retail sales

within the CID pursuant to the CID Act.

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

“City Clerk” means the Register of the City.

“Comptroller” means the Comptroller of the City.

“Construction Plans” means plans, drawings, specifications and related documents, and construction schedules for the construction of the Work, together with all supplements, amendments or corrections, submitted by the Developer and approved by the City in accordance with applicable law.

“Disclosure Counsel” means Armstrong Teasdale LLP, St. Louis, Missouri, or an attorney at law or a firm of attorneys acceptable to the City of nationally recognized standing in matters pertaining to offerings of municipal securities duly admitted to the practice of law before the highest court of any state of the United States of America or the District of Columbia.

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

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

“Hotel Component” means that certain portion of the Redevelopment Area to be developed into hotel and retail uses.

“Hotel Developer” means Laurel TIF Hotel, Inc., a corporation duly incorporated and existing under the laws of the State of Missouri, or its permitted successors or assigns in interest.

“Hotel Phase” means that portion of the Redevelopment Project consisting of the rehabilitation of the existing building within the Redevelopment Area into a mix of retail and hotel uses, all as further set forth in the Redevelopment Plan, and as approved by the Approving Ordinance.

“Hotel Phase Property” means the real property (including without limitation all options held by third parties, fee interests, leasehold interests, tenant-in-common interests and such other like or similar interests) within the Redevelopment Area, such property being identified as the “Hotel Phase Property” and described in **Exhibit A**, attached hereto and incorporated herein by reference.

“Hotel Phase Revenues” means: (1) payments in lieu of taxes (as that term is defined in Section 99.805(10) of the TIF Act) attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property located within the Hotel Phase Property over and above the initial equalized assessed value (as that term is used and described in Sections 99.845.1 and 99.855.1 of the TIF Act) of each such unit of property, as paid to the City Treasurer by the City Collector of Revenue during the term of the Redevelopment Plan and the Redevelopment Project, less that portion of the Hotel Phase Property PILOTS attributable to the Apartments Phase Revenues, (2) subject to annual appropriation by the Board of Aldermen, fifty percent (50%) of the total additional revenues from taxes which are imposed by the City or other taxing districts (as that term is defined in Section 99.805(16) of the TIF Act) and which are generated by economic activities within the Hotel Phase Property and the Apartments Phase Property over the amount of such taxes generated by economic activities within the Hotel Phase Property and the Apartments Phase Property in the calendar year ending December 31, 2007 (subject to annual appropriation by the City as provided in the TIF Act), as defined and described in Sections 99.805(4) and 99.845 of the TIF Act, but excluding therefrom personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to Section 70.500 of the Revised Statutes of Missouri, as amended, taxes levied for the purpose of public transportation pursuant to Section 94.660 of the Revised Statutes of Missouri, as amended, and licenses, fees or special assessments other than payments in lieu of taxes and penalties and interest thereon, all as provided in Section 99.845 of the TIF Act, (3) CID Revenues generated within the Hotel Phase Property and the Apartments Phase Property, (4) TDD Revenues generated within the Hotel Phase Property and the Apartments Phase Property, and (5) the Hotel Revenues (defined below). Notwithstanding the foregoing, Hotel Phase Revenues shall not include the operating levy for school purposes imposed by or any sales tax imposed by the Transitional School District of the City of St. Louis.

“Hotel Phase TIF Notes” means any tax increment revenue notes issued by the City subject to an agreement between the

City and the Hotel Developer and the Note Ordinance, to evidence the City's limited obligation to reimburse the Hotel Developer for certain costs incurred by the Hotel Developer on behalf of the City in accordance with the TIF Act.

"*Hotel Revenues*" means all revenues received by the City from the following taxes enumerated below imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels within the Redevelopment Area, which taxes do not constitute EATs and which shall be deposited in the Hotel Revenue Fund of the Revenue Fund of the Special Allocation Fund, in each case less the costs of collection thereof and excluding (i) any amount paid under protest until such protest is withdrawn or resolved against the taxpayer or (ii) any such amount received by the City which is the subject of a suit or other claim communicated to the City which suit or claim challenges the collection of such sum:

- (a) the general municipal sales tax levied pursuant to Ordinance No. 62884, or any successor thereto;
- (b) the general municipal sales tax levied pursuant to Ordinance No. 55497, as amended by Ordinance Nos. 57179 and 57979, or any successor thereto;
- (c) the transportation sales tax levied pursuant to Ordinance No. 56553, or any successor thereto;
- (d) the capital improvements sales tax levied pursuant to Ordinance No. 62885, or any successor thereto; and
- (e) the parks and recreation sales tax levied pursuant to Ordinance No. 67195, or any successor thereto.

"*Initial Developer*" means Laurel TIF, Inc., a corporation duly incorporated and existing under the laws of the State of Missouri, or its permitted successors or assigns in interest.

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

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

"*MBE/WBE Subcontractor's List*" means the form of City of St. Louis MBE/WBE Subcontractor's List published by the Board of Public Service of the City, such form being attached hereto as **Exhibit G** and incorporated herein by this reference.

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

"*Maturity Date*" means the date that is twenty three (23) years after the effective date of the Approving Ordinance.

"*Note Ordinance*" means Ordinance No. 68102 [Board Bill No. 165] adopted by the Board of Aldermen and signed by the Mayor authorizing the TIF Note(s) and TIF Obligations, any trust indenture relating thereto, and all related proceedings.

"*Original Purchaser*" the Initial Developer, Developer, a Related Entity, the Project Lender or a Qualified Institutional Buyer; *provided, however*, that any such Related Entity or Project Lender shall also qualify as an Approved Investor and shall be designated in writing by the developer as the Original Purchaser.

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

"*Post Completion Funding Source*" means each of the following sources:

- (i) Tax Credits:

(a) the total value of the proceeds from the sale of any transferable tax credits approved for the Hotel Phase of the Redevelopment Project, based on the amounts approved by the tax credit issuing authority and the purchase prices for such credits set forth in any tax credit purchase agreement; if, pursuant to such purchase agreement, any portion of the proceeds is to be paid subsequent to the date upon which the statement required by Section 4.3 is submitted, the present value of such portion shall be calculated by the City using a time period determined by the City to be reasonable and a 7% present value rate; if no tax credit purchase agreement has been executed, then the total value of such proceeds shall be calculated as 87% of the amount approved by the tax credit issuing authority.

(b) the equity and/or loan proceeds available from investor members or partners in the Hotel Phase of the Redevelopment Project who will be entitled to receive any non-transferable tax credits approved for the Hotel Phase of the Redevelopment Project, per the ownership documentation for the Hotel Phase of the Redevelopment Project property; if, pursuant to such purchase agreement, any portion of the proceeds is to be paid subsequent to the date upon which the statement required by Section 4.3 is submitted, the present value of such portion shall be calculated by the City using a time period determined by the City to be reasonable and a 7% present value rate ; provided, that, if the Project has been approved for a New Markets Tax Credit investment by a New Markets Tax Credit allocate, but has not yet entered into any agreement pursuant to which such loan or equity proceeds shall be made available, then the value of such proceeds shall be 25% of the face value of the approved New Markets Tax Credit investment.

The Developer shall substantiate the amount of any tax credits approved for the Hotel Phase of the Redevelopment Project and the proceeds or equity related thereto by providing to the City documentation from accountants, tax credit authorities and tax credit purchasers or investors.

(ii) Sales Proceeds:

(a) all net sales proceeds actually derived from the sale of any portion of the Hotel Phase of the Redevelopment Project, which net sales proceeds shall be documented by copies of the seller's closing statements for such sales, and (b) if, at the time of the submittal required pursuant to Section 4.3 of this Agreement, there remain units or portions of the Hotel Phase of the Redevelopment Project which are being marketed and listed as for-sale but are unsold, ninety percent (90%) of the average sale price for all sold units or portions, taking into account the size, location and amenities associated with such sold units as compared to the unsold units or portion, discounted by (a) a percentage equal to the average sales commissions paid to unrelated third parties and applied to the discounted listing price; and (b) closing costs for sold units (stated as the average amount of closing costs for such sold units).

