

ORDINANCE #65498
Board Bill No. 338

AN ORDINANCE AFFIRMING ADOPTION OF A REDEVELOPMENT PLAN AND REDEVELOPMENT PROJECT; AUTHORIZING THE EXECUTION OF A REDEVELOPMENT AGREEMENT WITH NEAR SOUTHSIDE IMPROVEMENT CORPORATION; PRESCRIBING THE FORM AND DETAILS OF SAID AGREEMENT; AND AUTHORIZING OTHER RELATED ACTIONS IN CONNECTION WITH THE REDEVELOPMENT OF CERTAIN PROPERTY WITHIN A REDEVELOPMENT AREA.

WHEREAS, the City of St. Louis, Missouri (the "City"), is a body corporate and a political subdivision of the State of Missouri, duly created, organized and existing under and by virtue of its charter, the Constitution and laws of the State of Missouri; and

WHEREAS, on December 20, 1991, pursuant to Ordinance No. 62477, the Board of Aldermen of the City created the Tax Increment Financing Commission of the City of St. Louis, Missouri (the "TIF Commission"); and

WHEREAS, the TIF Commission is duly constituted according to the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865 of the Revised Statutes of Missouri, as amended (the "TIF Act"), and is authorized to hold public hearings with respect to proposed redevelopment areas and redevelopment plans and to make recommendations thereon to the City; and

WHEREAS, at the direction of the Board of Aldermen, staff and consultants have prepared a plan for redevelopment titled "Amended Lafayette Square Historic District TIF Redevelopment Plan" dated October 19, 2001, as further amended (the "Redevelopment Plan"), for an area generally bounded by Chouteau Avenue on the North, the alley between Dolman and Grattan Streets on the East, Kennett Place on the South, and Mississippi Avenue and Mackay Place on the West (the "Redevelopment Area"), which Redevelopment Area is more fully described in the Redevelopment Plan; and

WHEREAS, Near Southside Improvement Corporation (the "Developer"), in response to the City's solicitation of proposals from developers, submitted its development proposal dated October 19, 2001, (the "Redevelopment Proposal"), for redevelopment of the Redevelopment Area; and

WHEREAS, on October 31, 2001, after all proper notice was given, the TIF Commission held a public hearing in conformance with the TIF Act, and received comments from all interested persons and taxing districts relative to the Redevelopment Area, the Redevelopment Plan, the Redevelopment Project and the Redevelopment Proposal; and

WHEREAS, on December 21, 2001, after due consideration of the TIF Commission's recommendations and after proper notice of certain amendments to the proposed redevelopment plan that did not enlarge the exterior boundaries of the Redevelopment Area and do not substantially affect the general land uses established in the Redevelopment Plan or substantially change the nature of the Redevelopment Project identified in the Redevelopment Plan, the City adopted Ordinance No. 65380 (the "Approving Ordinance"), which Approving Ordinance (i) designated as a "redevelopment area" a certain portion of the City (the "Redevelopment Area"), (ii) approved a redevelopment plan entitled "Amended Lafayette Square Historic District TIF Redevelopment Plan" (the "Redevelopment Plan"), (iii) approved the redevelopment project described in the Redevelopment Plan (the "Redevelopment Project"), (iv) adopted tax increment allocation financing within the Redevelopment Area, and (v) established the "Lafayette Square Historic District Special Allocation Fund" for the Lafayette Square Historic District Redevelopment Project" all as set forth in the Approving Ordinance and in accordance with the requirements of the Act; and

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

WHEREAS, the Board of Aldermen hereby determines that: (1) acceptance of the Redevelopment Proposal, as amended, revised, clarified and articulated in the Redevelopment Agreement; and (2) redevelopment of the Redevelopment Area; and (3) acceptance and execution of the Redevelopment Agreement are necessary and advisable and in the best interests of the City and the health, safety, morals and welfare of its residents and in accord with the public purposes specified in the Redevelopment Plan and the TIF Act.

NOW THEREFORE, BE IT ORDAINED BY THE BOARD OF ALDERMEN OF THE CITY OF ST. LOUIS, MISSOURI, AS FOLLOWS:

Section 1. The Board of Aldermen hereby ratifies and confirms its adoption of the Redevelopment Plan and Redevelopment Project. The Board of Aldermen further finds and determines that it is necessary and desirable to enter into the Redevelopment Agreement with the Developer in order to implement the Redevelopment Project and to enable the Developer to carry out its proposal for development of the Redevelopment Project.

