

ORDINANCE 71376

BOARD BILL NUMBER 72 INTRODUCED BY: ALDERWOMAN TINA PIHL

1 An Ordinance recommended by the Board of Estimate and Apportionment authorizing the
2 execution of an amended and restated redevelopment agreement between The City of St. Louis,
3 Missouri and FOPA Partners, LLC and a financing agreement between The City of St. Louis,
4 Missouri and The Industrial Development Authority of the City of St. Louis, Missouri; prescribing
5 the form and details of said agreements; authorizing other related actions in connection with such
6 agreements; and containing a severability clause.

7 **WHEREAS**, The City of St. Louis, Missouri (the “City”), is a body corporate and a
8 political subdivision of the State of Missouri, duly created, organized and existing under and by
9 virtue of its charter, the Constitution and laws of the State of Missouri; and

10 **WHEREAS**, pursuant to the Real Property Tax Increment Allocation Redevelopment Act,
11 Sections 99.800 through 99.865 of the Revised Statutes of Missouri (“TIF Act”), and Ordinance
12 Nos. 70431, 70750, and _____ (Board Bill No. _____) the City approved a tax increment financing
13 redevelopment plan and various amendments thereto for the City Foundry Saint Louis
14 Redevelopment Area and adopted tax increment financing within the portion of the
15 Redevelopment Area known as “RPA 2”; and

16 **WHEREAS**, pursuant to Ordinance No. 70759, the City entered into a Redevelopment
17 Agreement dated as of June 13, 2019 (the “Original RPA 2 Redevelopment Agreement”) with
18 FOPA Partners, LLC (the “Developer”) associated with the redevelopment of RPA 2; and

19 **WHEREAS**, in connection with the “City Foundry Saint Louis Tax Increment Financing
20 (TIF) Second Amended RPA 2 Redevelopment Plan” approved by Ordinance No. _____ (Board
21 Bill No.____), the City and the Developer desire to amend and restate the Original RPA 2
22 Redevelopment Agreement by entering into the Amended and Restated Redevelopment

1 Agreement in substantially the form of **Exhibit A** attached hereto (the “Redevelopment
2 Agreement”); and

3 **WHEREAS**, the Redevelopment Agreement contemplates that the City will enter into a
4 Financing Agreement in substantially the form of **Exhibit G** to the Redevelopment Agreement
5 (the “Financing Agreement”) with The Industrial Development Authority of the City of St. Louis,
6 Missouri (the “Authority”), pursuant to which the Authority will issue tax increment financing
7 obligations in furtherance of the redevelopment of RPA 2; and

8 **WHEREAS**, the Board of Aldermen hereby determines that the terms of the
9 Redevelopment Agreement and the Financing Agreement are acceptable and that the execution,
10 delivery and performance by the City, the Developer and the Authority of their respective
11 obligations under the Redevelopment Agreement and the Financing Agreement are in the best
12 interests of the City and the health, safety, morals and welfare of its residents, and in accord with
13 the public purposes specified in the TIF Act and the above-referenced ordinances.

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

15 **SECTION ONE.** The Board of Aldermen hereby approves, and the Mayor and
16 Comptroller of the City are hereby authorized and directed to execute, on behalf of the City, the
17 Redevelopment Agreement by and between the City and the Developer in substantially the form
18 attached hereto as **Exhibit A** and the Financing Agreement by and between the City and the
19 Authority in substantially the form of **Exhibit G** to the Redevelopment Agreement, and the City
20 Register is hereby authorized and directed to attest to the Redevelopment Agreement and the
21 Financing Agreement and to affix the seal of the City thereto. The Redevelopment Agreement
22 and the Financing Agreement shall be in substantially the forms attached, with such changes

1 therein as shall be approved by said Mayor and Comptroller executing the same and as may be
2 consistent with the intent of this Ordinance and necessary and appropriate to carry out the matters
3 herein authorized.

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

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

17 **SECTION FOUR.** It is hereby declared to be the intention of the Board of Aldermen that
18 each and every part, section and subsection of this Ordinance shall be separate and severable from
19 each and every other part, section and subsection hereof and that the Board of Aldermen intends
20 to adopt each said part, section and subsection separately and independently of any other part,
21 section and subsection. If any part, section or subsection of this Ordinance shall be determined to
22 be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall

1 be and remain in full force and effect, unless the court making such finding shall determine that
2 the valid portions standing alone are incomplete and are incapable of being executed in accord
3 with the legislative intent.

4 **SECTION FIVE.** After adoption of this Ordinance by the Board of Aldermen, this
5 Ordinance shall become effective on the 30th day after its approval by the Mayor or adoption over
6 her veto; provided that if, within ninety (90) days after the effective date of the Ordinance, the
7 Developer has not (i) executed the Redevelopment Agreement and (ii) paid all fees due to the City
8 and the St. Louis Development Corporation in accordance with the terms of the Redevelopment
9 Agreement, the provisions of this Ordinance shall be deemed null and void and of no effect and
10 all rights conferred by this Ordinance on the Developer shall terminate, provided further, however,
11 that prior to any such termination, the Developer may seek an extension of time in which to execute
12 the Redevelopment Agreement from the Board of Estimate and Apportionment, which extension
13 may be granted in the sole discretion of the Board of Estimate and Apportionment.

EXHIBIT A

AMENDED AND RESTATED REDEVELOPMENT AGREEMENT

**BOARD BILL NUMBER 72
EXHIBIT A**

**AMENDED AND RESTATED
REDEVELOPMENT AGREEMENT**

between

THE CITY OF ST. LOUIS, MISSOURI

And

FOPA PARTNERS, LLC

Dated as of

_____, 2021

**CITY FOUNDRY SAINT LOUIS
REDEVELOPMENT PROJECT AREA 2**

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AMENDED AND RESTATED REDEVELOPMENT AGREEMENT

THIS AMENDED AND RESTATED REDEVELOPMENT AGREEMENT (this “*Agreement*”) is made and entered into as of this _____ day of _____, 2021, by and between **THE CITY OF ST. LOUIS, MISSOURI** (the “*City*”), a city and political subdivision duly incorporated and existing under its charter and the Constitution and laws of the State of Missouri, and **FOPA PARTNERS, LLC** (the “*Developer*”), a limited liability company duly organized 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 (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 October 6, 2016 and November 12, 2016 in the St. Louis Daily Record, a newspaper of general circulation within the City, soliciting additional 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. In response thereto, the Developer reaffirmed its redevelopment proposal dated September 9, 2016 (as may be amended from time to time, the “*Redevelopment Proposal*”) to the TIF Commission for redevelopment of the Redevelopment Area.

D. On November 2, 2016, following a duly-noticed public hearing held on that date, in accordance with the TIF Act, the TIF Commission adopted a resolution recommending that the Board of Aldermen (1) approve the Redevelopment Plan titled the “City Foundry Saint Louis Tax Increment (TIF) Redevelopment Plan” dated October 17, 2016, (the “*Original Redevelopment Plan*”), (2) designate the redevelopment area described in the Redevelopment Plan (the “*Redevelopment Area*”) as a redevelopment area under the TIF Act, (3) approve the redevelopment project described in the Redevelopment Plan for the portion of the Redevelopment Area designated as “RPA 1”, and (4) adopt tax increment financing with respect to RPA 1 by passage of an ordinance complying with the terms of the TIF Act.

E. On January 20, 2017, after due consideration of the TIF Commission’s recommendations, the Board of Aldermen approved Ordinance No. 70431 approving the Original Redevelopment Plan, designating the Redevelopment Area, approving the redevelopment project for RPA 1, and adopting tax increment allocation financing within RPA 1.

F. On September 19, 2017, and as supplemented on September 24, 2017, the Developer submitted the “Amended Redevelopment Plan for Redevelopment Project Area 2 City Foundry Saint Louis Tax Increment Financing Redevelopment Plan” (the “*Original RPA 2 Redevelopment Plan*”), which supplemented and amended the Original Redevelopment Plan by describing a redevelopment project for the portion of the Redevelopment Plan referred to as “RPA 2” (the “*Original RPA 2 Redevelopment Project*”).

G. On October 24, 2017, following a duly-noticed public hearing begun on October 4, 2017 and continued on October 24, 2017, in accordance with the TIF Act, the TIF Commission adopted a resolution approving the Original RPA 2 Redevelopment Plan and the amendments to the redevelopment

project areas and RPA 2 Redevelopment Project contained therein, and recommending that the Board of Aldermen adopt the appropriate ordinances to approve the Original RPA 2 Redevelopment Plan, approve the RPA 2 Redevelopment Project, and adopt tax increment financing within RPA 2.

H. On March 9, 2018, after due consideration of the TIF Commission's recommendations, the Board of Aldermen approved Ordinance No. 70750 approving the Original RPA 2 Redevelopment Plan (thereby amending the Original Redevelopment Plan), approving the RPA 2 Redevelopment Project, and adopting tax increment allocation financing within RPA 2. Ordinance No. 70750 became effective on April 28, 2018.

I. On April 16, 2018, the Board of Aldermen adopted Ordinance No. 70759 approving a redevelopment agreement with the Developer for the implementation of the RPA 2 Redevelopment Project (the "*Original RPA 2 Redevelopment Agreement*"). Ordinance No. 70759 became effective on June 4, 2018 and the Original RPA 2 Redevelopment Agreement was executed as of June 13, 2019.

J. On January 29, 2021, the Developer requested that the TIF Commission convene to consider the "City Foundry Saint Louis Tax Increment Financing (TIF) Second Amended RPA 2 Redevelopment Plan" (the "*Amended RPA 2 Redevelopment Plan*" and together with the Original Redevelopment Plan and the Original RPA 2 Redevelopment Plan, the "*Redevelopment Plan*"), which proposes to amend and supplement the Original RPA 2 Redevelopment Plan and the Original RPA 2 Redevelopment Project (the Original RPA 2 Redevelopment Project, as amended by the Amended RPA 2 Redevelopment Plan, being referred to herein as the "*RPA 2 Redevelopment Project*").

K. On June 2, 2021, following a duly-noticed public hearing begun on April 28, 2021 and continued on May 18, 2021 and June 2, 2021, in accordance with the TIF Act, the TIF Commission adopted a resolution approving the Amended RPA 2 Redevelopment Plan and the amendments to the Original RPA 2 Redevelopment Project contained therein.

L. On _____, 2021, after due consideration of the TIF Commission's recommendations, the Board of Aldermen approved (1) Ordinance No. _____ approving the Amended RPA 2 Redevelopment Plan and the amendments to the Original RPA 2 Redevelopment Project contained therein and (2) Ordinance No. _____ approving a (i) this Agreement, amending and restating the Original RPA 2 Redevelopment Agreement, and (ii) the Financing Agreement (the "*Financing Agreement*") between the City and The Industrial Development Authority of the City of St. Louis (the "*Authority*"), pursuant to which the Authority will issue the herein-described TIF Obligations on behalf of the City.

M. Pursuant to provisions of the TIF Act and the above-referenced Ordinances, the City is authorized to enter into this Agreement and the Financing Agreement and to cause the Authority to issue TIF Obligations as evidence of the City's obligation to pay certain Redevelopment Project Costs (as defined herein) incurred in furtherance of the RPA 2 Redevelopment Project, and to pledge TIF Revenues to the payment of the TIF Obligations.

N. The City acknowledges and agrees that the Developer is not performing the Work as a direct service to the City. Rather, the City has agreed to cause the issuance of TIF Obligations and pledge TIF Revenues (as described herein) to the payment of the TIF Obligations because the City will recognize indirect benefits, including, without limitation, the remediation of blight, which will improve and benefit the general welfare of the community as a result of the Developer's completion of the RPA 2 Redevelopment Project. Consequently, the City has agreed to pay for certain Redevelopment Project Costs as set forth in this Agreement, and in consideration therefor the Developer has agreed to subject itself and the herein-described Property to the terms and conditions set forth below.

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 the Developer or its Related Entity to a third party to acquire fee simple interest in the Property.

“Agreement” means this Amended and Restated Redevelopment Agreement, as the same may be from time to time modified, amended or supplemented in writing by the parties hereto.

“Approving Ordinance” means Ordinance No. 70750, approving Original RPA 2 Redevelopment Plan and adopting taxing increment financing within RPA 2.

“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; or such other entity organized and controlled by the City or SLDC.

“Authorizing Ordinance” means Ordinance No. _____, authorizing the City to enter into this Agreement with the Developer.

“Available Revenues” means all monies on deposit from time to time (including investment earnings thereon) in (a) the PILOTs Account, and (b) subject to annual appropriation, the EATs Account that have been appropriated to the repayment of the TIF Obligations, but 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.

“Best Efforts” means actual, reasonable, good faith attempts to accomplish or achieve the required obligation which shall be documented by the party taking such action, and proof of such documentation may be requested in writing by the other party to verify that such actual, reasonable, good faith attempts occurred. The failure to provide such documentation upon written request within a reasonable period of time after receipt of such written request shall be deemed noncompliance with such obligation and a breach of this Agreement.

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

“Bond Counsel” means Armstrong Teasdale LLP, St. Louis, Missouri, Gilmore & Bell, P.C., St. Louis, Missouri, and/or an attorney at law or a firm of attorneys acceptable to the Authority 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.

“*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 each Sub-Project.

“*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 upon completion of each Sub-Project and, upon the City’s acceptance or deemed acceptance thereof, evidencing the Developer’s satisfaction of all obligations and covenants to complete the particular Sub-Project in accordance with the Redevelopment Plan and this Agreement.

“*CID*” means the City Foundry Community Improvement District created pursuant to Ordinance No. 70586.