(iii) TIF Financing: the maximum amount of TIF financing available to the Hotel Phase of the Redevelopment Project, as such amount is set forth in Section 4.1 hereof; and

(iv) Value of Income-Producing Space:

if the Hotel Phase of the Redevelopment Project includes any leased space or space intended for lease (such space being the "Income-Producing Space"), the value of such Income Producing Space, which value shall be calculated by dividing the Stabilized Net Operating Income (as defined below) of such Income Producing Space by a capitalization rate of nine and one-half percent (9.5%). The square footage of Income-Producing Space in the Hotel Phase of the Redevelopment Project shall not exceed the square footage of Income-Producing Space set forth in the TIF Application. In addition to the other materials required to be submitted by subparagraph 4.3 hereof, Developer shall submit a 10-year operating proforma, including income and expense projections, for all Income-Producing Space in the Hotel Phase of the Redevelopment Project, together with copies of all leases, letters of intent, and operating expense documentation, if any, related to such Income-Producing Space.

*"Project Fund"* means the Project Fund created in the Note Ordinance.

*"Project Lender"* means a commercial bank, savings bank, savings and loan association, credit union or other financial institution that has loaned funds to the Developer to be used for construction of the Hotel Phase of the Redevelopment Project and has secured such loan with a mortgage or security interest in the Hotel Phase Property.

*"Qualified Institutional Buyer"* means a "qualified institutional buyer" under Rule 144A promulgated under the Securities Act of 1933.



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

“*Redevelopment Plan*” means the plan titled “The Laurel / 555 Washington TIF Redevelopment Plan” dated March 28, 2008, as may be amended from time to time, approved by the City pursuant to the Approving Ordinance; as such plan may from time to time be amended in accordance with the TIF Act.

“*Redevelopment Project*” means the Redevelopment Project identified by the Redevelopment Plan, consisting of the rehabilitation and redevelopment of the building in the Redevelopment Area commonly known as 601 Washington Avenue into a mix of commercial space and residential space, together with ancillary improvements, as further set forth in the Redevelopment Plan, all of which is comprised of the Apartments Phase and the Hotel Phase.

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

“*Redevelopment Proposal*” means the document on file with the City and incorporated herein by reference, titled “The Laurel / 555 Washington TIF Application,” dated March 24, 2008 and submitted by an affiliate of the Developer to the City.

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

“*Related Entity*” means any party or entity related to the Developer by one of the relationships described in Section 267(b), Section 707(b)(1)(A) or Section 707(b)(1)(B) of the Internal Revenue Code of 1986, as amended.

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

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

“*Special Allocation Fund*” means The Laurel / 555 Washington Special Allocation Fund, created by the Approving Ordinance in accordance with the TIF Act, and including the accounts and sub-accounts for the Redevelopment Project into which TIF Revenues are from time to time deposited in accordance with the TIF Act and this Agreement.

“*Stabilized Net Operating Income*” shall be calculated as follows:

(a) For any portion of the Income Producing Space which has actually been leased, the annualized rental income from such space, less annualized actual and/or reasonable operating expenses as determined by the City (excluding debt service);

PLUS

(b) For any portion of the Income Producing Space which is available for lease but has not been leased, the result of the following equation:

(i) the amount of net leaseable square footage multiplied by the average annual rent per square foot of the Income Producing Space which has been actually leased, taking into account the size, location and amenities associated with such space not yet leased as compared to the space leased (provided, that if no such space has been actually leased, the lease rate(s) used shall be the the lease rate(s) specified by the Developer in the TIF;

LESS

(ii) the amount of net leaseable square footage multiplied by the average annualized actual and/or reasonable operating expenses as determined by the City (excluding debt service) per square foot of the Income Producing Space .

The City shall incorporate a 7% vacancy rate for all Income-Producing Space.

“TDD” or “*Transportation Development District*” means the Laurel Transportation Development District, a transportation development district and political subdivision of the State of Missouri formed or to be formed pursuant to Sections 238.200 to 238.275 RSMo. (2000) (the “TDD Act”), which includes a portion of the Redevelopment Area.

“*TDD Project Costs*” means the costs incurred by or on behalf of Developer with respect to that certain “Transportation Project” as defined in that certain Petition to Establish a Transportation Development District filed with the Circuit Court of the City of St. Louis with respect to the TDD.

“*TDD Revenues*” shall mean the proceeds, after deduction for costs of collection and/or administration, from the imposition of the TDD Sales Tax which are not captured as EATs but are instead pledged by the TDD to the City for deposit in the TDD Revenue Fund of the Revenue Fund of the Special Allocation Fund for the repayment of TIF Notes.

“*TDD Sales Tax*” means a sales and use tax imposed by the TDD of up to one percent (1%) upon all taxable retail sales within the TDD pursuant to the TDD Act.

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

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

“*TIF Notes*” means the Apartments Phase TIF Notes and the Hotel Phase TIF Notes collectively.

“*TIF Obligations*” means TIF Bonds, TIF Notes or other obligations, singly or in series, issued by the City or the Authority, as the case may be, pursuant to the TIF Act and in accordance with this Agreement.

“*TIF Revenues*” means all the Apartments Phase Revenues and the Hotel Phase Revenues.

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

“*Verified Total Project Costs*” means the sum total of all reasonable or necessary costs incurred, and any such costs incidental to the Hotel Phase or the Work, including, but not limited to, all Acquisition Costs, Redevelopment Project Costs and Reimbursable Redevelopment Project Costs, as limited by the provisions of Section 4.3 hereof.

“*Work*” means, with respect to the Hotel Phase, all work necessary to prepare the Hotel Phase Property and to construct or cause the construction and completion of the Hotel Phase described in the Redevelopment Proposal, Redevelopment Plan and this Agreement, including but not limited to: (1) property acquisition; (2) site preparation and environmental remediation; (3) rehabilitation, renovation or reconstruction of existing structures or construction of new improvements within the Redevelopment Area; (4) construction, reconstruction, renovation and/or rehabilitation of related infrastructure and/or public improvements, including without limitation surrounding roads, sidewalks, sewer, water, electrical, parking and other utilities; (5) professional services, including, but not limited to, architecture, engineering, surveying, financing, legal, planning and consulting; (6) and all other work described in the Redevelopment Proposal, Redevelopment Plan and this Agreement with respect to the Hotel Phase, or reasonably necessary to effectuate the intent of this Agreement.