Section 2. The Board of Aldermen hereby approves, and the Mayor and Comptroller are hereby authorized and directed to execute, on behalf of the City, the Redevelopment Agreement between the City and the Developer, and the City Register is hereby authorized and directed to attest to the Redevelopment Agreement and to affix the seal of the City thereto. The Redevelopment Agreement shall be in substantially the form attached hereto as Exhibit A, with such changes therein as shall be approved by the officers of the City executing the same and as may be consistent with the intent of this Ordinance and necessary, desirable, convenient or proper in order to carry out the matters herein authorized.

Section 3. The Mayor and Comptroller or their designated representatives are hereby authorized and directed to take any and all actions to execute and deliver for and on behalf of the City any and all additional certificates, documents, agreements or other instruments as may be necessary, desirable, convenient or proper in order to carry out the matters herein authorized. The Mayor and Comptroller or their designated representatives are hereby further authorized and directed to make any changes to the documents and instruments approved and authorized by this Ordinance as may be consistent with the intent of this Ordinance and necessary, desirable, convenient or proper in order to carry out the matters herein authorized.

Section 4. It is hereby declared to be the intention of the Board of Aldermen that each and every part, section and subsection of this Ordinance shall be separate and severable from each and every other part, section and subsection hereof and that the Board of Aldermen intends to adopt each said part, section and subsection separately and independently of any other part, section and subsection. In the event that any part, section or subsection of this Ordinance shall be determined to be or to have been unlawful or unconstitutional, the remaining parts, sections and subsections shall be and remain in full force and effect, unless the court making such finding shall determine that the valid portions standing alone are incomplete and are incapable of being executed in accord with the legislative intent.

Section 5. Be it further ordained that all ordinances or parts of ordinances in conflict with the provisions of this ordinance are hereby repealed.

Board of Aldermen

Vice President, Board of Aldermen

Approved: _____
Date: _____

Mayor

Truly Engrossed and Enrolled

Chairman

EXHIBIT A

Form of Redevelopment Agreement

(Attached hereto.)

REDEVELOPMENT AGREEMENT

Between the

CITY OF ST. LOUIS, MISSOURI

And

NEAR SOUTHSIDE IMPROVEMENT CORPORATION

Dated as of

_____, 2002

LAFAYETTE SQUARE HISTORIC DISTRICT REDEVELOPMENT PROJECT

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REDEVELOPMENT AGREEMENT

THIS REDEVELOPMENT AGREEMENT (this “*Agreement*”) is made and entered into as of this ____ day of _____, 2002, by and between the **CITY OF ST. LOUIS, MISSOURI** (the “*City*”), a body corporate and political subdivision duly organized and existing under its charter and the Constitution and laws of the State of Missouri, and **NEAR SOUTHSIDE IMPROVEMENT CORPORATION**, (the “*Developer*”), a not-for-profit corporation 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. The City of St. Louis, Missouri (the “*City*”), is a body corporate and a political subdivision of the State of Missouri, duly created, organized and existing under and by virtue of its charter, the Constitution and laws of the State of Missouri; and
- B. On December 20, 1991, pursuant to Ordinance No. 62477, the Board of Aldermen of the City created the Tax Increment Financing Commission of the City of St. Louis, Missouri (the “*TIF Commission*”); and
- C. The TIF Commission is duly constituted according to the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865 of the Revised Statutes of Missouri, as amended (the “*TIF Act*”), and is authorized to hold public hearings with respect to proposed redevelopment areas and redevelopment plans and to make recommendations thereon to the City; and
- D. At the direction of the Board of Aldermen, staff and consultants prepared a plan for redevelopment titled “Amended Lafayette Square Historic District TIF Redevelopment Plan” dated October 19, 2001 (the “*Redevelopment Plan*”), for an area generally bounded by Chouteau Avenue on the North, the alley between Dolman and Grattan Streets on the East, Kennett Place on the South, and Mississippi Avenue and MacKay Place on the West (the “*Redevelopment Area*”), which Redevelopment Area is more fully described in the Redevelopment Plan; and

E. The Developer, in response to the City's solicitation of proposals from developers, submitted its Redevelopment Proposal, as defined herein (the "Redevelopment Proposal"), for redevelopment of the Redevelopment Area; and

F. On October 31, 2001, after all proper notice was given, the TIF Commission held a public hearing in conformance with the TIF Act and received comments from all interested persons and taxing districts relative to the Redevelopment Area, the Redevelopment Plan, the Redevelopment Project and the Redevelopment Proposal; and

G. On December 21, 2001, after due consideration of the TIF Commission's recommendations and after proper notice of certain amendments to the proposed redevelopment plan that did not enlarge the exterior boundaries of the Redevelopment Area and do not substantially affect the general land uses established in the Redevelopment Plan or substantially change the nature of the Redevelopment Project identified in the Redevelopment Plan, the City adopted Ordinance No. 65380, which (i) designated as a "redevelopment area" a certain portion of the City (the "Redevelopment Area"), (ii) approved the Redevelopment Plan, (iii) approved the redevelopment project described in the Redevelopment Plan (the "Redevelopment Project"), (iv) adopted tax increment allocation financing within the Redevelopment Area, and (v) established the Special Allocation Fund, as defined herein, all as set forth in Ordinance No. 65380 and in accordance with the requirements of the Act; and

H. On _____, 2002, the City adopted Ordinance No. _____ [Board Bill No. _____] authorizing the City to enter into a Redevelopment Agreement with the Developer.