“*CID Act*” means the Community Improvement District Act, Sections 67.1401 to 67.1571 of the Revised Statutes of Missouri.

“*CID Project*” means any community improvement project within the scope of the RPA 2 Redevelopment Project and approved by the CID for an area within or benefitting RPA 2 in accordance with the CID Act and constituting a portion of the Work.

“*CID Sales Tax*” means the 1.0% community improvement district sales tax levied by the CID in accordance with the CID Act and this Agreement.

“*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.

“*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.

“*Developer*” means FOPA Partners, LLC, a limited liability company duly organized and existing under the laws of the State of Missouri, or its permitted successors or assigns in interest.

“*Disclosure Counsel*” means Armstrong Teasdale LLP, St. Louis, Missouri, and/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.

“*EATS Account*” means the account within the Special Allocation Fund established by the City and the Finance Officer pursuant to **Section 6.1** hereof.

“*Economic Activity Taxes*” or “*EATs*” shall have the meaning ascribed to such term in Section 99.805 of the TIF Act, excluding any taxes that, under Missouri law, are not subject to tax increment financing.

“*Finance Officer*” means the Comptroller of the City or his or her designee.

“*Financing Agreement*” means the Financing Agreement, in substantially the form of **Exhibit G** attached hereto, between the Authority and the City, as may be amended from time to time.

“*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 RPA 2 Redevelopment Project and consistent with the Redevelopment Plan and this Agreement.

“*Issuance Costs*” means the amount set forth in **Section 2.2** of this Agreement incurred by the City, SLDC or Developer in furtherance of the issuance of TIF Obligations plus all costs reasonably incurred by the City or Developer in furtherance of the issuance of TIF Obligations, including without limitation the fees and expenses of financial advisors and consultants, the City’s attorneys (including issuer’s counsel, Disclosure Counsel, Bond Counsel, SLDC’s Counsel and, in the City’s discretion, Developer’s counsel), the City’s administrative fees and expenses (including fees and costs of its planning consultants and the SLDC, such fees and costs to include, but not be limited to, those described in **Section 2.2(iii)** of this Agreement), 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.

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

“*MBE/WBE Compliance Officer*” means the SLDC Contract Compliance Manager 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, as may be revised from time to time.

“*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, as may be revised from time to time.

“*Parcel Development Agreement*” means an agreement between the Developer and the Sub-Developer in substantially the form of **Exhibit H** hereto, wherein the Developer assigns rights and responsibilities under this Agreement with respect to Phase 1, Phase 2, Phase 3 or Phase 4 to the Sub-Developer.

“*Payments in Lieu of Taxes*” or “*PILOTs*” shall have the meaning ascribed to such term in Section 99.805 of the TIF Act, excluding any taxes that, under Missouri law, are not subject to tax increment financing.

“*Phase 1*” means the construction of an approximately 46,000 square foot dining and entertainment venue, anticipated to house the Alamo Draft House Cinema, and additional retail space.

“*Phase 1 Work*” means all work necessary to complete or cause the completion of the Phase 1, including but not limited to: (1) property acquisition, (2) site preparation and environmental remediation, (3) demolition, (4) construction, reconstruction, renovation and/or rehabilitation of public infrastructure and public and private improvements, including without limitation surrounding roads, sidewalks, sewer, water, electrical, parking, structures and other utilities, (5) professional services, including, but not limited to, architecture, engineering, surveying, financing, legal, planning and consulting, and (6) all other work

described in the Redevelopment Plan and this Agreement, or reasonably necessary to effectuate the intent of this Agreement and complete Phase 1.

“Phase 2” means the construction of one or more structures containing approximately 59,000 square feet of office space and ground floor retail space.

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

“Phase 3” means the construction of one or more structures containing approximately 280 residential apartment units.

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

“Phase 4” means the construction of approximately 492 structured parking spaces and ground floor retail space.

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

“PILOTS Account” means the account within the Special Allocation Fund established by the City and the Finance Officer pursuant to **Section 6.1**, into which the City shall promptly deposit all PILOTS.

“Post-Completion Funding Sources” means each of the following sources:

(a) Tax Credits:

(i) the total value of the net proceeds actually received by Developer or a Related Entity from the sale of any transferable tax credits approved for Phase 1, Phase 2, Phase 3 or Phase 4, as applicable, 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 84% (or such other market value as may be agreed) of the amount approved by the tax credit issuing authority; and

(ii) the equity and/or loan proceeds available from investor members or partners in Phase 1, Phase 2, Phase 3 or Phase 4, as applicable or who will be entitled to receive any non-transferable tax credits approved for Phase 1, Phase 2, Phase 3 or Phase 4, as applicable, per the ownership documentation for the applicable property; if, pursuant to such ownership documentation, 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.

The Developer shall substantiate the amount of any tax credits approved for Phase 1, Phase 2, Phase 3 or Phase 4, as applicable, and the proceeds or equity related thereto by providing to the City documentation from accountants, tax credit authorities and tax credit purchasers or investors.

(b) Sales Proceeds: all net sales proceeds actually derived from the sale of Phase 1, Phase 2, Phase 3 or Phase 4, as applicable, which net sales proceeds shall be documented by copies of the seller's closing statements for such sales.

(c) TIF Financing: the maximum amount of TIF financing available to Phase 1, Phase 2, Phase 3 or Phase 4, as applicable, as such amount is set forth in **Section 4.1** hereof; and

(d) Value of Income-Producing Space: if Phase 1, Phase 2, Phase 3 or Phase 4, as applicable, 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%). In addition to the other materials required to be submitted by **Section 4.3** hereof, Developer shall submit a 10-year operating proforma, including income and expense projections, for all Income-Producing Space in Phase 1, Phase 2, Phase 3 or Phase 4, as applicable, together with copies of all leases, letters of intent, and operating expense documentation, if any, related to such Income-Producing Space.

"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 or a Related Entity to be used for completion of the RPA 2 Redevelopment Project and has secured such loan with a mortgage or security interest in any Sub-Project.

"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) and existing improvements necessary to complete the RPA 2 Redevelopment Project.

“*Redevelopment Area*” means the Redevelopment Area described in the Redevelopment Plan.

“*Redevelopment Plan*” means Original Redevelopment Plan, as amended and supplemented by the Original RPA 2 Redevelopment Plan and the Amended RPA 2 Redevelopment Plan, and as may be further amended and supplemented from time to time.

“*Redevelopment Project Costs*” shall have the meaning ascribed to such term in Section 99.805 of the TIF Act with respect to costs incurred in connection with the RPA 2 Redevelopment Project.

“*Reimbursable Redevelopment Project Costs*” means those Redevelopment Project Costs related to the RPA 2 Redevelopment Project 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.

“*RPA 2*” means Redevelopment Project Area 2 of the City Foundry Saint Louis Redevelopment Area, as legally described on **Exhibit A** attached hereto.

“*RPA 2 Redevelopment Project*” means the redevelopment project for RPA 2 described in the Redevelopment Plan and including Phase 1, Phase 2, Phase 3 and Phase 4.

“*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 City Foundry Saint Louis RPA 2 Special Allocation Fund, created by the Approving Ordinance in accordance with the TIF Act, into which TIF Revenues are from time to time deposited in accordance with the TIF Act and this Agreement.

“*Special Taxing District Pledge Agreement*” means one or more Agreements between the Authority and the TDD and/or CID, pursuant to which the TDD shall and the CID may, subject to annual appropriation, pledge certain revenues to the repayment of the TIF Obligations.

“*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 SLDC and reviewed by the Finance Officer utilizing GAAP principles (excluding debt service but including capital improvement or tenant improvement reserves);

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:

(c) 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 lease rate(s) specified by the Developer in its submissions to SLDC);

LESS

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

The City shall incorporate a 7% vacancy rate or the actual vacancy rate, whichever is higher, for all Income-Producing Space.

“Sub-Developer” means any Sub-Developer named in a Parcel Development Agreement.

“Sub-Project” or *“Sub-Projects”* means Phase 1, Phase 2, Phase 3 or Phase 4, collectively or individually, as the context implies.

“TDD” means the City Foundry Transportation Development District created pursuant to a Judgment and Order dated _____.

“TDD Act” means the Missouri Transportation Development District Act, Sections 238.200 to 238.280 of the Revised Statutes of Missouri.

“TDD Project” means any transportation project approved by the TDD for an area benefitting RPA 2 in accordance with the TDD Act and constituting a portion of the Work.

“TDD Sales Tax” means the 1.0% transportation development district sales tax levied by the TDD in accordance with the TDD Act and this Agreement.

“TIF Act” means the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865 of the Revised Statutes of Missouri.

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

“TIF Obligations” means bonds, notes or other obligations, singly or in series, issued by the Authority in accordance with the Financing Agreement and this Agreement.

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

“TIF Revenues” means: (1) PILOTs, (2) subject to annual appropriation by the City, fifty percent (50%) of EATs (including revenues from CID Sales Tax and the TDD Sales Tax that are subject to the tax increment financing by operation of the TIF Act).

“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 Phase 1, Phase 2, Phase 3 or Phase 4, as applicable, including, but not limited to, all Acquisition Costs, Redevelopment Project Costs and Reimbursable Redevelopment Project Costs in connection with Phase 1, Phase 2, Phase 3 or Phase 4, as limited by the provisions of **Section 4.3**.

"Work" means collectively, the Phase 1 Work and the Phase 2 Work.

ARTICLE II. ACCEPTANCE OF PROPOSAL

2.1 Developer Designation. The City has selected 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 or cause to be advanced all Redevelopment Project Costs as necessary to acquire the Property and to complete the Work, all subject to the Developer's right to abandon the RPA 2 Redevelopment Project or any Sub-Project and to terminate this Agreement in whole or in part as set forth in **Section 7.1**. Additionally, and not by way of limitation:

(i) The City acknowledges payment by the Developer of a Five Thousand Dollars and no/100 (\$5,000.00) TIF Application Fee.

(ii) The City acknowledges receipt of the sum One Hundred Three Thousand Five Hundred Fifty-Four Dollars and no/100 (\$103,554.00) pursuant to Sections 2.2(ii) and (iii) of the Original RPA 2 Redevelopment Agreement. Additionally, prior to or simultaneously with the request that the City execute this Agreement, the Developer shall pay the sum of Four Thousand Four Hundred Forty-Six Dollars and no/100 (\$4,446.00) (which sum represents 0.6% of the maximum amount of TIF Obligations allowed, not including Issuance Costs, pursuant to **Section 4.1**, less the above-stated amount previously paid with respect to the Original RPA 2 Redevelopment Agreement), which monies will be paid one half to the Finance Officer and one half to the SLDC to reimburse the Finance Officer and the SLDC for their administrative costs in reviewing the Redevelopment Plan and the Redevelopment Proposal and amendments thereto.

(iii) The City acknowledges receipt of the sum of Two Hundred Forty-One Thousand Six Hundred Twenty-Six Dollars and no/100 (\$241,626.00) pursuant to Section 2.2(iii) of the Original RPA 2 Redevelopment Agreement. Additionally, prior to the execution of this Agreement by all parties, the Developer shall pay the sum of Ten Thousand Three Hundred Seventy-Four Dollars and no/100 (\$10,374.00) (which sum represents 1.4% of the maximum amount of TIF Obligations allowed, not including Issuance Costs, pursuant to **Section 4.1**, less the above-stated amount previously paid with respect to the Original RPA 2 Redevelopment Agreement), which monies will be paid to SLDC and used to reimburse costs related to contract compliance pursuant to Ordinance Nos 69427, 70767 and 71094.

(iv) The Developer shall pay to the Finance Officer and SLDC an additional amount to reimburse the Finance Officer, the Mayor's office and SLDC for their actual legal expenses and any municipal advisor 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 this Agreement (and all related and predecessor agreements), which amount shall be paid as follows: (i) all such costs incurred through the date that this Agreement is circulated to the

applicable City officials executing the same shall be paid prior to the circulating signature pages to the applicable City officials, and (ii) all such costs incurred after the date of the full execution of this Agreement by all parties 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 TIF Obligations for each Sub-Project.

(v) The Developer shall, concurrently with the issuance of any TIF Obligations, pay to the City a flat fee to be reasonably determined by the Finance Officer in her sole discretion at the time of issuance to pay for the City's Issuance Costs of such TIF Obligations.

Any amounts paid to or on behalf of the City or SLDC pursuant to this Section shall represent Reimbursable Redevelopment Project Costs and Issuance Costs to be reimbursed exclusively from the proceeds of TIF Obligations as provided in and subject to **Articles IV and V**.

ARTICLE III. CONSTRUCTION OF THE RPA 2 REDEVELOPMENT PROJECT

3.1 Acquisition of Property. The Developer represents that, as of the date of this Agreement, the Developer or a Related Entity is the owner or owner under contract of the Property. Any additional properties acquired by the Developer for completion of the Work shall be held in the name of the Developer, an affiliate 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 Property.

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**, 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 each Sub-Project as follows:

(a) The City and the Developer acknowledge that construction has begun on Phase 1. Construction of Phase 2 shall commence no later than July 1, 2022.

(b) Each Sub-Project 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 Phase 1 Work to be substantially complete (as evidenced by the City's acceptance or deemed acceptance of the applicable Certificate of Substantial Completion) not later than December 31, 2022 and the Phase 2 Work, Phase 3 Work and Phase 4 Work to be substantially complete (as evidenced by the City's acceptance or deemed acceptance of the applicable Certificate of Substantial Completion) by December 31, 2025, 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**, the Developer shall be granted additional time to complete the Work, but under no circumstance shall such time to complete the Phase 1 Work extend beyond December 31, 2023 or the Phase 2 Work, Phase 3 Work and Phase 4 Work extend beyond December 31, 2026.