## ARTICLE II. ACCEPTANCE OF PROPOSAL

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

**2.2 Developer to Advance Costs.** The Developer agrees to advance all Redevelopment Project Costs as necessary to acquire the Hotel Phase Property and to complete the Work with respect to the Hotel Phase, all subject to the Developer’s right to abandon the Hotel Phase of the Redevelopment Project and to terminate this Agreement as set forth in Section 7.1 of this Agreement. Additionally, and not by way of limitation:

- (i) the City acknowledges payment by the Initial Developer and the Apartments Developer, collectively, of a combined sum totaling a Five Thousand Dollar and no/100 (\$5,000.00) TIF Application Fee;

(ii) the City acknowledges that, prior to the execution of this Agreement, the Initial Developer paid the sum of Eighty-Four Thousand Six Hundred and no/100 (\$84,600.00) (which sum represents 0.3% of the maximum amount of TIF Notes allowed to be issued by the City pursuant to **Section 4.1** of this Agreement), which monies have been paid one half to the Comptroller and one half to the SLDC to reimburse the Comptroller and the SLDC for their administrative costs in reviewing the Redevelopment Plan and the Redevelopment Proposal;

(iii) the Developer shall, within ten (10) days after the date of execution of this Agreement, pay the sum of Eighty-Four Thousand Six Hundred and no/100 (\$84,600.00) (which sum represents 0.3% of the maximum amount of TIF Notes allowed to be issued by the City pursuant to **Section 4.1** of this Agreement), which monies shall be paid one half to the Comptroller and one half to the SLDC to reimburse the Comptroller and the SLDC for their administrative costs in reviewing the Redevelopment Plan and the Redevelopment Proposal;

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

(v) the Developer shall, concurrently with the issuance of any Hotel Phase TIF Notes, pay to the City a flat fee to be reasonably determined by the City in its sole discretion at the time of issuance to pay for the City's Issuance Costs of such Hotel Phase TIF Notes; and

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

### **ARTICLE III. CONSTRUCTION OF REDEVELOPMENT PROJECT**

**3.1 Acquisition of Property.** Developer represents that, as of the date of this Agreement, Developer or a Related Entity is the fee owner or owner under contract of the property commonly known as 601 Washington Avenue. Any additional properties acquired by the Developer for completion of the Work shall be held in the name of the Developer or a Related Entity and shall be subject to the terms, conditions and covenants contained herein and in the Redevelopment Plan immediately upon acquisition.

**3.2 Condemnation.** As of the date of this Agreement, it is not anticipated that the exercise of the power of eminent domain will be necessary to acquire any portion of the Hotel Phase Property in the Redevelopment Area.

**3.3 Relocation.** The Developer shall identify any Displaced Person (as defined in Ordinance No. 62481 of the City) that is entitled to relocation payments or relocation assistance under the Relocation Plan. The City shall, at the Developer's sole cost and expense, subject to reimbursement as a Reimbursable Redevelopment Project Cost in accordance with **Article IV** of this Agreement, coordinate such relocation payments and relocation assistance in accordance with the Relocation Plan.

**3.4 Developer to Construct the Work.** The Developer shall commence or cause the commencement of the construction of the Work within three hundred sixty (360) days of the date of this Agreement, which Work shall be constructed in a good and workmanlike manner in accordance with the terms of this Agreement and the Redevelopment Plan. The Developer shall substantially complete or cause the Work to be substantially complete not later than December 31, 2011 absent an event of Force Majeure. In the event of any delay caused by an event of Force Majeure as defined in **Section 7.5** of this Agreement, Developer shall be granted additional time to complete the Work, but under no circumstance shall such time to complete the Work extend beyond December 31, 2012.

The Developer may enter into or cause to be entered into one or more construction contracts to complete the Work. Prior to the commencement of construction of any portion of the Work, the Developer shall obtain or shall require that any of its

contractors obtain workers' compensation, comprehensive public liability and builder's risk insurance coverage in amounts customary in the industry for similar type projects. The Developer shall require that such insurance be maintained by any of its contractors for the duration of the construction of such portion of the Work. To the extent that laws pertaining to prevailing wage and hour apply to any portion of the Work the Developer agrees to take all actions necessary to apply for the wage and hour determinations and otherwise comply with such laws.

**3.5 Governmental Approvals.** The City and, at its direction, the SLDC agree to employ reasonable and good faith efforts to cooperate with the Developer and to process and timely consider and respond to all applications for the Governmental Approvals as received, all in accordance with the applicable City ordinances and laws of the State of Missouri.

**3.6 Construction Plans; Changes.** The Construction Plans shall be prepared by a professional engineer or architect licensed to practice in the State of Missouri and the Construction Plans and all construction practices and procedures with respect to the Work shall be in conformity with all applicable state and local laws, ordinances and regulations. During the progress of the Work, the Developer may make such reasonable changes, including without limitation modification of the construction schedule, subject to the provisions of **Section 3.4**, including but not limited to, dates of commencement and completion (subject to the time limitations set forth in this Agreement), modification of the areas in which the Work is to be performed, relocation, expansion or deletion of items, revisions to the areas and scope of Work, and any and all such other changes as site conditions or orderly development may dictate or as may be necessary or desirable, in the sole determination of the Developer, to enhance the economic viability of the Redevelopment Project and as may be in furtherance of the general objectives of the Redevelopment Plan; provided that (a) the Developer shall comply with all laws, regulations and ordinances of the City and (b) prior to any material changes, the Developer shall obtain the advance written consent of the SLDC, which consent shall not be unreasonably withheld or delayed. For purposes of this **Section 3.6**, "material changes" shall mean (i) any change that could reasonably be expected to result in a decrease in the aggregate amount of TIF Revenues generated within the Redevelopment Area to an amount less than 90% of the aggregate amount of TIF Revenues as projected in that certain *Cost-Benefit Analysis for The Laurel / 555 Washington TIF Redevelopment Plan dated as of March 28, 2008* (as may be amended), and placed on file with SLDC.

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

**3.8 Certificate of Substantial Completion.** Promptly after substantial completion of the Work, the Developer shall furnish to the City and the SLDC a Certificate of Substantial Completion. The Mayor or his designee and the SLDC shall, within thirty (30) days following delivery of the Certificate of Substantial Completion, carry out such inspections as it deems necessary to verify to its reasonable satisfaction the accuracy of the certifications contained in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be deemed accepted by the City and the SLDC unless, within thirty (30) days following delivery of the Certificate of Substantial Completion, the Mayor or his designee or SLDC furnishes the Developer with specific written objections to the status of the Work, describing such objections and the measures required to correct such objections in reasonable detail. In the case where the Mayor or his designee or SLDC, within thirty (30) days following delivery of the Certificate of Substantial Completion provides the Developer with specific written objections to the status of the Work, the Developer shall have such amount of time as is reasonably necessary to address such objections and when addressed shall re-submit the Certificate of Substantial Completion to the Mayor or his designee or the SLDC in accordance with this Section and the thirty (30) day period shall begin anew. Upon acceptance of the Certificate of Substantial Completion by the Mayor or his designee and the SLDC for the Hotel Phase, or upon the lapse of thirty (30) days after delivery thereof to the Mayor or his designee and the SLDC without any written objections thereto, the Developer may record the Certificate of Substantial Completion with the City's Recorder of Deeds, and the same shall constitute evidence of the satisfaction of the Developer's agreements and covenants to perform all the Work. The Certificate of Substantial Completion shall be in substantially the form attached as **Exhibit E**, attached hereto and incorporated by referenced herein.

#### **ARTICLE IV. REIMBURSEMENT OF DEVELOPER COSTS**

**4.1 City's Obligation to Reimburse Developer.** Subject to the terms of the Note Ordinance and this Agreement, the City agrees to reimburse Developer for the verified Reimbursable Redevelopment Project Costs in a total amount not to exceed Twenty Eight Million Two Hundred Thousand Dollars and no/100 (\$28,200,000.00) plus Issuance Costs to be allocated to the Redevelopment Project.

Subject to the terms of the Note Ordinance and this Agreement, the City agrees to issue TIF Notes to Developer to evidence the City's obligation to reimburse Developer for verified Reimbursable Redevelopment Project Costs in an amount not to exceed **Twenty Eight Million Two Hundred Thousand Dollars and no/100 (\$28,200,000.00), plus Issuance Costs** and interest as provided in **Section 5.2** of this Agreement, subject to the limitations of **Article IV** of this Agreement.

**4.2 Reimbursements Limited to Reimbursable Redevelopment Project Costs; Developer's Right to Substitute.**

Nothing in this Agreement shall obligate the City to issue TIF Notes or to reimburse the Developer for any cost that is not incurred pursuant to Section 99.820.1 of the TIF Act or that does not qualify as a "redevelopment project cost" under Section 99.805(14) of the TIF Act. The Developer shall provide to the City (a) itemized invoices, receipts or other information evidencing such costs; and (b) a Certificate of Reimbursable Redevelopment Project Costs constituting certification by the Developer that such cost is eligible for reimbursement under the TIF Act. Within thirty (30) days of the City's receipt from the Developer of a Certificate of Reimbursable Redevelopment Project Costs, the City shall review and act upon such Certificate of Reimbursable Redevelopment Project Costs. The parties agree that each of the categories of costs set forth in **Exhibit B**, attached hereto and incorporated herein by this reference, shall constitute Reimbursable Redevelopment Project Costs which are eligible for reimbursement in accordance with the TIF Act and this Agreement. The Developer shall be entitled to reimbursement for Redevelopment Project Costs from any of the categories set forth in **Exhibit B** up to the maximum aggregate amount established in **Section 4.1** of this Agreement; provided, that the Developer shall be obligated to advance to the City the full amounts identified in **Section 2.2, clauses (i)-(v)**, of this Agreement. If the City determines that any cost identified as a Reimbursable Redevelopment Project Cost is not a "redevelopment project cost" under Section 99.805(14) of the TIF Act, the City shall so notify the Developer in writing within the thirty (30) day period referenced in this **Section 4.2**, identifying the ineligible cost and the basis for determining the cost to be ineligible, whereupon the Developer shall have the right to identify and substitute other Redevelopment Project Costs as Reimbursable Redevelopment Project Costs with a supplemental application for payment and the thirty (30) day period shall begin anew. If the City fails to approve or disapprove any Certificate of Reimbursable Redevelopment Project Costs within thirty (30) days after receipt thereof, the Certificate of Reimbursable Redevelopment Project Costs shall be deemed approved.

**4.3 Cost Savings and Excess Profits.** Within one hundred eighty (180) days after the submission of the Certificate of Substantial Completion by Developer in accordance with **Section 3.8** of this Agreement, Developer also shall furnish to the City for the City's review and approval, (a) a statement of Verified Total Project Costs, with evidence of billings and payments for each expenditure, including itemized invoices, receipts, and pay applications or other evidence of payment as appropriate for the type of cost; and (b) a statement of each and every Post Completion Funding Source for the Hotel Phase of the Redevelopment Project.

If the Hotel Phase of the Redevelopment Project includes a for-sale condominium component, the statements required by this Section 4.3 shall not be submitted until a minimum of 80% of the condominium units included in the Hotel Phase of the Redevelopment Project have been sold, and such statements shall be submitted within sixty (60) days following such sale of 80% of such condominium units.

Developer shall not include developer fees, project management, construction management or consultant fees for any service typically performed by the Developer in the Verified Total Project Costs. With respect to any other costs for any services provided by the Developer or any entity related to Developer, the amount of such costs shall not exceed the amount set forth in the Redevelopment Plan for such services, or, if the cost for such service is not explicitly set forth in the Redevelopment Plan as an individual line item, an amount determined by the City as acceptable. Moreover, if any of the owners, officers, principals or members of the construction contractor for the Hotel Phase of the Redevelopment Project are the same as any owner, officer, principal or member of Developer or general partner in the owner of the development, amounts allowed for aggregate contractor fees shall not exceed eighteen percent (18%) of construction costs as provided for in the Missouri Housing Development Commission's 2005 Qualified Allocation Plan for the Low Income Housing Tax Credit Program, and Developer shall include documentation, including detailed invoices and receipts for payment, for each and every item of costs traceable to third parties with no relationship to Developer, in addition to summary pay applications submitted to Developer by the construction contractor. The City shall determine whether particular costs are general requirements and includable in the contractor's fee allowance or are construction costs to which the aggregate contractor's fee allowance shall be applied, using the Cost Certification Guide promulgated by the Missouri Housing Development Commission as a guide for such determinations. The City shall complete its review of the statements and other documentation provided by the Developer pursuant to this Section and shall notify Developer if such documentation is acceptable and complete within forty-five (45) days of receipt by the City. Should the City notify Developer that the documentation submitted by the Developer is not acceptable or is not complete, the City shall specify which items of documentation are missing or unacceptable and the manner in which Developer may remedy such deficiencies, and Developer may make supplemental submissions to address such deficiencies, provided, however, that such supplemental submissions shall not include any materials with respect to costs incurred or other events that have taken place subsequent to the date the original submission was made. If requested by the City,

Developer shall also submit an affidavit as to the accuracy of the statements as to the costs, the relationship of any payee to the Developer, the accuracy of the statements as to the amounts and types of tax credits received or other funding sources received, and the veracity of any other aspect of the statements of verified total project costs or Post-Completion Funding Sources. The City shall review any supplemental materials provided by the Developer within forty-five (45) days of receipt and shall notify Developer if such documentation is acceptable and complete within forty-five (45) days of receipt by the City. Developer shall respond to any notification by the City pursuant to this section within sixty (60) days of receipt of such notification. Once the City has issued any such notification, the City shall not be required to make the calculations specified in the following paragraph until the City has received all documentation deemed necessary by the City in order to make such calculations, provided, however, that if Developer fails to respond to any notification within such sixty (60) day period, the City shall have the right to finalize the calculations specified in the following paragraph based on the information and documentation then available to the City and the Developer shall accept the results of such finalized calculations for purposes of the discharge of TIF notes as specified in the following paragraph. Either the City or the Developer may waive or extend the time periods for notification and response set forth herein.

To the extent that, in the City's determination, the sum of Post Completion Funding Sources as identified by the City exceeds the sum of: (x) Verified Total Project Costs, plus (y) four percent (4%) of the Acquisition Costs, plus (z) fifteen percent (15%) of all Verified Total Project Costs other than Acquisition Costs, then Developer hereby agrees that the maximum amount of Reimbursable Redevelopment Project Costs for which the Developer shall be reimbursed by the City as provided for in Section 4.1 of this Agreement and the maximum amount of any Hotel Phase TIF Notes which shall be issued by the City in accordance with Section 5.2 of this Agreement shall be reduced by an amount in the aggregate equal to seventy-five percent (75%) of the total amount of such excess, as calculated by the City in accordance herewith. Developer agrees that the City may discharge any Hotel Phase TIF Notes already issued at the time of such calculation in an amount in the aggregate equal to seventy-five percent (75%) of the total excess.

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

## ARTICLE V. TIF OBLIGATIONS

**5.1 Conditions Precedent to the Issuance of TIF Notes.** No Hotel Phase TIF Notes shall be issued until such time as the City has (i) accepted a Certificate of Substantial Completion in accordance with the procedures set forth in Section 3.8 of this Agreement; (ii) approved a Certificate of Reimbursable Redevelopment Project Costs in substantially the form of **Exhibit D**, attached hereto and incorporated herein by reference, in accordance with the procedures set forth in **Section 4.2** of this Agreement; (iii) obtained an opinion of Bond Counsel regarding the taxable nature of the Hotel Phase TIF Notes; (iv) received the full payment of all advances required to be paid under **Section 2.2** of this Agreement; and (v) received such other documentation as the City shall reasonably require of Developer in order for the City to obtain an opinion of Bond Counsel as required by this **Section 5.1**.

**5.2 Issuance of TIF Notes.** The City agrees to issue one or more Hotel Phase TIF Notes with respect to the Hotel Component as provided in this Agreement and the Note Ordinance to reimburse the Developer for Reimbursable Redevelopment Project Costs up to the maximum amount established in **Section 4.1** of this Agreement, subject to the limitations of Article IV of this Agreement. The Hotel Phase TIF Notes shall be in the form attached to the Note Ordinance as Exhibit B-1, provided that if the Note Ordinance is repealed or otherwise amended to amend such form of TIF Notes, the Hotel Phase TIF Notes shall not be amended for the purposes of this Agreement without the written consent of Developer.