(c) 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 direct 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 direct 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 or to cause its contractors 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 RPA 2 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 Developer making 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, "material changes" shall mean any change that would reduce the final total square footage of the building(s) to be completed by more than ten percent (10%) of the estimates set forth in that certain Cost-Benefit Analysis submitted in connection with the Redevelopment Plan.

3.7 Certificate of Commencement of Construction. The City and the Developer acknowledge that construction of Phase 1 has already commenced. For Phase 2, Phase 3 and Phase 4, the Developer shall furnish to the SLDC, with a copy to the Finance Officer, a Certificate of Commencement of Construction, which certificate shall be submitted in accordance with the schedule set forth in **Section 3.4** 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 each Sub-Project, the Developer shall furnish to the City and the SLDC a Certificate of Substantial Completion for the applicable Sub-Project. The Mayor or her designee and the SLDC shall, within forty-five (45) days following delivery of the Certificate of Substantial Completion for the particular Sub-Project, carry out such inspections as they deem 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 forty-five (45) days following delivery of the Certificate of Substantial Completion, the Mayor or her designee or SLDC furnishes the Developer with specific written objections to the status of the Work on the particular Sub-Project, describing such objections and the measures required to correct such objections in reasonable detail. In the case where the Mayor or her designee and SLDC, within forty-five (45) days following

delivery of the Certificate of Substantial Completion provides the Developer with specific written objections to the status of the Work on the particular Sub-Project, 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 her designee or the SLDC in accordance with this Section and the forty-five (45) day period shall begin anew. Upon acceptance of the Certificate of Substantial Completion for the Sub-Project in question by the Mayor or her designee and the SLDC for the Redevelopment Project, or upon the lapse of forty-five (45) days after delivery thereof to the Mayor or her designee and the SLDC without any written objections thereto, the Developer may record the Certificate of Substantial Completion for the Sub-Project in question 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 for the Sub-Project in question and complete the particular Sub-Project. The Certificate of Substantial Completion shall be in substantially the form attached as **Exhibit E**, attached hereto and incorporated by referenced herein.

3.9 Special Taxing Districts.

(a) The Developer shall cause the CID containing Phase 1 to remain in good standing and to impose the CID Sales Tax for so long as any TIF Obligations are Outstanding. The boundaries of the CID can include additional property within or outside of RPA 2. For so long as the CID is in existence, the Developer shall designate or cause to be designated one person designated by the Finance Officer and one person designated by the Executive Director of SLDC as representatives of a property owner or business operating within the CID for the purpose of allowing such persons to be appointed to the CID's Board of Directors.

(b) The Developer shall cause the TDD containing Phase 1 to remain in good standing and to impose the TDD Sales Tax for so long as any TIF Obligations are Outstanding. The boundaries of the TDD can include additional property within or outside of RPA 2. For so long as the TDD is in existence, the Developer shall designate or cause to be designated one person designated by the Finance Officer and one person designated by the Executive Director of SLDC as representatives of a property owner or business operating within the TDD for the purpose of allowing such persons to be appointed to the CID's Board of Directors.

(c) The Developer shall cause each of the CID and TDD to remit the portion of CID Sales Tax revenues and TDD Sales Tax revenues that are TIF Revenues directly to the trustee for the TIF Obligations (unless other written directions are provided by the City). Additionally, the TDD shall and the CID may enter into Special Taxing District Pledge Agreement pursuant to which other revenues of the TDD and CID are, subject to annual appropriation, pledged to the repayment of the TIF Obligations to the extent permitted by law.

(d) The Developer shall use its Best Efforts to ensure that every retailer within the CID and the TDD properly collects and remits the CID Sales Tax and the TDD Sales Tax on taxable purchases.

ARTICLE IV. REIMBURSEMENT OF DEVELOPER COSTS

4.1 City's Obligation to Reimburse Developer. The City agrees to reimburse the Developer or a Sub-Developer, if applicable, but solely from the proceeds of TIF Obligations issued by the Authority as provided herein and in the Financing Agreement, for verified Reimbursable Redevelopment Project Costs in an amount not to exceed the "Maximum Reimbursement Amount" for the applicable Sub-Project,

as set forth below, or such lesser amount as provided herein. The Maximum Reimbursement Amount for each Sub-Project is as follows:

<u>Sub-Project</u>	<u>Maximum Reimbursement Amount</u>
Phase 1	\$4,894,665
Phase 2	
Phase 3	
Phase 4	
TOTAL	\$18,000,000 plus Issuance Costs

Notwithstanding the foregoing, the City’s Board of Estimate and Apportionment may, in its sole discretion, approve a reallocation among the Sub-Projects upon written petition of the Developer setting forth the economic reasoning for the reallocation. Any approved reallocation shall be documented in a letter agreement signed by the Mayor and the Finance Officer, who are hereby authorized and directed to sign such letter agreement if a reallocation is approved by the Board of Estimate and Apportionment.

4.2 Reimbursements Limited to Reimbursable Redevelopment Project Costs; Developer’s Right to Substitute. Nothing in this Agreement or Financing Agreement shall obligate the Authority to issue TIF Obligations or to reimburse the Developer or any Sub-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. The Developer or applicable Sub-Developer shall provide to the City and SLDC: (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 and SLDC’s receipt from the Developer of a Certificate of Reimbursable Redevelopment Project Costs for a particular Sub-Project, the City and SLDC 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 and any Sub-Developers 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** for each Sub-Project; provided, that the Developer or Sub-Developer shall be obligated to advance to the City the full amounts identified in **Section 2.2**. If the City determines that any cost identified as a Reimbursable Redevelopment Project Cost is not a Redevelopment Project Cost, the City or SLDC shall so notify the Developer or applicable Sub-Developer in writing within the thirty (30) day period referenced in this Section identifying the ineligible cost and the basis for determining the cost to be ineligible, whereupon the Developer or applicable Sub-Developer shall have the right to identify and substitute other RPA 2 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 for any Sub-Project 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 the Developer or applicable Sub-Developer for Phase 1, Phase 2, Phase 3 or Phase 4, as applicable, in accordance with **Section 3.8**, the Developer or applicable Sub-Developer also shall furnish to the City and the SLDC for review and approval, (a) a statement of Verified Total Project Costs for Phase 1, Phase 2, Phase 3 or Phase 4, as applicable, 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 Phase 1, Phase 2, Phase 3 or Phase 4, as applicable. The Developer or applicable Sub-Developer shall not include developer fees, project management fees or consultant fees for any service typically performed by the Developer or Sub-Developer in the Verified Total Project Costs. With respect to any other costs for any services provided by the Developer, Sub-Developer or any entity related to Developer or the Sub-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, in consultation with the Finance Officer, as acceptable. Moreover, if any of the owners, officers, principals or members of the construction contractor for the RPA 2 Redevelopment Project are the same as any owner, officer, principal or member of Developer, Sub-Developer or general partner in the owner of the development, amounts allowed for aggregate contractor fees shall not exceed fourteen percent (14%) of construction costs as provided for in the Missouri Housing Development Commission's 2016 Qualified Allocation Plan for the Low Income Housing Tax Credit Program, and Developer or applicable Sub-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 and SLDC shall complete their review of the statements and other documentation provided by the Developer pursuant to this Section and either the City or SLDC shall notify the Developer or applicable Sub-Developer if such documentation is acceptable and complete within thirty (30) days of receipt by the City and SLDC. Should the City or SLDC notify the Developer or applicable Sub-Developer that the documentation submitted by the Developer or applicable Sub-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 the Developer or applicable Sub-Developer may remedy such deficiencies, and the Developer or applicable Sub-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 or SLDC, the Developer or applicable Sub-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 or the Sub-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 and SLDC shall review any supplemental materials provided by the Developer or applicable Sub-Developer within thirty (30) days of receipt and shall notify Developer or applicable Sub-Developer if such documentation is acceptable and complete within thirty (30) days of receipt by the City and SLDC. The Developer or applicable Sub-Developer shall respond to any notification by the City or SLDC pursuant to this section within thirty (30) days of receipt of such notification. Once the City or SLDC has issued any such notification, the City and SLDC shall not be required to make the calculations specified in the following paragraph until the City and SLDC have received all documentation deemed necessary by the City and SLDC in order to make such calculations, provided, however, that if Developer or applicable Sub-Developer fails to respond to any notification within such thirty (30) day period, the City and SLDC 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 SLDC and the Developer or applicable Sub-Developer shall accept the results of such finalized calculations for purposes of the discharge of TIF Obligations as specified in the following paragraph. Either the City or the Developer (or an applicable Sub-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 or applicable Sub-Developer shall be reimbursed by the City as provided for in **Section 4.1** and the maximum amount of any TIF Obligations which shall be issued by the City in accordance with **Section 5.2** 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 Authority may discharge any TIF Obligations 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 TIF Obligation Proceeds. Notwithstanding any other term or provision of this Agreement, the TIF Obligations issued by the Authority for Reimbursable Redevelopment Project Costs, as described in the Financing Agreement, are payable only from the Special Allocation Fund, from TIF Obligation Proceeds and from no other source.

ARTICLE V. TIF OBLIGATIONS

5.1 Conditions Precedent to the Issuance of TIF Obligations. Notwithstanding anything to the contrary contained herein or in the Financing Agreement, no TIF Obligations for any Sub-Project shall be issued until such time as the City has:

- (a) payment of the Equitable Development Contribution described in the Performance Agreement approved by Ordinance No. _____ (Board Bill No. ____);
- (b) accepted or been deemed to have accepted a Certificate of Substantial Completion for the particular Sub-Project in accordance with the procedures set forth in **Section 3.8**;
- (c) approved a Certificate of Reimbursable Redevelopment Project Costs for the particular Sub-Project 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**;
- (d) execution of the Financing Agreement by all parties thereto and a Special Taxing District Pledge Agreement by the TDD and the Authority;
- (e) obtained an opinion of Bond Counsel regarding the taxable nature of the TIF Obligations;
- (f) received the full payment of all advances required to be paid under **Section 2.2**;
- (g) received such other documentation as the City shall reasonably require of Developer or any applicable Sub-Developer in order for the Authority to obtain an opinion of Bond Counsel;
- (h) with respect to the applicable Sub-Project, the completion of the calculation contemplated in **Section 4.3** of this Agreement;
- (i) determination of the final size of the TIF Obligations; and

(j) confirmation from the Finance Officer that the Developer, applicable Sub-Developer, if any, and their Related Entities have no delinquent real estate taxes owed to the City.

5.2 Issuance of TIF Obligations. The parties agree that the TIF Obligations will be issued by the Authority as contemplated by the Financing Agreement. The terms of TIF Obligations shall be set forth in the trust indenture associated with such TIF Obligations, provided, however:

(a) Each TIF Obligation shall bear interest at a fixed rate per annum of not to exceed the Standard TIF Note Rate. For purposes of this Section, the “Standard TIF Note Rate” shall be determined on the date that is not less than ten (10) business days and not more than sixty (60) business days prior to the scheduled closing date for issuance of the TIF Obligations (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 Pricing Date for general obligation bonds rated “AAA” that mature in the same year as the TIF Obligations, (i) plus four percent (4%) if the interest on such TIF Obligation, in the opinion of Bond Counsel, is not exempt from Federal income taxation, or (ii) plus two percent (2%) if the interest on such TIF Obligation, in the opinion of Bond Counsel, is exempt from Federal income taxation; and

(b) In no event shall the interest rate on any TIF Obligation exceed ten percent (10%) per annum.

Notwithstanding the foregoing, the provisions of (a) above shall not apply to any TIF Obligations that are issued or reissued to refinance or refund prior TIF Obligations so long as an interest cost savings is achieved through the refinancing or refunding.

5.3 Cooperation in the Issuance of TIF Obligations. Developer covenants to cooperate and use Best Efforts to assist the City and its Bond Counsel, its Disclosure Counsel, the Authority, underwriters and municipal 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, but not limited to, disclosure of tenants within RPA 2 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 the Developer, but upon the execution of a confidentiality agreement acceptable to the Developer, the Developer will provide such information to the City’s municipal advisors, underwriters and their counsel to enable such parties to satisfy their due diligence obligations. The 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 or a memorandum thereof in the Office of the Recorder of Deeds of the City of St. Louis.

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

6.1 Creation of Special Allocation Fund.

The City agrees to cause its Finance Officer to maintain the Special Allocation Fund, including a “PILOTs Account,” and an “EATs Account,” and such further accounts or sub-accounts as are required by

this Agreement or as the Finance Officer 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.

(a) Upon the reasonable written request of the City, the Developer shall use its Best Efforts to provide or cause to be provided to the Finance Officer 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 RPA 2; and (ii) information related to payment of utility taxes by any businesses, owners or other occupants of RPA 2 in the calendar year ending December 31, 2017.

(b) Within ninety (90) days after execution of this 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 RPA 2 based upon the most recently ascertained equalized assessed valuation of each taxable lot, block, tract, or parcel of real property within RPA 2 at the effective date of the Approving Ordinance; 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 RPA 2 for the calendar year ending December 31, 2017, 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, and any other taxes excluded from tax increment financing by Missouri law.

6.3 Application of Available Revenues.

(a) 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 Obligations as provided in the Financing Agreement and any trust indenture associated with the TIF Obligations.