**5.2.1 Terms.** Each Hotel Phase TIF Note shall bear interest at a fixed rate per annum determined on the date that is not less than ten (10) and not more than sixty (60) business days prior to the scheduled closing date for issuance of the Hotel Phase TIF Notes (the "Pricing Date") based on the municipal yield curve for general obligation bonds (the "MMD") compiled by Municipal Market Data Line © (or its successors) and published by Thomson Financial, an operating unit of The Thomson Corporation (or its successors) using the MMD yield published as of the Issuance Date for general obligation bonds rated "AAA" that mature in the same year as the Hotel Phase TIF Notes, (i) plus four percent (4%) if the interest on such Hotel Phase TIF Note, in the opinion of Bond Counsel, is not exempt from Federal income taxation (the "Taxable Rate"), or (ii) plus two percent (2%) if the interest on such Hotel Phase TIF Note, in the opinion of Bond Counsel,

is exempt from Federal income taxation (the "Tax Exempt Rate"); provided, in no event shall the interest rate on the Hotel Phase TIF Notes exceed ten percent (10%) per annum. All Hotel Phase TIF Notes shall have a stated maturity of the Maturity Date. Interest shall be computed on the basis of a 360-day year of twelve 30-day months. The Hotel Phase TIF Notes shall bear interest from their registration date or from the most recent Payment Date to which interest has been paid or duly provided for.

**5.2.2 Procedures for Issuance of Hotel Phase TIF Notes.** Within a reasonable period of time not to exceed ninety (90) days of Hotel Developer's satisfaction of the conditions of **Section 5.1** of this Agreement with respect to the Hotel Phase the City shall issue a Hotel Phase TIF Note to an Original Purchaser evidencing reimbursement of Reimbursable Redevelopment Project Costs. Notwithstanding anything contained in this Agreement to the contrary, upon the acceptance by the City of a Certificate of Reimbursable Redevelopment Project Costs and the issuance by the City of an Hotel Phase TIF Note as provided in this **Section 5.2.2**, the Hotel Developer shall be deemed to have advanced funds necessary to purchase such Hotel Phase TIF Notes and the City shall be deemed to have deposited such funds in the Project Fund and shall be deemed to have reimbursed the Hotel Developer in full for such costs from the amounts deemed to be on deposit in the Project Fund from time to time.

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

### **5.3 Issuance of TIF Bonds.**

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

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

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

- (i) Acceptance by the City of the Certificate of Substantial Completion for the Hotel Phase;
- (ii) Review of projections of Hotel Phase Revenues available for debt service as proposed by an independent qualified consultant. Such projections must show that (A) if all available Hotel Phase Revenues were to be applied to the immediate repayment of the TIF Bonds, the TIF Bonds would reasonably be anticipated to be retired within twenty-three (23) years from the effective date of the Approving Ordinance, and (B) based on a maturity date twenty-three (23) years from the effective date of the Approving Ordinance, the TIF Bonds are reasonably likely to achieve debt service coverage ratio reasonably acceptable to the City's underwriter;
- (iii) Developer's documentation of stabilization of the Hotel Phase of the Redevelopment Project for a minimum period of two (2) years after substantial completion as evidenced in a report

to the City prepared by a qualified independent consultant to be paid for by the City, which report also sets forth TIF revenue projections for the Hotel Phase of the Redevelopment Project in connection with the issuance of the TIF Bonds;

- (iv) The aggregate net projected debt service on the TIF Bonds (taking into account the principal portion of the TIF Bonds that are issued to establish a reserve fund and to pay Issuance Costs, and including any reserve fund earnings) will be lower than the net average annual debt service on the outstanding Hotel Phase TIF Notes, unless the Developer voluntarily elects to defer or forgive principal of and/or interest on the Hotel Phase TIF Notes in an amount necessary to make the aggregate net projected debt service on the TIF Bonds lower than the net average annual debt service on the outstanding Hotel Phase TIF Notes; and
- (v) The TIF Bonds can be sold at an aggregate net interest cost which is less than the aggregate net interest cost of the Hotel Phase TIF Notes to be redeemed.

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

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

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

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

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

**5.5 Cooperation in the Issuance of TIF Obligations.** Developer covenants to cooperate and take all reasonable actions necessary to assist the City and its Bond Counsel, the Authority, underwriters and financial advisors in the preparation of offering statements, private placement memorandum or other disclosure documents and all other documents necessary to market and sell the TIF Obligations, including disclosure of tenants of the Redevelopment Area and the non-financial terms of the leases between Developer and such tenants. Developer will not be required to disclose to the general public or any investor any proprietary or confidential information, including financial information, pertaining to Developer, but upon the execution of a confidentiality agreement acceptable to Developer, Developer will provide such information to the City's financial advisors, underwriters and their counsel to enable such parties to satisfy their due diligence obligations. Developer shall make such compliance obligation a covenant running with the land, enforceable as if any subsequent transferee thereof were originally a party to and bound by this Agreement, provided, that Developer shall satisfy this and any other obligation under this Agreement to make any provision a covenant running with the land by recording this Agreement in the Office of the Recorder of Deeds of the City of St. Louis.

**5.6 Subordinate Notes.**

Hotel Phase TIF Notes may be issued in two series, with one series subordinate to Hotel Phase TIF Notes of the other series issued hereunder (the "Subordinate Notes"), such that no payment of principal or interest on any such Subordinate Notes may be made while any Hotel Phase TIF Notes are outstanding. All such Subordinate Notes shall be payable as to principal and interest according to the terms set forth in **Sections 5.2 and 6.3** of this Agreement.

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

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



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

**6.1 Creation of Special Allocation Fund.** The City agrees to cause its Comptroller or other financial officer to maintain the Special Allocation Fund, including a "PILOTs Account," an "EATs Account," and such further accounts or sub-accounts as are required by this Agreement or as the Comptroller may deem appropriate in connection with the administration of the Special Allocation Fund pursuant to this Agreement. Subject to the requirements of the TIF Act and, with respect to Economic Activity Taxes, subject to annual appropriation by the Board of Aldermen, the City will promptly upon receipt thereof deposit all Payments in Lieu of Taxes into the PILOTs Account and all Economic Activity Taxes into the EATs Account.

**6.2 Certification of Base for PILOTs and EATs.**

**6.2.1** Upon the reasonable written request of the City, Developer shall use its best efforts to provide or cause to be provided to the Comptroller or its authorized representative any documents necessary for the City to calculate the base for PILOTs and EATs including, but not limited to: (i) the address and locator number of all parcels of real property located within the Redevelopment Area; and (ii) information related to payment of utility taxes by any businesses, owners or other occupants of the Redevelopment Area in the calendar year ending December 31, 2007.

**6.2.2** Within ninety (90) days after execution of the Redevelopment Agreement, the City shall provide to the Developer (i) a certificate of the City Assessor's calculation of the total initial equalized assessed valuation of the taxable real property within the Redevelopment Area based upon the most recently ascertained equalized assessed valuation of each taxable lot, block, tract, or parcel of real property within the Redevelopment Area and the Hotel Phase Property; and (ii) a certification of the amount of revenue from taxes, penalties and interest which are imposed by the City and other taxing districts and which are generated by economic activities within the Redevelopment Area and the Hotel Phase Property for the calendar year ending December 31, 2007, but excluding those personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to Section 70.500 of the Revised Statutes of Missouri, taxes levied for the purpose of public transportation, or licenses, fees or special assessments identified as excluded in Section 99.845.3 of the TIF Act.

**6.3 Application of Available Revenues.**

The City hereby agrees for the term of this Agreement to apply the Available Revenues and any taxes, fees or assessments subsequently enacted and imposed in substitution therefor and allocable to the Special Allocation Fund under the TIF Act or this Agreement to the repayment of TIF Notes issued under Article V of this Agreement as provided in the Note Ordinance and this Agreement.

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

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

The City agrees that it will comply with the Charter of The City of St. Louis, Article XVI, Section 3 for each fiscal year that TIF Obligations are outstanding and the City will request an appropriation of all Available Revenues on deposit in the Special Allocation Fund for application to the payment of the principal of (including, but not limited to, payment of a premium, if any) and interest on the TIF Obligations.

**6.4 Cooperation in Determining TIF Revenues.** The City and the Developer agree to cooperate and take all reasonable actions necessary to cause the Hotel Phase Revenues to be paid into the Special Allocation Fund, including, but not limited to, the City's enforcement and collection of all such payments through all reasonable and ordinary legal means of enforcement.

**6.5 Obligation to Report TIF Revenues.** The Developer shall cause any purchaser or transferee of real property located within the Hotel Phase Property, and any lessee or other user of real property located within the Hotel Phase Property required

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

**6.6 Notice to City of Transfer.** The Developer agrees to notify the City in writing of any sale, transfer or other disposition of the Hotel Phase Property or any interest therein as permitted by **Section 7.3.2** of this Agreement at least fifteen (15) days prior to such sale, transfer or other disposition. Said notice shall specify the name and address of the person so acquiring any or all of the Hotel Phase Property or any interest therein and shall identify the Hotel Phase Property to be sold, transferred or otherwise disposed, whether by voluntary transfer or otherwise. Notwithstanding the foregoing, Developer shall not be required to notify the City of the lease or transfer of a residential unit, commercial unit or parking space in the ordinary course of business except as may be required by **Section 4.3**.

## ARTICLE VII. GENERAL PROVISIONS

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

**7.2 City's Right of Termination.** The City may terminate this Agreement if (i) the Developer fails to submit to the MBE/WBE Compliance Officer a copy of Developer's MBE/WBE Subcontractor's List and its MBE/WBE Utilization Statement within three hundred sixty (360) days of the date of this Agreement; provided, however, that termination under this Section 7.2(i) may be waived in the sole discretion of the MBE/WBE Compliance Officer; or (ii) the Developer fails to submit its Certificate of Substantial Completion, acceptable to the City, in accordance with **Section 3.8** of this Agreement and the schedule set forth in **Section 3.4** of this Agreement. Upon such termination, the City shall have no obligation to issue an Hotel Phase TIF Note or to reimburse the Developer for any amounts advanced under this Agreement or costs otherwise incurred or paid by Developer.

**7.3 Successors and Assigns.**

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

**7.3.2 Assignment or Sale.** Without limiting the generality of the foregoing, all or any part of the Hotel Phase Property or any interest therein may be sold, transferred, encumbered, leased, or otherwise disposed of at any time, and the rights of the Developer named herein or any successors in interest under this Agreement or any part hereof may be assigned at any time before, during or after redevelopment of the Redevelopment Project, whereupon the party disposing of its interest in the Hotel Phase Property or assigning its interest under this Agreement shall be thereafter released from further obligation under this Agreement (although any such Hotel Phase Property so disposed of or to which such interest pertains shall remain subject to the terms and conditions of this Agreement), provided, however, that until substantial completion of the Hotel Phase of the Redevelopment Project, the fee title to the Hotel Phase Property shall not be sold, transferred or otherwise disposed of and the rights, duties and obligations of the Developer under this Agreement shall not be assigned in whole or in part without the prior written approval of the City, which approval shall not be unreasonably withheld or delayed upon a reasonable demonstration by the Developer of the proposed transferee's or assignee's experience and financial capability to undertake and complete such portions of the Work and perform the Developer's obligations under this Agreement, all in accordance with this Agreement. Notwithstanding anything herein to the contrary, the City hereby approves, and no prior consent shall be required in connection with: (a) the right of the Developer to encumber or collaterally assign its interest in the Hotel Phase Property or any portion thereof or its rights, duties and obligations under this Agreement to secure loans, advances or extensions of credit to finance or from time to time refinance all or any part of the Redevelopment Project Costs with respect to the Hotel Phase, or the right of the holder of any such encumbrance or transferee of any such collateral assignment (or trustee or agent on its behalf) to transfer such interest by foreclosure or transfer in lieu of foreclosure under such encumbrance or collateral assignment; and (b) the right of Developer to transfer the Hotel Phase Property or to assign the Developer's rights, duties and obligations under this Agreement to any Related Entity; (c) the right of the Developer to sell, lease or transfer a residential unit, commercial unit

or parking space in the ordinary course of business; provided that in each such event (i) the Developer named herein (Laurel TIF Hotel, Inc.) shall remain liable hereunder for the substantial completion of the Hotel Phase of the Redevelopment Project, subject, however, to Developer's right of termination pursuant to **Section 7.1** of this Agreement, and shall be released from such liability hereunder only upon substantial completion of the Hotel Phase of the Redevelopment Project and (ii) the Developer provides to the City fifteen (15) days' advance written notice of the proposed assignment or transfer other than of the sale or lease of a residential unit, commercial unit or parking space in the ordinary course of business which shall require no notice except as may be required by **Section 4.3**.

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

**7.4 Remedies.** Except as otherwise provided in this Agreement and subject to the Developer's and the City's respective rights of termination, in the event of any default in or breach of any term or conditions of this Agreement by either party, or any successor, the defaulting or breaching party (or successor) shall, upon written notice from the other party specifying such default or breach, proceed immediately to cure or remedy such default or breach, and shall, in any event, within thirty (30) days after receipt of notice, cure or remedy such default or breach. In the event that the defaulting or breaching party (or successor) diligently and in good faith commences to cure or remedy such default or breach but is unable to cure or remedy such default or breach within thirty (30) days after receipt of notice, the defaulting or breaching party (or successor) shall, prior to the end of such thirty (30) days, provide notice to the other party that it has in good faith commenced to cure or remedy such default or breach, whereupon the defaulting or breaching party (or successor) shall have an additional thirty (30) days to cure or remedy such default or breach. In case such cure or remedy is not taken or not diligently pursued, or the default or breach shall not be cured or remedied prior to the end of the additional thirty (30) day period, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, including without limitation proceedings to compel specific performance by the defaulting or breaching party.

**7.5 Force Majeure.** Neither the City nor the Developer nor any successor in interest shall be considered in breach or default of their respective obligations under this Agreement, and times for performance of obligations hereunder shall be extended in the event of any delay caused by force majeure (except as expressly limited in **Section 3.4**), including without limitation damage or destruction by fire or casualty; strike; lockout; civil disorder; war; restrictive government regulations; lack of issuance of any permits and/or legal authorization by the governmental entity necessary for the Developer to proceed with construction of the Work or any portion thereof; shortage or delay in shipment of material or fuel; acts of God; unusually adverse weather or wet soil conditions; or other like causes beyond the parties' reasonable control, including without limitation any litigation, court order or judgment resulting from any litigation affecting the validity of the Redevelopment Plan, the Redevelopment Project or the TIF Obligations or this Agreement; provided that (i) such event of force majeure shall not be deemed to exist as to any matter initiated or sustained by the Developer in bad faith, and (ii) the Developer notifies the City in writing within thirty (30) days of the commencement of such claimed event of force majeure.