(b) Upon the payment in full of the principal of and interest on all TIF Obligations (or provision has been made for the payment thereof as specified in the applicable trust indenture), payment in full of the fees and expenses of the Finance Officer and the SLDC, and payment in full of any other amounts required to be paid under this Agreement, the Financing Agreement or applicable trust indenture, all amounts remaining on deposit in the Special Allocation Fund shall be declared as surplus and distributed in the manner provided in the TIF Act.

(c) 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 as provided in the Financing Agreement.

6.4 Cooperation in Determining TIF Revenues. The City and the Developer agree to cooperate and take all reasonable actions necessary to cause the TIF Revenues to be paid into the Special Allocation Fund, including, but not limited to, (a) the City's enforcement and collection of all such payments through all reasonable and ordinary legal means of enforcement and (b) the Developer's Best Efforts to cause businesses within RPA 2 to report TIF revenues using forms and processes requested by

the Finance Officer from time to time. Notwithstanding the foregoing, the Developer acknowledges that there is currently no mechanism that allows the City to accurately calculate the amount of utility tax revenues to be included in the TIF Revenues and deposited in the Special Allocation Fund. Accordingly, the Developer hereby waives any claim to utility tax revenues and hereby agrees to bring no suit, claim or other action against the City seeking the deposit of utility tax revenues into the Special Allocation Fund; provided, however, nothing in this Agreement shall prohibit the City from, in its sole discretion, depositing utility tax revenues into the Special Allocation Fund if a mechanism to accurately calculate the appropriate amount of such a deposit is developed.

6.5 Obligation to Report TIF Revenues. Any purchaser or transferee of real property located within the Property, and any lessee or other user of real property located within the Property required to pay TIF Revenues, shall use Best Efforts to timely fulfill such obligations as are required by **Section 6.4**. 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 Property, any portion thereof, or any interest therein as permitted by **Section 7.3.2** of this Agreement at least fifteen (15) days following such sale, transfer or other disposition. Said notice shall specify the name and address of the person so acquiring any or all of the Property, any portion thereof, or any interest therein and shall identify the Property to be sold, transferred or otherwise disposed, whether by voluntary transfer or otherwise. Notwithstanding the foregoing, (a) 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 and (b) if the transfer is subject to a Parcel Development Agreement, provision of the applicable Parcel Development Agreement to the City shall constitute valid notice under this Section.

ARTICLE VII. GENERAL PROVISIONS

7.1 Developer's Right of Termination. At any time prior to the issuance of any TIF Obligations for an applicable Sub-Project, the Developer may, by giving written notice to the City, abandon the applicable Sub-Project and terminate this Agreement in full or in part with respect to the applicable Sub-Project. Upon such termination, the Developer's obligations hereunder as to the applicable Sub-Project shall cease, except for such obligations that expressly survive termination of this Agreement. 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 for the applicable Sub-Project or Sub-Projects so terminated. For the avoidance of doubt, in the event Developer terminates this Agreement with respect to any Sub-Project in accordance with this Section, (i) this Agreement shall remain in full force and effect with respect to all other Sub-Projects, and (ii) such termination shall not affect any TIF Obligations with respect other Sub-Projects.

7.2 City's Right of Termination. The City may terminate this Agreement with respect to a particular Sub-Project if (a) the Developer or applicable Sub-Developer fails to submit to the MBE/WBE Compliance Officer a copy of Developer's or Sub-Developer's MBE/WBE Subcontractor's List and its MBE/WBE Utilization Statement at least thirty (30) days prior to commencement of construction of any Sub-Project; provided, however, that termination under this Section may be waived in the sole discretion of the MBE/WBE Compliance Officer; or (b) the Developer or applicable Sub-Developer fails to submit its Certificate of Substantial Completion, acceptable to the City, in accordance with **Section 3.8** and the schedule set forth in **Section 3.4**. Upon such termination, the City shall have no obligation to issue a TIF Note or to reimburse the Developer or Sub-Developer for any amounts advanced under this Agreement or

costs otherwise incurred or paid by Developer or the Sub-Developer with respect to the applicable Sub-Project or Sub-Projects. For the avoidance of doubt, in the event the City terminates this Agreement with respect to any Sub-Project in accordance with this Section, (i) this Agreement shall remain in full force and effect with respect to all other Sub-Projects, and (ii) such termination shall not affect any TIF Obligations with respect to other Sub-Projects.

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 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 RPA 2 Redevelopment Project, whereupon the party disposing of its interest in the Property or assigning its interest under this Agreement shall be thereafter released from further obligation under this Agreement (although any such 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 RPA 2 Redevelopment Project, the fee title to the 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 Property or any portion thereof or its rights, duties and obligations under this Agreement to obtain the benefits of a tax credit investment or to secure loans, advances or extensions of credit to finance or from time to time refinance all or any part of the RPA 2 Redevelopment Project Costs, 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; (b) the right of Developer to transfer the Property or to assign all or any portion of Developer's rights, duties and obligations under this Agreement to any Related Entity; and (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 shall remain liable hereunder for the substantial completion of the RPA 2 Redevelopment Project (except with respect to any Sub-Project assigned to a Sub-Developer), subject, however, to Developer's right of termination pursuant to **Section 7.1**, and shall be released from such liability hereunder only upon substantial completion of the RPA 2 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 or the transfer of any rights hereunder or in the Property to a Related Entity, which shall require no notice (but may be subject to a Parcel Development Agreement, as described below).

7.3.3. Assignment or Sale to Exempt Organization. Prior to any sale, transfer or other disposition of all or any portion of the 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.

7.3.4. Parcel Development Agreements. Notwithstanding anything to the contrary contained herein, prior the completion of Phase 1, Phase 2, Phase 3 or Phase 4, as applicable, the Developer's interest in this Agreement with respect to such Sub-Projects may be assigned pursuant to a Parcel Development 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 for the duration of any 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; after timely and complete submission of an application by the Developer, 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 RPA 2 Redevelopment Project or the TIF Obligations or this Agreement; provided that (a) 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 (b) 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 telecopy, fax or 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.

If to the Developer:

FOPA Partners, LLC
c/o Lawrence Group
319 N. 4th Street, Suite 1000
St. Louis, Missouri 63102
Attn: Steve Smith

With a copy to:

Spencer Fane LLP
1 N. Brentwood, Suite 1000
St. Louis, Missouri 63105
Attention: Robert Preston

If to the City:

City of St. Louis
Office of the Mayor
City Hall
1200 Market Street, Room 200
St. Louis, Missouri 63103
Attention: Chief of Staff

And

City of St. Louis
Office of the Finance Officer
1520 Market Street, Room 3005
St. Louis, Missouri 63103
Attention: Deputy Comptroller for Finance and Development

With copies to:

City of St. Louis
City Counselor
City Hall
1200 Market Street, Room 314
St. Louis, Missouri 63102
Attention: City Counselor

And

Armstrong Teasdale LLP
7700 Forsyth Blvd., Suite 1800
St. Louis, Missouri 63105
Attention: Thomas J. Ray

If to SLDC:

St. Louis Development Corporation
1520 Market Street, Suite 2000
St. Louis, Missouri 63103
Attention: Executive Director

With copies to:

St. Louis Development Corporation
1520 Market Street, Suite 2000
St. Louis, Missouri 63103
Attention: General Counsel

And

Gilmore & Bell, P.C.
One Metropolitan Square
211 N. Broadway, Suite 2000
St. Louis, Missouri 63102
Attention: Mark A. Spykerman

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 RPA 2, 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 RPA 2 Redevelopment Project. In the event of total destruction or damage to any Sub-Project by fire or other casualty, during construction or thereafter during the term of this Agreement so long as any TIF Obligations are outstanding and the Developer or a Related Entity owns the applicable Sub-Project, the Developer shall determine and advise the City in writing (which writing may consist of an application for a building permit) within one year of such destruction or damage whether to restore, reconstruct and repair any such destruction or damage so that the applicable Sub-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 any TIF Obligations owned by the Developer or a Related Entity in connection with the applicable Sub-Project shall immediately terminate and the Developer shall promptly surrender such TIF Obligations to the Authority for cancellation. In the event of such total destruction or damage during the term of this Agreement and after any TIF Obligations are issued or sold 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 RPA 2 Redevelopment Project and payment of all costs to clear and secure RPA 2 and satisfy any obligations related to the recapture of historic tax credits, from any fire or casualty insurance policy in an amount up to the outstanding principal

amount of the TIF Obligations, 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 internal laws of State of Missouri without reference to its conflict of laws principles 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 Actions Contesting the Validity and Enforceability of the Redevelopment Plan.

(a) If 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 RPA 2, 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**.

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

7.16.1. 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.

7.16.2. 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.

7.16.3. 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 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.

7.16.4. 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.

7.16.5. 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 TIF Obligations which may become due to any party under the terms of this Agreement.

7.16.6. 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 municipal 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 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 RPA 2 Redevelopment Project or any particular portion thereof.

7.17 Survival. Notwithstanding the expiration or termination or breach of this Agreement by either party, the agreements contained in **Section 2.2, Article VI, Sections 7.10, 7.11, 7.12, 7.13, 7.14, 7.15, 7.16, 7.17, 7.19 7.20 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.

7.18 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 Property during the construction of the RPA 2 Redevelopment Project or any portion thereof. Upon substantial completion of the RPA 2 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 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**), maintain or cause to be maintained the buildings and improvements within RPA 2 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 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.

7.19 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 RPA 2 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 RPA 2 Redevelopment Project and any of the facilities under its control in RPA 2. 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 RPA 2.

7.20 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.

7.21 MBE/WBE Compliance.

(a) The Developer shall comply with Ordinance Nos. 69427, 70767 and 71094 during the design and construction of the Sub- Projects and with respect to ongoing services provided by third parties to the Developer in connection with the RPA 2 Redevelopment Project.

(b) Unless other directions are given by SLDC, the Developer shall ensure MBE/WBE

compliance while constructing the Sub-Projects through the following actions:

(i) The Developer shall provide or upload to SLDC all construction sub-contracts entered into by their prime contractors for construction work to be performed. The Developer shall require that prime contractors summarize with each “application for payment” their compliance with their MBE and WBE utilization commitments and shall include all adjusted contract amounts, payment data and copies of final lien waivers. This information shall be entered electronically utilizing the SLDC Minority Business Development and Compliance Office Global Project Tracking System (GPTS) or any other web-based compliance tool used by the Compliance Office at the time of submission.

(ii) The Developer shall require that prime contractors ensure their MBE and WBE sub-contractors verify receipt of payments and provide certified payroll data and/or payroll register related data and other documentation as may be required by the SLDC Minority Business Development and Compliance Office by entering that information electronically utilizing the GPTS system.

(iii) The Developer shall ensure that these requirements are incorporated into their contracts with prime contractors and that the prime contractors and sub-contractors comply with these requirements.

(c) The Developer or their selected general contractor shall provide the SLDC Minority Business Development and Compliance Office at least five business days’ notice of any bid opening specifying the date and time of opening, and allow a representative of that Office to witness the opening of bids. The Developer also shall notify the Office of the selection of the general contractor within forty-eight hours of the execution of an agreement and provide a copy of that agreement to the Office.

(d) In the event the Developer, its general contractor, or both fail to achieve the participation goals specified by SLDC or St. Louis Agency for Training and Employment, liquidated damages may be imposed. The liquidated damages may not exceed the difference between the monetary amount of the participation goals and the amount actually paid to minorities, women, and City Residents. SLDC may allow credit if it determines, in its sole discretion, that the Developer and its general contractors acted in good faith.

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 and the Financing Agreement, and all of the foregoing have been 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. Pursuant to Section 34.600, RSMo., the Developer certifies it is not currently engaged in and shall not, for the duration of this Agreement, engage in a boycott of goods or services from the State of Israel;

companies doing business in or with Israel or authorized by, licensed by, or organized under the laws of the State of Israel; or persons or entities doing business in the State of Israel.

(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”

THE CITY OF ST. LOUIS, MISSOURI

By: _____
Tishaura Jones, Mayor

By: _____
Darlene Green, Comptroller

(SEAL)

Attest:

Amber Simms, City Register

Approved as to Form:

Matthew Moak, City Counselor

“DEVELOPER”

FOPA PARTNERS, LLC, a Missouri limited liability company

By: _____
Name: _____
Title: _____

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

On this _____ day of _____, 2021, before me appeared Tishaura Jones, to me personally known, who, being by me duly sworn, did say that she 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 County 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 _____, 2021, 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 County and State aforesaid, the day and year first above written.