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

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

Laurel TIF Hotel, Inc.  
906 Olive, Suite 1212  
St. Louis, Missouri 63101

Attention: Amos Harris  
Facsimile: (314) 231-1548

With a copy to:

Husch Blackwell Sanders LLP  
190 Carondelet Plaza, Suite 600  
St. Louis, Missouri 63105  
Attention: David Richardson  
Facsimile: (314) 480-1505

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

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

And

City of St. Louis  
Office of the Comptroller  
City Hall  
1200 Market Street, Room 212  
St. Louis, Missouri 63103  
Attention: Ivy Neyland-Pinkston, Deputy Comptroller  
Facsimile: 314-588-0550

With a copy to:

City of St. Louis  
City Counselor  
City Hall  
1200 Market Street, Room 314  
St. Louis, Missouri 63102  
Attention: Rebecca Wright, Associate City Counselor  
Facsimile: 314-622-4956

And

Armstrong Teasdale LLP  
One Metropolitan Square, Suite 2600  
St. Louis, Missouri 63102  
Attention: Thomas J. Ray  
Facsimile: 314-621-5065

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

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

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

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

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

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

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

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

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

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

**7.15 Attorney's Fees.** In any dispute arising out of or relating to this Agreement, including any action to enforce this Agreement against a defaulting or breaching party pursuant to **Section 7.4**, the prevailing party shall recover from the non-prevailing party the prevailing party's attorney's fees, in addition to any other damages to which it is entitled.

**7.16 Actions Contesting the Validity and Enforceability of the Redevelopment Plan.** In the event a third party brings an action against the City or the City's officials, agents, attorneys, employees or representatives contesting the validity or legality of the Redevelopment Area, the Redevelopment Plan, the TIF Obligations, or the ordinance approving this Agreement,

Developer may, at its option, join the City in defense of such claim or action. The parties expressly agree that, so long as no conflicts of interest exist between them with regard to the handling of such litigation, the same attorney or attorneys may simultaneously represent the City and the Developer in any such proceeding. The Developer shall be responsible for all reasonable and necessary costs and expenses incurred by the City and by the Developer in connection with the defense of such claim or action, provided that if the City does not approve a settlement or compromise to which the Developer would agree, the Developer shall not be responsible for any costs or expenses incurred thereafter in the defense of such claim or action. All cost of any such defense, whether incurred by the City or the Developer, shall be deemed to be Reimbursable Redevelopment Project Costs and reimbursable from any amounts in the Special Allocation Fund, subject to Article IV of this Agreement.

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

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

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

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

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

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

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

directly out of the negligence or malicious acts or omissions of the City or its governing body members, officers, agents, attorneys, employees and independent contractors in connection with its or their activities conducted pursuant to this Agreement or which arises out of matters undertaken by the City following termination of this Agreement as to the Redevelopment Project or any particular portion thereof.

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

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

**7.20 Non-Discrimination.** The Developer agrees that, during the term of this Agreement and as an independent covenant running with the land, there shall be no discrimination upon the basis of race, creed, color, national origin, sex, age, marital status or physical handicap in the sale, lease, rental, occupancy or use of any of the facilities under its control within the Redevelopment Area or any portion thereof and said covenant may be enforced by the City or the United States of America or any of their respective agencies. The Developer further agrees that a provision containing the covenants of this paragraph shall be included in all agreements pertaining to the lease or conveyance or transfer (by any means) of all or a portion of the Hotel Phase of the Redevelopment Project and any of the facilities under its control in the Redevelopment Area. Except as provided in this Section, the Developer shall have no obligation to enforce the covenants made by any transferee or lessee, tenant, occupant or user of any of the facilities within the Redevelopment Area.

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

**7.22 MBE/WBE Compliance**

The Developer shall comply with the Mayor's Executive Order #28, as amended as of the date of this Agreement, during the design and construction of the Redevelopment Project and with respect to ongoing services provided by third parties to the Developer in connection with the Redevelopment Project.

**ARTICLE VIII.  
REPRESENTATIONS OF THE PARTIES**

**8.1 Representations of the City.** The City hereby represents and warrants that it has full constitutional and lawful right, power and authority, under current applicable law, to execute and deliver and perform the terms and obligations of this Agreement, including without limitation the right, power and authority to issue and sell the Hotel Phase TIF Notes, and all of the foregoing have been or will be, upon adoption of ordinances authorizing the issuance of the Hotel Phase TIF Notes, duly and validly authorized and approved by all necessary City proceedings, findings and actions. Accordingly, this Agreement constitutes the legal, valid and binding obligation of the City, enforceable in accordance with its terms.

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

enforceable in accordance with its terms.

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

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

**“CITY”**

**CITY OF ST. LOUIS, MISSOURI**

By: \_\_\_\_\_  
Francis G. Slay, Mayor

By: \_\_\_\_\_  
Darlene Green, Comptroller

(SEAL)

Attest:

\_\_\_\_\_  
Parrie May, City Register

Approved as to Form:

\_\_\_\_\_  
Patricia A. Hageman, City Counselor

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

**“DEVELOPER”**

**Laurel TIF Hotel, Inc.,** a Missouri corporation

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

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

On this \_\_\_\_ day of \_\_\_\_\_, 2009, before me appeared Francis G. Slay, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen, and said individual acknowledged said instrument to be the free act and deed of said City.

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

\_\_\_\_\_  
Notary Public

My Commission Expires:

\_\_\_\_\_



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

On this \_\_\_\_ day of \_\_\_\_\_, 2009, before me appeared Darlene Green, to me personally known, who, being by me duly sworn, did say that she is the Comptroller of the CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen, and said individual acknowledged said instrument to be the free act and deed of said City.

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

\_\_\_\_\_  
 Notary Public

My Commission Expires:

\_\_\_\_\_

STATE OF MISSOURI     )  
   ) SS.  
 City OF St Louis      )

On this \_\_\_\_ day of \_\_\_\_\_, 2009, before me appeared Amos Harris, to me personally known, who, being by me duly sworn, did say that he is President of Laurel TIF Hotel, Inc., a Missouri corporation, and that he is authorized to sign the instrument on behalf of said corporation by authority of its board of directors, and acknowledged to me that he executed the within instrument as said company’s free act and deed.

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

\_\_\_\_\_  
 Notary Public

My Commission Expires:

\_\_\_\_\_

**EXHIBIT A**  
**Legal Description of the Redevelopment Area, Apartments Phase Property and Hotel Phase Property**

**Redevelopment Area:**

Entire City Block 125 and the land and first floor of those buildings located in City Block 120 in the City of St. Louis, Missouri as bounded by Washington Avenue to the South, 7th Street to the West, Lucas Street to the North and Broadway Street to the East.

**Apartments Phase Property:**

All apartments within the Redevelopment Area

**Hotel Phase Property:**

All areas within the Redevelopment Area, except the Apartments Phase Property, being used for retail and/or hotel uses

**EXHIBIT B  
TIF Reimbursable Redevelopment Project Costs**

CATEGORY	
(a)	Acquisition Costs (as defined in Section 1.1 of this Agreement).
(b)	Demolition Costs (includes, but is not limited to, demolition of existing buildings and structures or parts thereof).
(c)	Site Preparation and Public Improvements Costs (includes, but is not limited to, street and sidewalk improvements, parking facilities, utility work and resetting of curbs and landscaping and lighting in the right of way areas).
(d)	Rehabilitation, renovation, or reconstruction of any existing structures or construction of new improvements.
(e)	Financing Costs (includes, but is not limited to, loan fees, disbursing fees, lender’s legal fees, loan appraisals, flood certificates, tax credit investor fees and any and all other costs incurred by the Developer in connection with obtaining financing for and a tax credit investor in the Redevelopment Project).
(f)	Environmental Testing, Remediation and/or Abatement Costs (includes, but is not limited to, the testing for and removal and disposal of toxic or hazardous substances or materials).
(g)	Professional Service Costs (includes, but is not limited to, architectural, engineering, legal, marketing, financial, planning, sales commissions or special services).
(h)	TIF Costs & Issuance Costs incurred by the Developer pursuant to <b>Section 2.2(i) – 2.2.(v)</b> of this Agreement.

<sup>1</sup> Subject to the limitations set forth in **Section 4.2** of this Agreement, provided that such costs shall not exceed the aggregate amount of \$28,200,000.00 plus Issuance Costs as provided in the Agreement.