Notary Public

My Commission Expires:

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

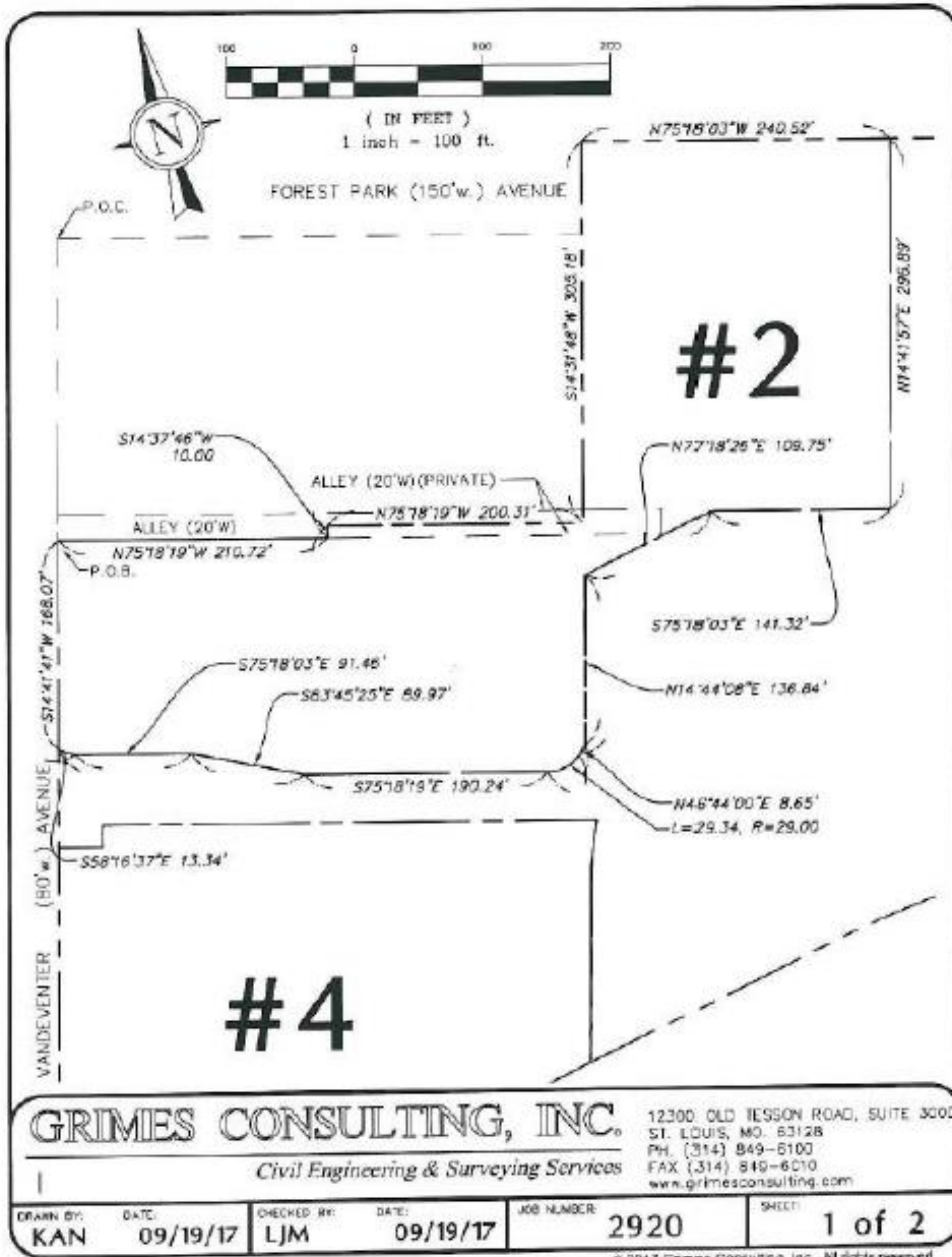
On this ____ day of _____, 2021, before me appeared _____ to me personally known, who, being by me duly sworn, did say that he is the _____ of FOPA Partners, LLC, a Missouri limited liability company, and that he is authorized to sign the instrument on behalf of said limited liability company, and acknowledged 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 County and State aforesaid, the day and year first above written.

Notary Public

My Commission Expires:

EXHIBIT A
Legal Description of RPA 2



TRACT 2

A TRACT OF LAND SITUATED IN THE CITY OF ST. LOUIS AND THE STATE OF MISSOURI, LYING IN PART OF CITY BLOCK 3918E, PART OF THE SOUTH HALF OF FOREST PARK AVENUE, 150 FEET WIDE, AND PART OF A 20 FOOT WIDE EAST-WEST ALLEY IN THE WESTERN PART OF SAID CITY BLOCK 3918E, AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE INTERSECTION OF THE SOUTHERN RIGHT-OF-WAY LINE OF SAID FOREST PARK AVENUE, 150 FEET WIDE, AND THE EASTERN RIGHT-OF WAY LINE OF VANDEVENTER AVENUE, 80 FEET WIDE, SAID INTERSECTION BEING THE NORTHWEST CORNER OF SAID CITY BLOCK 3918E, THENCE ALONG SAID EASTERN RIGHT-OF WAY LINE OF VANDEVENTER AVENUE, SOUTH 14 DEGREES 41 MINUTES 43 SECONDS WEST A DISTANCE OF 240.19 FEET TO THE INTERSECTION OF SAID EASTERN RIGHT-OF WAY LINE OF VANDEVENTER AVENUE AND THE SOUTHERN LINE OF SAID 20 FOOT WIDE EAST-WEST ALLEY IN THE WESTERN PART OF SAID CITY BLOCK 3918E AS SHOWN ON THE PLAT OF FOREST PARK BOULEVARD ADDITION BY KEHR AND PITZMAN, A SUBDIVISION FILED FOR RECORD IN PLAT BOOK 14 PAGE 27 OF THE LAND RECORDS OF SAID CITY OF ST. LOUIS, SAID INTERSECTION BEING THE TRUE POINT OF BEGINNING OF THE TRACT HEREIN DESCRIBED; THENCE LEAVING SAID EASTERN RIGHT-OF WAY LINE OF VANDEVENTER AVENUE ALONG SAID SOUTHERN LINE OF SAID 20 FOOT WIDE EAST-WEST ALLEY, SOUTH 75 DEGREES 18 MINUTES 19 SECONDS EAST A DISTANCE OF 210.72 FEET; THENCE LEAVING SAID SOUTHERN LINE OF SAID 20 FOOT WIDE EAST-WEST ALLEY, NORTH 14 DEGREES 37 MINUTES 48 SECONDS EAST A DISTANCE OF 10.00 FEET TO THE CENTERLINE OF SAID 20 FOOT WIDE EAST-WEST ALLEY; THENCE ALONG SAID CENTERLINE OF THE 20 FOOT WIDE EAST-WEST ALLEY, SOUTH 75 DEGREES 18 MINUTES 03 SECONDS EAST A DISTANCE OF 200.31 FEET TO THE SOUTHERLY PROLONGATION OF THE EASTERN LINE LOT 10 OF THE FOREST PARK BOULEVARD ADDITION BY KEHR AND PITZMAN; THENCE LEAVING SAID CENTERLINE OF THE 20 FOOT WIDE EAST-WEST ALLEY ALONG SAID SOUTHERLY PROLONGATION AND ALONG SAID EASTERN LINE OF LOT 10, NORTH 14 DEGREES 31 MINUTES 48 SECONDS EAST A DISTANCE OF 305.18 FEET TO THE CENTERLINE OF SAID FOREST PARK AVENUE, 150 FEET WIDE; THENCE ALONG SAID CENTERLINE OF FOREST PARK AVENUE, SOUTH 75 DEGREES 18 MINUTES 03 SECONDS EAST A DISTANCE OF A DISTANCE OF 240.52 FEET; THENCE LEAVING SAID CENTERLINE, SOUTH 14 DEGREES 41 MINUTES 57 SECONDS WEST A DISTANCE OF 290.89 FEET; THENCE NORTH 75 DEGREES 18 MINUTES 03 SECONDS WEST A DISTANCE OF 141.32 FEET; THENCE SOUTH 77 DEGREES 18 MINUTES 26 SECONDS WEST A DISTANCE OF 109.75 FEET TO THE WESTERN LINE OF A TRACT OF LAND CONVEYED TO THE POFA PARTNERS LLC AS DESCRIBED IN BOOK 12282005 PAGE 0123 OF SAID LAND RECORD OF THE CITY OF ST. LOUIS, MISSOURI; THENCE ALONG SAID WESTERN LINE, SOUTH 14 DEGREES 44 MINUTES 08 SECONDS WEST A DISTANCE OF 136.84 FEET; THENCE LEAVING SAID WESTERN LINE OF THE POFA PARTNERS TRACT, SOUTH 48 DEGREES 44 MINUTES 00 SECONDS WEST A DISTANCE OF 8.65 FEET TO A POINT OF CURVATURE; THENCE 29.34 FEET ALONG THE ARC OF A CURVE TO THE RIGHT, HAVING A RADIUS OF 29.00 FEET, THROUGH A CENTRAL ANGLE OF 57 DEGREES 57 MINUTES 41 SECONDS, WITH A CHORD THAT BEARS SOUTH 75 DEGREES 42 MINUTES 51 SECONDS WEST A DISTANCE OF 28.10 FEET TO A POINT OF TANGENCY; THENCE NORTH 75 DEGREES 18 MINUTES 19 SECONDS WEST A DISTANCE OF 190.24 FEET; THENCE NORTH 63 DEGREES 45 MINUTES 20 SECONDS WEST A DISTANCE OF 89.97 FEET; THENCE NORTH 75 DEGREES 18 MINUTES 03 SECONDS WEST A DISTANCE OF 91.46 FEET; THENCE NORTH 58 DEGREES 16 MINUTES 37 SECONDS WEST A DISTANCE OF 13.34 FEET TO SAID EASTERN RIGHT-OF WAY LINE OF VANDEVENTER AVENUE; THENCE ALONG SAID EASTERN RIGHT-OF WAY LINE OF VANDEVENTER AVENUE, NORTH 14 DEGREES 41 MINUTES 41 SECONDS EAST A DISTANCE OF 168.07 FEET TO THE POINT OF BEGINNING, CONTAINING 3.469 ACRES, MORE OR LESS.

GRIMES CONSULTING, INC.

Civil Engineering & Surveying Services

12300 OLD TESSON ROAD, SUITE 3000
ST. LOUIS, MO. 63128
PH. (314) 849-6100
FAX (314) 849-6010
www.grimesconsulting.com

DRAWN BY KAN	DATE: 09/19/17	CHECKED BY: LJM	DATE: 09/19/17	JOB NUMBER: 2920	SHEET: 2 of 2
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EXHIBIT B
TIF Reimbursable Redevelopment Project Costs

CITY FOUNDRY SAINT LOUIS TIF SECOND AMENDED REDEVELOPMENT PROJECT AREA 2 ESTIMATED TIF ELIGIBLE FUNDED PROJECT COSTS (Thousands) ^{1, 2}								
RPA	Studies & Professional Services	Property Acquisition, & Relocation	Demolition & Site Prep	Public Infrastructure	New Building	Financing	Contingency	TOTAL
2	\$5,743	\$2,963	\$200	\$16,579	\$0	\$3,893	\$273	\$29,651

1. This estimate of TIF, CID and TDD-funded Redevelopment Project Area Costs is based upon certain assumptions that may not materialize and, as an estimate or projection, is subject to uncertainty and risks that could cause actual results to differ, possibly materially, from those contemplated in this estimation. Accordingly, the actual Redevelopment Project Area Costs may vary from the contemplated costs.

2. Because of the uncertainty of the above estimated TIF, CID, and TDD-funded Project Area Costs, and because the amount of costs for certain categories may vary as a result of unforeseen events and circumstances, the above costs may be shifted among the categories of costs. A maximum of \$18.0 million will be available to fund the eligible project costs.

Distribution of costs among the various cost categories for the Redevelopment Project is approximate. As the Redevelopment Project is implemented, specific categorical items and actual associated costs may vary from those provided above. The above estimated costs are exclusive of costs of issuance of TIF Obligations (as hereinafter defined), required reserve accounts, interest on TIF Obligations and capitalized interest, if any.

EXHIBIT C

Form of Certificate of Commencement of Construction – Phase 2, 3 or 4

DELIVERED BY

The undersigned, **FOPA Partners, LLC** (the “Developer”), pursuant to that certain Amended and Restated Redevelopment Agreement dated as of _____, 2021, between the City of St. Louis, Missouri (the “City”) and Developer (the “Agreement”) hereby certifies to the City as follows:

1. All Property necessary for Phase [*Phase 1/Phase 2/Phase 3/Phase 4*] (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 complete Phase [*Phase 1/Phase 2/Phase 3/Phase 4*].
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 Phase [*Phase 1/Phase 2/Phase 3/Phase 4*].
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 Phase [*Phase 1/Phase 2/Phase 3/Phase 4*].

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__.

FOPA PARTNERS, LLC, a Missouri limited liability company

By: _____
Name: _____
Title: _____

EXHIBIT D
Form of Certificate of
Reimbursable Redevelopment Project Costs

TO:
City of St. Louis
Office of Finance Officer
1200 Market Street, Room 311
St. Louis, Missouri 63103
Attention: Beverly Fitzsimmons

**Re: City of St. Louis, Missouri, [*Phase 1/Phase 2/Phase 3/Phase 4*], City Foundry
Saint Louis RPA 2**

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Amended and Restated Redevelopment Agreement dated as of _____, 2021 (the “*Agreement*”), between the City and FOPA Partners, LLC, a Missouri limited liability company (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 [*Phase 1/Phase 2/Phase 3/Phase 4*].

2. These Reimbursable Redevelopment Project Costs have been paid by the Developer and are reimbursable under 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 the CID, 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 or Developer has submitted its Certificate of Substantial Completion with respect to the [*Phase 1/Phase 2/Phase 3/Phase 4*].

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 Obligations:

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 _____, _____.

FOPA PARTNERS, LLC, a Missouri limited liability company

By: _____
Name: _____
Title: _____

Approved for payment this ____ day of _____, 20__.

SLDC

By: _____
Name: _____
Title: _____

THE CITY OF ST. LOUIS, MISSOURI

By: _____
Name: _____
Title: _____

Schedule 1

The Developer has incurred the following Reimbursable Redevelopment Project Costs in connection with [*Phase 1/Phase 2/Phase 3/Phase 4*]:

Payee:	Amount:	Description of Reimbursable Redevelopment Project Costs:
--------	---------	--

EXHIBIT E
Form of Certificate of Substantial Completion

CITY FOUNDRY SAINT LOUIS – RPA 2
[*PHASE 1/PHASE 2/PHASE 3/PHASE 4*]
CERTIFICATE OF SUBSTANTIAL COMPLETION

The undersigned, FOPA Partners, LLC, a Missouri limited liability company (the “*Developer*”), pursuant to that certain Amended and Restated Redevelopment Agreement dated as of _____, 2021, 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 [*Phase 1/Phase 2/Phase 3/Phase 4*] (as that term is defined in the Agreement) has been substantially completed in accordance with the Agreement.

2. The [*Phase 1/Phase 2/Phase 3/Phase 4*] Work has been substantially completed or funded pursuant to Exhibit B to the Agreement.

3. The [*Phase 1/Phase 2/Phase 3/Phase 4*] 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 [*Phase 1/Phase 2/Phase 3/Phase 4*] has been substantially completed in accordance with the Agreement.

5. Mechanics lien waivers for applicable portions of the [*Phase 1/Phase 2/Phase 3/Phase 4*] Work in excess of Five Thousand Dollars (\$5,000) have been obtained.

6. This [*Phase 1/Phase 2/Phase 3/Phase 4*] 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 [*Phase 1/Phase 2/Phase 3/Phase 4*].

7. The acceptance (below) or the failure of the SLDC and the Mayor or her designee to object in writing to this [*Phase 1/Phase 2/Phase 3/Phase 4*] Certificate within forty-five (45) 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 her 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__.

FOPA PARTNERS, LLC, a Missouri limited liability company

By: _____
Name: _____
Title: _____

ACCEPTED:

SLDC

By: _____
Name: _____
Title: _____

THE 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 RPA 2, the Developer, its designees, successors, assigns, and its contractors and subcontractors shall comply with all federal, state and local laws, ordinances, or regulations governing equal opportunity and nondiscrimination laws (the “Nondiscrimination Laws”). Moreover, the Developer shall contractually require its contractors and subcontractors to comply with the Nondiscrimination Laws.

The Developer and its contractors will not contract or subcontract with any party known to have been found in violation of any such laws, ordinances, regulations or these guidelines.

The Developer shall comply with Ordinance Nos. 69427, 70767 and 71904, as may be amended and supplemented, pertaining to minority-owned and women-owned business participation, workforce development, and prevailing wage compliance, to the extent the provisions of those ordinances apply to the Sub-Projects.

The Developer agrees for itself and its successors and assigns, that there shall be covenants to ensure that there shall be no discrimination on the part of the Developer, its successors or assigns upon the basis of race, color, creed, familial status, national origin or ancestry, sex, marital status, age, sexual orientation, gender identity or expression, religion or disability in the sale, lease, rental, use or occupancy of any property, or any improvements erected or to be erected in the Area or any part thereof, and those covenants shall run with the land and shall be enforceable by the City of St. Louis and the United States of America, as their interests may appear in the project.

The Developer shall fully comply (and ensure compliance by “anchor tenants”) with the provisions of St. Louis City Ordinance No. 60275, which is codified at Chapter 3.90 of the Revised Ordinances of The City of St. Louis.

EXHIBIT G

Form of Financing Agreement

FINANCING AGREEMENT

Dated as of [_____] 1, 2021

Between

**THE INDUSTRIAL DEVELOPMENT AUTHORITY
OF THE CITY OF ST. LOUIS, MISSOURI**

and

THE CITY OF ST. LOUIS, MISSOURI

Relating to the

**CITY FOUNDRY SAINT LOUIS – RPA 2
ST. LOUIS, MISSOURI**

Certain rights, title and interest of The Industrial Development Authority of the City of St. Louis, Missouri in this Financing Agreement have been pledged and assigned to [*Trustee*], St. Louis, Missouri, as Trustee under a Trust Indenture [*dated as of [_____] 1, 2021*], between the Authority and the Trustee.

FINANCING AGREEMENT

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FINANCING AGREEMENT

THIS FINANCING AGREEMENT (this “Financing Agreement”), dated as of [_____] 1, 2021, among **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 (the “Authority”), **THE CITY OF ST. LOUIS, MISSOURI**, a constitutional charter city and political subdivision duly organized and existing under the laws of the State of Missouri (the “City”). *(All capitalized terms used, but not otherwise defined, herein shall have the meanings ascribed in the Trust Indenture [*dated as of [_____] 1, 202__*] [*to be entered into*] between the Authority and [*Trustee*], as trustee (the “Indenture”), as may be amended or supplemented from time to time).*

WITNESSETH:

1. The Authority is authorized by the Industrial Development Corporations Act, Chapter 349 of the Revised Statutes of Missouri (the “IDA Act”), to issue revenue bonds for the purposes of paying any part of the cost of any “project” (as defined in the IDA Act).
2. The City is authorized and empowered under the Real Property Tax Allocation Redevelopment Act, Sections 99.800 to 99.865 of the Revised Statutes of Missouri (the “TIF Act”), to implement certain RPA 2 Redevelopment Project and to provide for the costs thereof.
3. Pursuant to Ordinance Nos. 70431, 70750, and _____ the City approved a tax increment financing redevelopment plan and various amendments thereto for the City Foundry Saint Louis Redevelopment Area and adopted tax increment financing within the portion of the Redevelopment Area known as “RPA 2.”
4. Pursuant to Ordinance No. _____, the City approved (a) an Amended and Restated Redevelopment Agreement (the “Redevelopment Agreement”) between the City and FOPA Partners, LLC (the “Developer”) and (b) this Financing Agreement.
5. The Redevelopment Agreement was executed by the City and the Developer as of _____, 2021.
6. On _____, 2021, the Authority adopted Resolution 21-IDA-_____, authorizing the execution of this Financing Agreement and the Indenture and the issuance of the TIF Obligations.

NOW, THEREFORE, in consideration of the premises and the mutual representations, covenants and agreements herein contained, the Authority and the City do hereby represent, covenant and agree as follows:

ARTICLE I

DEFINITIONS

Section 1.1. Definitions of Words and Terms. Capitalized terms not defined in this Financing Agreement shall have the meanings set forth in the Indenture.

Section 1.2. Rules of Interpretation. For all purposes of this Financing Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(b) Words importing the singular number shall include the plural and vice versa and words importing person shall include firms, associations and corporations, including public bodies, as well as natural persons.

(c) The table of contents hereto and the headings and captions herein are not a part of this document.

(d) Terms used in an accounting context and not otherwise defined shall have the meaning ascribed to them by generally accepted principles of accounting.

(e) Whenever an item or items are listed after the word “including,” such listing is not intended to be a listing that excludes items not listed.

ARTICLE II

REPRESENTATIONS

Section 2.1. Representations by the Authority. The Authority represents and warrants to the other parties and the Trustee as follows:

(a) *Organization and Authority.* The Authority (1) is a public body corporate and politic organized and existing under the laws of the State of Missouri, (2) has lawful power and authority to enter into, execute and deliver this Financing Agreement, the Indenture and any other documents required to be executed and delivered by it in connection with the issuance of the TIF Obligations (collectively, the “Authority Documents”), and to carry out its obligations hereunder and thereunder, and (3) by all necessary action has been duly authorized to execute and deliver this Financing Agreement and the other Authority Documents, acting by and through its duly authorized officers.

(b) *No Defaults or Violations of Law.* The execution and delivery of this Financing Agreement and the other Authority Documents by the Authority will not result in a breach of any of the terms of, or constitute a default under, any indenture, mortgage, deed of trust, lease or other agreement or instrument to which the Authority is a party or by which it or any of its property is bound or its bylaws or any of the constitutional or statutory laws, rules or regulations applicable to the Authority or its property.

(c) *Public Purpose.* The RPA 2 Redevelopment Project is a “Project” as defined in the IDA Act and will further the public purposes of the IDA Act.

(d) *No Litigation.* To the knowledge of the Authority, there is no litigation or proceeding pending or threatened against the Authority or any other person affecting the right of the Authority to execute or deliver this Financing Agreement or the other Authority Documents or the ability of the Authority to comply with its obligations under this Financing Agreement or the other Authority Documents. Neither the execution and delivery of this Financing Agreement by the Authority nor compliance by the Authority with its obligations under this Financing Agreement requires the approval of any entity that has not been obtained.

Section 2.2. Representations by the City. The City represents and warrants to the other parties and the Trustee as follows:

(a) *Organization and Authority.* The City (1) is a constitutional charter city and political subdivision organized and existing under the laws of the State of Missouri, (2) has lawful power and authority to enter into, execute and deliver this Financing Agreement and all other documents required to be executed and delivered by it in connection with the issuance of the TIF Obligations (collectively, the “City Documents”) and to carry out its obligations hereunder and thereunder, and (3) by all necessary action has been duly authorized to execute and deliver this Financing Agreement and the other City Documents, acting by and through its duly authorized officers.

(b) *No Defaults or Violations of Law.* The execution and delivery of this Financing Agreement and the other City Documents by the City will not conflict with or result in a breach of any of the terms of, or constitute a default under, any indenture, mortgage, deed of trust, lease or other material agreement or instrument to which the City is a party or by which it or any of its property is bound or its charter, or any of the laws, rules or regulations applicable to the City or its property.

(c) *Public Purpose.* The RPA 2 Redevelopment Project is permitted by the TIF Act and are in furtherance of the public purposes described in the Redevelopment Plan.

(d) *No Litigation.* To the knowledge of the City, there is no litigation or proceeding pending or threatened against the City or any other person affecting the right of the City to execute this Financing Agreement or the other City Documents or the ability of the City to comply with its obligations under this Financing Agreement or the other City Documents. Neither the execution and delivery of this Financing Agreement by the City nor compliance by the City with its obligations under this Financing Agreement requires the approval of any regulatory body or any other entity that has not been obtained.

Section 2.3. Survival of Representations. All representations of the parties contained in this Financing Agreement or in any certificate or other instrument delivered by any such party pursuant to this Financing Agreement or any other Authority Documents or City Documents, or in connection with the transactions contemplated hereby or thereby, shall survive the execution and delivery thereof and the issuance, sale and delivery of the TIF Obligations, as representations of facts existing as of the date of execution and delivery of the instruments containing such representations.

ARTICLE III

PROJECT CONSTRUCTION

Section 3.1. Project Construction. The parties acknowledge that, pursuant to the terms of the Redevelopment Agreement and any applicable Parcel Development Agreements, (a) the Developer and any applicable Sub-Developers shall construct or cause to be constructed the RPA 2 Redevelopment Project and (b) the Developer and any applicable Sub-Developers shall be reimbursed for certain costs associated with the RPA 2 Redevelopment Project.

ARTICLE IV

ISSUANCE OF THE TIF OBLIGATIONS; TRANSFER OF REVENUES

Section 4.1. Issuance of TIF Obligations.

(a) To provide funds for the purposes set forth in the Recitals to this Financing Agreement, the Authority agrees that it will, from time to time, issue, sell and deliver TIF Obligations in one or more series to the respective Original Purchasers as provided in the Indenture. The net proceeds of the sale of the TIF Obligations shall be paid to the Trustee for the account of the Authority and for the benefit of the City and the Developer. The net proceeds shall be disbursed in accordance with **Article IV** of the Indenture.

(b) TIF Obligations shall not be issued until the conditions set forth in **Section 5.1** of the Redevelopment Agreement are satisfied.

(c) The Authority shall not enter into the Indenture or any amendment or supplement thereto unless the form of the Indenture or amendment or supplement thereto has been approved by the City's Board of Estimate and Apportionment.

(d) The City's Finance Officer shall select a municipal advisor and such other advisors and consultants as the City's Finance Officer deems necessary to assist the City's Finance Officer with respect to the issuance of any TIF Obligations by the Authority.

(e) If underwriting or placement agent services are needed with respect to the sale of any TIF Obligations, the City's Finance Officer, subject to the reasonable satisfaction of the Authority, shall select an underwriter, a group of underwriters, or a placement agent, as applicable, to provide underwriting or placement services. The Authority agrees that it will be reasonably satisfied with the selection of an underwriter or placement agent so long as (1) the selected lead underwriter or placement agent has recent experience underwriting or placing Missouri tax increment financing obligations and (2) the selected lead underwriter or placement agent (i) has recent experience underwriting or placing obligations issued by the City, the Authority or other City-related entities and agencies or (ii) has been selected by the City's Finance Officer as part of a request for proposals or qualifications process. Notwithstanding the foregoing, nothing in this paragraph shall be deemed to prohibit the Authority, in its discretion, from consenting to any underwriter or placement agent that does not meet the requirements of clauses (1) and (2).

Section 4.2. Transfer of Revenues.

(a) On the 15th calendar day of each month (or the next Business Day thereafter if the 15th is not a Business Day) beginning in the month following the initial issuance of any TIF Obligations under the Indenture and continuing so long as any TIF Obligations are Outstanding (but only with respect to Payments in Lieu of Taxes and Economic Activity Tax Revenues received by the City on or before April 27, 2041), the City shall transfer to the Trustee for application pursuant to **Section 402(b)** of the Indenture:

(1) all Payments in Lieu of Taxes on deposit in the PILOTs Account of the Special Allocation Fund; and

(2) subject to annual appropriation by the City, all Economic Activity Tax Revenues on deposit in the EATS Account of the Special Allocation Fund.

The City shall submit a written report in substantially the form attached as **Exhibit A** hereto to the Trustee concurrently with the above-described transfers. The City hereby pledges such revenues to the timely payment of all amounts due and owing under **Section 402(b)** of the Indenture, subject to annual appropriation of the Economic Activity Tax Revenues. The foregoing provisions shall not be construed to impose any legal obligation on the City to appropriate moneys for the payment of the TIF Obligations.