**EXHIBIT C  
Form of Certificate of Commencement of Construction**

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

City of St. Louis  
St. Louis Development Corp  
1015 Locust St., Ste. 1200  
St. Louis, MO 63103  
Attention: Dale Ruthsatz

DELIVERED BY

LAUREL TIF HOTEL, INC.

The undersigned, Laurel TIF Hotel, Inc. (the “Developer”), pursuant to that certain Redevelopment Agreement dated as of \_\_\_\_\_, 2008, between the City of St. Louis, Missouri (the “City”) and Developer (the “Agreement”) hereby certifies to the City as follows:

1. All property within the Redevelopment Area necessary for the Hotel Phase of the Redevelopment Project (as legally described on Appendix A attached hereto and by this reference incorporated herein and made a part hereof), has been acquired by Developer or a Related Entity in accordance with the Agreement.
2. Developer has entered into an agreement with a contractor or contractors to construct the Hotel Phase of the Redevelopment Project.
3. Developer has submitted to the MBE/WBE Compliance Officer a copy of Developer’s MBE/WBE Subcontractor’s List and MBE/WBE Utilization Statement, which are attached hereto as Appendix B.

- 4. Developer has obtained all necessary financing to complete the Hotel Phase of the Redevelopment Project.
- 5. This Certificate of Commencement of Construction is being issued by Developer to the City in accordance with the Agreement to evidence Developer’s satisfaction of all obligations and covenants with respect to commencement of construction of the Hotel Phase of the Redevelopment Project.

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

IN WITNESS WHEREOF, the undersigned has hereunto set his/her hand this day of \_\_\_\_\_, 20\_\_\_\_.

**LAUREL TIF HOTEL, INC.**, a Missouri corporation

By: \_\_\_\_\_  
 Name: \_\_\_\_\_  
 Title: \_\_\_\_\_

**EXHIBIT D**  
**Form of Certificate of**  
**Reimbursable Redevelopment Project Costs**

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

**Re: City of St. Louis, Missouri, The Laurel / 555 Washington Redevelopment Project**

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Redevelopment Agreement dated as of \_\_\_\_\_, 2008 (the “*Agreement*”), between the City and Laurel TIF Hotel, Inc., a Missouri corporation (the “*Developer*”). In connection with said Agreement, the undersigned hereby states and certifies that:

- 1. Each item listed on **Schedule 1** hereto is a Reimbursable Redevelopment Project Cost and was incurred in connection with the construction of the Hotel Phase of the Redevelopment Project.
- 2. These Reimbursable Redevelopment Project Costs have been have been paid by the Developer and are reimbursable under the Note Ordinance and the Agreement.
- 3. Each item listed on **Schedule 1** has not previously been paid or reimbursed from money derived from the Special Allocation Fund or any money derived from any project fund established pursuant to the Note Ordinance, and no part thereof has been included in any other certificate previously filed with the City.
- 4. There has not been filed with or served upon the Developer any notice of any lien, right of lien or attachment upon or claim affecting the right of any person, firm or corporation to receive payment of the amounts stated in this request, except to the extent any such lien is being contested in good faith.
- 5. All necessary permits and approvals required for the portion of the Work for which this certificate relates have been issued and are in full force and effect.
- 6. All Work for which payment or reimbursement is requested has been performed in a good and workmanlike manner and in accordance with the Redevelopment Plan and the Agreement.
- 7. If any cost item to be reimbursed under this Certificate is deemed not to constitute a “redevelopment project cost” within the meaning of the TIF Act and the Agreement, the Developer shall have the right to substitute other eligible Reimbursable Redevelopment Project Costs for payment hereunder.

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

Yes: \_\_\_\_\_ No: \_\_\_\_\_

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

Dated this \_\_\_\_ day of \_\_\_\_\_, \_\_\_\_\_.

**Laurel TIF Hotel, Inc.**, a Missouri corporation

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

Approved for payment this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**SLDC**

By: \_\_\_\_\_

Name: \_\_\_\_\_

Title: \_\_\_\_\_

**Schedule 1**

The Developer has incurred the following Reimbursable Redevelopment Project Costs:

Payee:	Amount:	Description of Reimbursable Redevelopment Project Costs:
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**EXHIBIT E**

**Form of Certificate of Substantial Completion**

**CERTIFICATE OF SUBSTANTIAL COMPLETION**

The undersigned, Laurel TIF Hotel, Inc., a Missouri corporation (the “Developer”), pursuant to that certain Redevelopment Agreement dated as of \_\_\_\_\_, 2008, between the City of St. Louis, Missouri (the “City”), and the Developer (the “Agreement”), hereby certifies to the City as follows:

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

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

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

4. This Certificate of Substantial Completion is accompanied by the project architect’s or owner representative’s certificate of substantial completion on AIA Form G-704 (or the substantial equivalent thereof), a copy of which is attached hereto as Appendix A and incorporated herein by reference, certifying that the Hotel Phase of the Redevelopment Project has been substantially completed in accordance with the Agreement.

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

6. This Certificate of Substantial Completion is being issued by the Developer to the SLDC and the City in accordance with the Agreement to evidence the Developer’s satisfaction of all material obligations and covenants with respect to the Hotel Phase of the Redevelopment Project.

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

Upon such acceptance by the SLDC and the Mayor or his designee, the Developer may record this Certificate in the office of the City's Recorder of Deeds. This Certificate is given without prejudice to any rights against third parties which exist as of the date hereof or which may subsequently come into being. Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

IN WITNESS WHEREOF, the undersigned has hereunto set his/her hand this \_\_\_\_ day of \_\_\_\_\_, 20\_\_.

**LAUREL TIF HOTEL, INC.**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**ACCEPTED:**

**SLDC**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

**CITY OF ST. LOUIS, MISSOURI**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

(Insert Notary Form(s) and Legal Description)

**EXHIBIT F  
Equal Opportunity and Nondiscrimination Guidelines**

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

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

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

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

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

**EXHIBIT G  
MBE/WBE Subcontractors List**

On the spaces provided below please list all subcontractors and suppliers, including M/WBEs, proposed for utilization on this project. Work to be self-performed by the bidder is to be included.

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

**EXHIBIT H  
MBE/WBE Utilization Statement**

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

**Project and Bid Identification:**

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

**Obligation:** The undersigned certifies that (s)he has read, understands and agrees to be bound by the bid specifications, including the accompanying exhibits and other items and conditions of the request for proposals regarding minority and women business enterprise utilization. The undersigned further certifies that (s)he is legally authorized by the respondent to make the statements and representations in the M/WBE Forms and Exhibits and that said statements and representations are true and correct to the best of his/her knowledge and belief. The undersigned will enter into formal agreements with the minority/women business enterprises listed in the Subcontractor List, which are deemed by the City to be legitimate and responsible. The undersigned understands that if any

of the statements and representations are made by the respondent knowing them to be false, or if there is a failure of the successful respondent to implement any of the stated agreements, intentions, objectives, goals and commitments set forth herein without prior approval of the City, then in any such events, the contractor's act or failure to act, as the case may be, shall constitute a material breach of the contract, entitling the City to terminate the contract for default. The right to so terminate shall be in addition to, and not in lieu of, any other rights and remedies the City may have for other defaults under the contract. Additionally, the contractor may be subject to the penalties cited in Section Twelve of the Mayor's Executive Order #28, as amended.

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

\_\_\_\_\_ Meet or exceed contract award goals and provide participation as shown above.

\_\_\_\_\_ Fail to meet contract award goals but will demonstrate that good faith efforts were made to meet the goals and my company will provide participation as shown above.

Name of Prime Contractor(s): \_\_\_\_\_  
\_\_\_\_\_

Prime Contractor Authorized Signature

Title: \_\_\_\_\_

Date: \_\_\_\_\_

**Approved: July 27, 2009**