(b) NOTWITHSTANDING ANY PROVISION HEREIN OR IN THE TIF OBLIGATIONS TO THE CONTRARY, THE OBLIGATION OF THE CITY TO TRANSFER NET REVENUES CONSISTING OF PAYMENTS IN LIEU OF TAXES AND ECONOMIC ACTIVITY TAX REVENUES ONLY APPLIES TO TAXES AND REVENUES RECEIVED BY THE CITY ON OR BEFORE APRIL 27, 2041, WHETHER OR NOT THE PRINCIPAL AMOUNT OF OR INTEREST ON THE TIF OBLIGATIONS HAS BEEN PAID IN FULL.

ARTICLE V

NET REVENUES

Section 5.1. Special Allocation Fund. The City has previously established and shall hold the Special Allocation Fund in accordance with the provisions of the TIF Act, subject to the pledge of certain accounts therein to the Trustee pursuant to this Financing Agreement and the Indenture. The Special Allocation Fund and the accounts therein shall be segregated on the books and records of the City and shall be kept separate and apart on the books and records of the City from all other moneys, revenues, funds and accounts of the City and shall not be commingled with any other moneys, revenues, funds and accounts of the City.

Section 5.2. Use of Special Allocation Fund.

(a) The PILOTS Account and the EATS Account of the Special Allocation Fund shall be maintained and administered by the City solely for the purposes provided herein and in the Indenture until the earlier of (1) the discharge of the Indenture in accordance with **Article IX** thereof or (2) the expiration or termination of tax increment financing within RPA 2.

(b) The City shall, immediately upon receipt thereof, deposit all Payments in Lieu of Taxes received by it in the PILOTS Account of the applicable Special Allocation Fund. The City shall thereafter transfer all such amounts to the Trustee pursuant to **Section 4.2**.

(c) The City shall, immediately upon receipt thereof, deposit all Economic Activity Tax Revenues received by it in the EATS Account of the applicable Special Allocation Fund. Subject to appropriation, the City shall thereafter transfer all amounts on deposit in the EATS Account of the applicable Special Allocation Fund to the Trustee pursuant to **Section 4.2**.

(d) Notwithstanding any provision of the Redevelopment Agreement or this Financing Agreement to the contrary, the Authority and the City hereby acknowledge and agree that the terms of the Indenture relating to the transfer and application of Net Revenues shall control.

(e) The Authority and the City each covenants and agrees that it will not authorize or issue bonds, notes or other obligations payable from Net Revenues, except for the TIF Obligations.

Section 5.3. Collection of Revenues. The City shall comply with the provisions of the Redevelopment Agreement relating to collection of Payments in Lieu of Taxes and Economic Activity Tax Revenues in such manner as the City deems prudent and advisable in its good faith discretion.

Section 5.4. Covenant to Request Appropriations.

(a) The City covenants and agrees that the officer of the City at any time charged with the responsibility of formulating budget proposals is hereby directed to include in the budget proposal submitted to the Board of Aldermen for each fiscal year that the TIF Obligations are Outstanding a request for an appropriation of the Net Revenues on deposit in the EATS Account of the Special Allocation Fund for transfer to the Trustee for deposit in the Revenue Fund at the times and in the manner provided in **Section 402** of the Indenture. Any funds appropriated as the result of such a request shall be transferred by the City to the Trustee at the times and in the manner provided in **Section 4.2** hereof and **Section 402** of the Indenture.

(b) The parties acknowledge that tax increment financing expires within RPA 2 twenty-three (23) years after the effective date of the ordinance adopting tax increment financing within RPA 2 (i.e., April 27, 2041). No Payments in Lieu of Taxes or Economic Activity Tax Revenues received by the City after April 27, 2041 will be paid to the Trustee.

Section 5.5. Enforcement of Redevelopment Agreement.

(a) The City shall enforce the provisions of the Redevelopment Agreement in such manner as the City deems prudent and advisable in its good faith discretion. The City may enforce all appropriate available remedies thereunder, including particularly any actual, agreed or liquidated damages for failure to perform under the Redevelopment Agreement. Any such damages received in connection with the Redevelopment Agreement, after deduction of the costs of enforcement, shall be transferred to the Trustee for deposit to the Revenue Fund.

(b) The City shall notify the Trustee in writing as to any material failure of performance under the Redevelopment Agreement, and at the time of such notification the City shall also advise the Trustee what action the City proposes to take in enforcing available remedies. If, in the sole judgment of the Trustee, such action is less likely to be effective than some other or additional action, the Trustee may so advise the City promptly in writing. If, within 30 days following advice by the Trustee that some additional or other action would be more effective, the applicable party has not taken such other or additional action, and the Trustee has not, after consultation with the applicable party, withdrawn such advice, upon receipt of indemnification satisfactory to it, the Trustee is hereby authorized to take such action, whether the action was suggested by the Trustee or otherwise, as the Trustee may deem most expedient and in the interest of the Owners of the TIF Obligations. In furtherance of the rights granted to the Trustee by this Section, the City hereby assigns to the Trustee all of the rights they may have in the enforcement of the Redevelopment Agreement, further authorizing the Trustee in its own name or in the name of the City to bring such actions, employ such counsel, execute such documents and do such other things as may in the judgment of the Trustee be necessary or appropriate under the circumstance at the expense of the Trust Estate.

(c) The City shall not modify, amend or waive any provision of the Redevelopment Agreement without the prior written consent of the Trustee, whose consent shall not be unreasonably withheld or delayed. The Trustee may withhold its consent to any such proposed modification, amendment or waiver of the Redevelopment Agreement if the proposed modification, amendment or waiver may adversely affect the security for the TIF Obligations or the interests of the Owners thereof or may adversely affect the exclusion of interest on the Tax-Exempt Bonds from gross income of the

Owners thereof for federal income tax purposes or as may impose additional duties on the Trustee that were not contemplated upon the original execution of the Indenture. The Trustee may rely upon an Opinion of Counsel as to whether any such proposed modification, amendment or waiver may adversely affect the security for the TIF Obligations or the interests of the Owners thereof or may adversely affect the exclusion of interest on the Tax-Exempt Bonds from gross income of the Owners thereof for federal income tax purposes or as may impose additional duties on the Trustee that were not contemplated upon the original execution of the Indenture.

ARTICLE VI

GENERAL COVENANTS AND PROVISIONS

Section 6.1. Continuing Disclosure. The parties covenant and agree that they will execute and deliver one or more continuing disclosure agreements, or similar undertakings, that will satisfy Rule 15c2-12 promulgated by the Securities and Exchange Commission under the Securities Exchange Act of 1934 (17 C.F.R. § 240.15c2-12) (as in effect and interpreted from time to time, the “Rule”), and will observe and perform the covenants and agreements contained therein, unless amended or terminated in accordance with the provisions thereof, for the benefit of the Owners or beneficial owners from time to time of the Outstanding Bonds as therein provided. Notwithstanding any other provision of this Financing Agreement, the failure of a party to comply with a continuing disclosure agreement or similar undertaking shall not be considered an event of default under this Financing Agreement or under the Indenture.

Section 6.2. Tax Covenants. The parties covenant and agree to comply with all provisions and requirements of any Tax Compliance Agreement executed in connection with the issuance of any Tax-Exempt Bonds.

Section 6.3. Obligations Under Indenture. The City hereby agrees to assume the ministerial obligations imposed on it under the Indenture.

Section 6.4. Effect of this Financing Agreement. To the extent any term or provision of this Financing Agreement conflicts with any term or provision of the Redevelopment Agreement, the Authority and the City agree that the terms and provisions of this Financing Agreement shall control.

ARTICLE VII

ASSIGNMENT

Section 7.1. Assignment by the Authority. The Authority, by means of the Indenture and as security for the payment of the principal of, redemption premium, if any, and interest on the TIF Obligations, will assign, pledge and grant a security interest in all of its rights, title and interests in, to and under this Financing Agreement to the Trustee for the benefit of the Owners (reserving its Unassigned Authority’s Rights).

Section 7.2. Restriction on Transfer of Authority’s Interests. The Authority will not sell, assign, transfer or convey its interests in this Financing Agreement or the Net Revenues except pursuant to the Indenture and this Financing Agreement.

Section 7.3. Restriction on Transfer of City Interests. The City will not sell, assign, transfer or convey its interests in the Net Revenues or this Financing Agreement.

ARTICLE VIII

EVENTS OF DEFAULT AND REMEDIES

Section 8.1. Events of Default Defined. The term “Event of Default” shall mean any one or more of the following events:

- (a) Failure by the City to timely transfer revenues to the Trustee pursuant to **Section 4.2** hereof.
- (b) Failure by the City to observe and perform any covenant, condition or agreement on the part of the applicable party under this Financing Agreement, other than as referred to in the preceding subparagraph (a) of this Section, for a period of 30 days after written notice of such default has been given to the applicable party by the Trustee or the Authority, during which time such default is neither cured by the applicable party nor waived in writing by the Trustee, provided that, if the failure stated in the notice cannot be corrected within said 30-day period, the City shall be granted additional time to cure the default so long as corrective action is instituted by the City within the 30-day period and diligently pursued to completion.
- (c) The filing by the City of a voluntary petition in bankruptcy, or failure by the City to promptly lift any execution, garnishment or attachment of such consequence as would impair the ability of the City to carry on its operation, or adjudication of the City as a bankrupt, or assignment by the City for the benefit of creditors, or the entry by the City into an agreement of composition with creditors, or the approval by a court of competent jurisdiction of a petition applicable to the City in any proceedings instituted under the provisions of federal bankruptcy law, or under any similar acts which may hereafter be enacted.
- (d) Any representation or warranty by the City herein or in any certificate or other instrument delivered under or pursuant to this Financing Agreement or the Indenture or in connection with the financing contemplated herein shall prove to have been false, incorrect, misleading or breached in any material respect on the date when made, unless waived in writing by the Trustee or cured by the City within 30 days after notice thereof has been given to the applicable party.
- (e) The occurrence of an Event of Default as specified in **Section 701** of the Indenture.

Section 8.2. Remedies on an Event of Default.

(a) Whenever any Event of Default has occurred and is continuing, the Trustee, as the assignee of the Authority, may take any one or more of the remedial steps set forth in the Indenture; provided that if the principal of all Bonds then Outstanding and the interest accrued thereon has been declared immediately due and payable pursuant to **Section 702** of the Indenture, the Trustee may immediately proceed to take whatever other action at law or in equity is necessary and appropriate to exercise or to cause the exercise of the rights and powers set forth herein or in the Indenture, as may appear necessary or desirable to collect the amounts payable pursuant to this Financing Agreement then due and thereafter to become due or to enforce the performance and observance of any obligation, agreement or covenant of the City under this Financing Agreement or the Indenture.

(b) Any amount collected pursuant to action taken under this Section shall be paid to the Trustee and applied in accordance with **Section 708** of the Indenture.

(c) Notwithstanding the foregoing, the Trustee shall not be obligated to take any step that in its opinion will or might cause it to expend time or money or otherwise incur liability, unless and until indemnity satisfactory to it has been furnished to the Trustee at no cost or expense to the Trustee, except as otherwise provided in **Section 801(I)** of the Indenture.

Section 8.3. No Remedy Exclusive. No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Financing Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon an Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

Section 8.4. Parties to Give Notice of an Event of Default. The parties shall each promptly give to the Trustee written notice of any Event of Default of which such party, as the case may be, has actual knowledge or written notice; however, no party shall be liable for failing to give such notice.

Section 8.5. Performance of the City . If the City fails to keep or perform any of its obligations as provided in this Financing Agreement, then the Trustee may (but shall not be obligated so to do), upon the continuance of such failure on the City's part for 30 days after notice of such failure is given to the City by the Trustee, and without waiving or releasing the applicable party from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and all sums so paid by the Trustee and all necessary incidental costs and expenses incurred by the Trustee in performing such obligations shall be paid to the Trustee in accordance with **Section 402** and **Section 802** of the Indenture.

Section 8.6. Remedial Rights Assigned to the Trustee. Upon the execution and delivery of the Indenture, the Authority will thereby have assigned to the Trustee all rights and remedies conferred upon or reserved to the Authority by this Financing Agreement other than the Unassigned Authority's Rights. The Trustee shall have the exclusive right to exercise such rights and remedies conferred upon or reserved to the Authority by this Financing Agreement in the same manner and to the same extent, but under the limitations and conditions imposed thereby and hereby. The Trustee shall be deemed a third-party creditor beneficiary of all representations, warranties, covenants and agreements contained herein.

ARTICLE IX

MISCELLANEOUS

Section 9.1. Authorized Representatives. Whenever under this Financing Agreement the approval of the Authority or the City is required or a party is required or permitted to take some action, such approval shall be given or such action shall be taken by the Authorized Authority Representative or the Authorized City Representative, as applicable, and the Trustee shall be authorized to act on any such approval or action.

Section 9.2. Term of Financing Agreement. This Financing Agreement shall be effective

from and after its execution and delivery and shall continue in full force and effect until the TIF Obligations are deemed to be paid within the meaning of **Article IX** of the Indenture and provision has been made for paying all other sums payable under this Financing Agreement and the Indenture.

Section 9.3. Notices. All notices, certificates or other communications hereunder shall be sufficiently given and shall be deemed given when delivered by hand delivery or overnight delivery service or on the third day following the day on which the same has been mailed by registered or certified mail, postage prepaid, addressed as specified in **Section 1102** of the Indenture, except that any of the foregoing given to the Trustee shall be effective only upon receipt. A duplicate copy of each notice, certificate or other communication given hereunder to any party mentioned in said **Section 1102** shall be given to all other parties mentioned therein (other than the Owners of the TIF Obligations unless a copy is required to be furnished to them by other provisions of this Financing Agreement or the Indenture). The Authority, the City or the Trustee may, by notice given hereunder, designate any further or different addresses to which subsequent notices, certificates or other communications shall be sent to it.

Section 9.4. Performance Date Not a Business Day. If any date for the payment of principal of, or redemption premium, if any, or interest on the TIF Obligations or the taking of any other action hereunder is not a Business Day, then such payment shall be due, or such action shall be taken, on the first Business Day thereafter with the same force and effect as if made on the date fixed for payment or performance.

Section 9.5. Binding Effect. This Financing Agreement shall inure to the benefit of and shall be binding upon the parties hereto, the Trustee and their respective successors and assigns.

Section 9.6. Amendments, Changes and Modifications. Except as otherwise provided in this Financing Agreement or in the Indenture, subsequent to the issuance of Bonds and prior to all of the TIF Obligations being deemed to be paid in accordance with **Article IX** of the Indenture and provision being made for the payment of all sums payable under the Indenture in accordance with **Article IX** thereof, this Financing Agreement may not be effectively amended, changed, modified, altered or terminated without the prior concurring written consent of the Trustee, given in accordance with the Indenture.

Section 9.7. Execution in Counterparts. This Financing Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 9.8. No Pecuniary Liability. Notwithstanding the language or implication of any provision, representation, covenant or agreement to the contrary, no provision, representation, covenant or agreement contained in this Financing Agreement or in the Indenture, the TIF Obligations, or any obligation herein or therein imposed upon the Authority or the City, or the breach thereof, shall constitute or give rise to or impose upon the Authority or the City a pecuniary liability (except to the extent of any Net Revenues actually received by the City and appropriated to the payment of the TIF Obligations). No provision hereof shall be construed to impose a charge against the general credit of the Authority or the City or any personal or pecuniary liability upon any director, officer, agent, governing body member or employee of the Authority or the City.

Section 9.9. Extent of Covenants; No Personal or Pecuniary Liability.

(a) All covenants, obligations and agreements of the Authority contained in this Financing Agreement and the Indenture shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of

any present or future director, officer, agent or employee of the Authority in other than his official capacity, no official executing the TIF Obligations shall be liable personally on the TIF Obligations and no present or future member, officer, agent or employee of the Authority shall be subject to any personal liability or accountability by reason of the issuance of the TIF Obligations or by reason of the covenants, obligations or agreements of the Authority contained in this Financing Agreement or in the Indenture. No provision, covenant or agreement contained in this Financing Agreement, the Indenture or the TIF Obligations, or any obligation herein or therein imposed upon the Authority, or the breach thereof, shall constitute or give rise to or impose upon the Authority a pecuniary liability or a charge.

(b) All covenants, obligations and agreements of the City contained in this Financing Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future governing body member, officer, director, agent or employee of the City in other than his or her official capacity, and no present or future governing body member, officer, director, agent or employee of the City shall be subject to any personal liability or accountability by reason of the issuance of the TIF Obligations or by reason of the covenants, obligations or agreements of the City contained in this Financing Agreement. No provision, covenant or agreement contained in this Financing Agreement, or any obligation herein imposed upon the City, or the breach thereof, shall constitute or give rise to or impose upon the City a pecuniary liability or a charge (except to the extent of any Net Revenues actually received by the City and appropriated to the payment of the TIF Obligations).

Section 9.10. General Limitation. NOTWITHSTANDING ANY OTHER TERM OR PROVISION OF THIS FINANCING AGREEMENT OR ANY OTHER DOCUMENT EXECUTED IN CONNECTION WITH THE TRANSACTION TO THE CONTRARY, NEITHER THE CITY NOR THE AUTHORITY SHALL BE REQUIRED TO TAKE OR OMIT TO TAKE, OR REQUIRE ANY OTHER PERSON OR ENTITY TO TAKE OR OMIT TO TAKE, ANY ACTION THAT WOULD CAUSE IT OR ANY PERSON OR ENTITY TO BE, OR RESULT IN IT OR ANY PERSON OR ENTITY BEING, IN VIOLATION OF ANY LAW OF THE STATE.

Section 9.11. Severability. If any provision of this Financing Agreement is held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstances, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or Sections in this Financing Agreement contained shall not affect the remaining portions of this Financing Agreement, or any part thereof.

Section 9.12. Governing Law. This Financing Agreement shall be governed by and construed in accordance with the laws of the State.

Section 9.13. Electronic Means. The parties agree that the transaction described herein may be conducted and related documents may be sent, received and stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

[Remainder of Page Intentionally Left Blank.]

IN WITNESS WHEREOF, THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY OF ST. LOUIS, MISSOURI, and THE CITY OF ST. LOUIS, MISSOURI have caused this Financing Agreement to be executed on their behalf all as of the date first above written.

INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY OF ST. LOUIS, MISSOURI

By: _____,
_____, Executive Director

[SEAL]

ATTEST:

By: _____,
_____, Assistant Secretary

[Financing Agreement]

THE CITY OF ST. LOUIS, MISSOURI

By: _____
Tishaura Jones
Mayor

By: _____
Darlene Green
Comptroller

APPROVED AS TO FORM

Matthew Moak
City Counselor

ATTEST:

Amber Simms
Register

[Financing Agreement]

EXHIBIT A

FORM OF CITY MONTHLY REPORT

[*Trustee*]

Attention: Corporate Trust Department

Re: City Foundry Saint Louis – RPA 2

Ladies and Gentlemen:

Please be advised that during the month of _____, [year], The City of St. Louis, Missouri, received and deposited the amounts shown below in the applicable accounts and subaccounts of the Special Allocation Fund:

	PILOTS	EATS
Phase 1		
Phase 2		
Phase 3		
Phase 4		

*Except as otherwise provided herein, the capitalized terms herein shall have the meanings as provided in the Trust Indenture dated as of [_____] 1, 2021 (as may be amended and supplemented from time to time, the “Indenture”), between the Industrial Development Authority of the City of St. Louis, Missouri and [*Trustee*], as trustee (the “Trustee”).*

THE CITY OF ST. LOUIS, MISSOURI

By: _____
Title: _____

cc:

EXHIBIT H

Form of Parcel Development Agreement

This **PARCEL DEVELOPMENT AGREEMENT** (this “Parcel Development Agreement”) is entered into this ____ day of _____, 20__, between **FOPA PARTNERS, LLC** (the “Developer”) and _____ (the “Sub-Developer”) regarding the [*Phase 1/Phase 2/Phase 3/Phase 4*] described in the Amended and Restated Redevelopment Agreement dated as of _____, 2021 (the “Redevelopment Agreement”) between the Developer and The City of St. Louis, Missouri (the “City”). *Capitalized terms used, but not otherwise defined herein, shall have the meanings set forth in the Redevelopment Agreement.*

RECITALS

A. The real property to be acquired and developed by the Sub-Developer is legally described in **Exhibit A** attached hereto (the “Property”).

B. The Property is part of RPA 2 of the City Foundry Saint Louis Redevelopment Area, and is subject to the Redevelopment Plan and the Redevelopment Agreement.

C. The Redevelopment Agreement permits the Developer to assign certain rights and obligations with respect to the [*Phase 1/Phase 2/Phase 3/Phase 4*] to the Sub-Developer pursuant to a parcel development agreement in substantially the form as this Parcel Development Agreement.

NOW, THEREFORE, for and in consideration of the promises and the covenants entered herein, City and Transferee agree as follows:

1. The Sub-Developer has acquired the Property or has entered into a purchase contract to acquire the Property.

2. The Sub-Developer acknowledges that it has been provided with and/or has reviewed the Redevelopment Plan and the Redevelopment Agreement and intends to redevelop the Property in accordance with such documents.

3. The Developer hereby assigns all rights and responsibilities in the Redevelopment Agreement with respect to the [*Phase 1/Phase 2/Phase 3/Phase 4*] to the Sub-Developer. The Sub-Developer acknowledges and agrees that its acquisition, use and enjoyment of the Property and any future disposition of the Property are subject to the terms of the Redevelopment Agreement. The Sub-Developer will perform all obligations of the Developer under the Redevelopment Agreement (to the extent not already performed by the Developer or an authorized successor or assign of the Developer) with respect to the [*Phase 1/Phase 2/Phase 3/Phase 4*] and in consideration thereof, may receive tax increment financing incentives available to the [*Phase 1/Phase 2/Phase 3/Phase 4*] under the terms of the Redevelopment Agreement.

4. The Sub-Developer acknowledges that in the event of the sale, lease, sublease, assignment, or other voluntary or involuntary disposition of the Property, the obligations of the Redevelopment Agreement shall continue and shall inure to and be binding upon the heirs, executors, administrators, successors and assigns of the respective subsequent transferees as if they were in every case specifically named and shall be construed as a covenant running with the land and enforceable as if such purchaser, tenant, transferee or other possessor thereof were originally a party to and bound by the Redevelopment Agreement. The Transferee assumes the duty to notify any purchaser, tenant, transferee or other possessor

of the Property of its rights, duties and obligations under the Redevelopment Agreement.

5. This Parcel Development Agreement shall not be deemed to take effect until copies of thereof have been delivered to the City and SLDC.

[*6. No consent of the City is required for the assignment contemplated by this Parcel Development Agreement because the Sub-Developer is a Related Entity to the Developer.*]

IN WITNESS WHEREOF, the Developer and Sub-Developer have executed this Parcel Development Agreement as of the day and year first above written.

FOPA PARTNERS, LLC

By: _____
Name: _____
Title: _____

[SUB-DEVELOPER]

By: _____
Name: _____
Title: _____

[*Pursuant to **Section 7.3** of the Redevelopment Agreement, the City hereby consents to the assignment contemplated by this Parcel Development Agreement.*]

THE CITY OF ST. LOUIS, MISSOURI

By: _____
_____, Mayor

By: _____
_____, Comptroller*]

BOARD BILL NUMBER 72

FISCAL NOTE

Preparer's Name: St. Louis Development Corporation staff

Contact Information: Dale Ruthsatz
Director of Commercial Development
St. Louis Development Corporation
(314) 657-3732
ruthsatzd@stlouis-mo.gov

Bill Sponsor: Alderwoman Tina Pihl

Bill Synopsis:	Board Bill Number 72 approves an Amended and Restated Redevelopment Agreement and Financing Agreement in connection with the City Foundry Saint Louis Tax Increment Financing (TIF) Second Amended RPA 2 Redevelopment Plan. The original Redevelopment Agreement was approved by Ordinance 70759. The original redevelopment agreement needs to be amended and restated to conform to the Second Amended RPA 2 Redevelopment Plan.
Type of Impacts:	By virtue of the previously approved tax increment financing, certain incremental taxes generated by the project will be deposited in the City's Special Allocation Fund and used to pay debt service on TIF obligations.
Agencies Affected:	The City, through various agencies, will cooperate in the development of the project in generally the same manner as other large redevelopment projects (i.e., building permits, etc.).

SECTION A

Does this bill authorize:

- An expansion of services which entails additional costs beyond that approved in the current adopted city budget? Yes No.
- An undertaking of a new service for which no funding is provided in the current adopted city budget? Yes No.
- A commitment of city funding in the future under certain specified conditions? Yes No.
- An issuance of bonds, notes and lease-purchase agreements which may require additional funding beyond that approved in the current adopted city budget? Yes No.

- An execution or initiation of an activity as a result of federal or state mandates or requirements? ___Yes ___X___No.
- A capital improvement project that increases operating costs over the current adopted city budget? ___Yes ___X___No.
- A capital improvement project that requires funding not approved in the current adopted city budget or that will require funding in future years? ___Yes ___X___No.

SECTION B

- Does the bill require the construction of any new physical facilities? ___X___Yes ___No
 - If yes, describe the facilities and provide the estimated cost:

As part of the project, the Developer will construct redevelop property for multi-family residential, office, retail and structured parking uses.

- Is the bill estimated to have a direct fiscal impact on any city department or office? ___Yes ___X___No

- Does the bill create a program or administrative subdivision? ___Yes ___X___No
 - If yes, then is there a similar existing program or administrative subdivision? ___X___Yes ___No
 - If yes, explain the how the proposed programs or administrative subdivisions may overlap:

The project is included within a TIF project, which, like other TIF projects, will be subject to SLDC and Comptroller oversight.

- Describe the annual operating, equipment, and maintenance costs that would result from the proposed bill, as well as any funding sources:

Not applicable.

Complete the chart below to list the total estimated expenditures required of the City resulting from the proposed board bill and any estimated savings or additional revenue.

SLDC will provide a financial analysis of the redevelopment project.

Financial Estimate of Impact on General Fund			
Fiscal Impact	<u>Year 1 (current)</u>	<u>Year 2</u>	<u>Year 3</u>
Additional Expenditures	n/a	n/a	n/a
Additional Revenue	n/a	n/a	n/a
Net	n/a	n/a	n/a
Financial Estimate of Impact on Special Funds			
Fiscal Impact	<u>Year 1 (current)</u>	<u>Year 2</u>	<u>Year 3</u>
Additional Expenditures	n/a	n/a	n/a
Additional Revenue	n/a	n/a	n/a
Net	n/a	n/a	n/a

- Describe any assumptions used in preparing this fiscal note:

Not applicable.

- List any sources of information (including any City officials, agencies, or departments) used in preparing this fiscal note:

SLDC relied on its knowledge of economic data and information from the Developer to create its financial analysis.

- Have the financial estimates of this bill been verified by the City Budget Division?

___Yes __X__No

If yes, by whom? _____