I. Pursuant to provisions of the TIF Act and Ordinance No. 65380 and Ordinance No. _____, [Board Bill No. _____] the City is authorized to enter into this Agreement to pay for certain Redevelopment Project Costs incurred by the Developer in furtherance of the Redevelopment Plan and the Redevelopment Project, and to allocate certain TIF Revenues to the payment of such Redevelopment Project Costs.

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 all costs of acquiring the Property, including, but not limited to the cost of land and improvements; brokerage commissions; costs of title commitments, reports or policies; surveys; engineering fees, environmental remediation, soil, hazardous waste and other site and property-related reports and expenses; appraisals; professional fees of any kind or nature, including attorneys' fees, filing fees, recording fees, experts' fees; and all litigation costs, including commissioners' awards, judgments, payments in settlement of litigation, and all associated court costs, fees and expenses.

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

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

"Approving Ordinances" means Ordinance Nos. 65380 and Ordinance No. _____ [Board Bill No. _____], designating the Redevelopment Area, approving the Redevelopment Plan, approving the Redevelopment Project, adopting tax increment allocation financing within the Redevelopment Area, establishing the Special Allocation Fund, and authorizing the City to enter into a Redevelopment Agreement with 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 within the Special Allocation Fund. Available Revenues do not include any amount paid under protest until such protest is withdrawn or resolved against the taxpayer and any sum received by the City that is the subject of a suit or other claim communicated to the City, which suit or claim challenges the collection of such sum.

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

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

“*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 C**, attached hereto and incorporated herein by reference, delivered by the Developer to the City in accordance with this Agreement and evidencing the Developer’s satisfaction of all obligations and covenants to implement and construct the Work in each of Phase I, II, and III as set forth and described in the Redevelopment Plan 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.

“*Concept Site Plan*” means the Lafayette Square Neighborhood Urban Plan dated October 2001, depicting the conceptual program for construction of the Work, which plan is attached as Appendix 3 to the Redevelopment Plan.

“*Construction Plans*” means plans, drawings, specifications and related documents, and construction schedules for the construction of the Work in accordance with the Concept Site Plan, together with all supplements, amendments or corrections, submitted by the Developer and approved by the City in accordance with and as required by this Agreement.

“*Developer*” means Near Southside Improvement Corporation, a not-for-profit corporation duly organized and existing under the laws of the State of Missouri, or its permitted successors or assigns in interest.

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

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

“*Issuance Costs*” means all costs reasonably incurred by the City 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 and Bond Counsel), the City’s administrative fees and expenses (including fees and costs of planning consultants), 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.

“*Note Ordinance*” means any ordinance(s) of the City authorizing the issuance of the TIF Obligations, any trust indenture relating thereto, and all related ordinances, resolutions and proceedings.

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

“*Phase or Phases*” means construction of a functional portion of the Work in three stages as set forth in **Exhibit B**, attached hereto and incorporated herein by reference.

“*Project Fund*” means the Lafayette Square Project Fund created in **Section 4.3** of this Agreement.

“*Property*” means that portion of the real property (including but not limited to all options held by third parties, fee interests, leasehold interests, tenant-in-common interests and such other like or similar interests) and existing improvements in the Redevelopment Area, necessary for the implementation of the Redevelopment Project.

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

comprising approximately nine contiguous parcels of real property.

“*Redevelopment Plan*” means the plan titled “*Amended Lafayette Square Historic District TIF Redevelopment Plan*,” as approved by the City on December 21, 2001, pursuant to Ordinance No. 65380, as such plan may from time to time be amended in accordance with the TIF Act.

“*Redevelopment Project*” means the redevelopment project contemplated by the Redevelopment Plan, the Redevelopment Proposal and this Agreement.

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

“*Redevelopment Proposal*” means the document on file with the City and incorporated herein by reference, titled “*Near Southside Improvement Corporation TIF Application*,” submitted by the Developer to the City on September 12, 2001, as amended by and subject to the provisions of the Redevelopment Plan, the Concept Site Plan and this Agreement.

“*Reimbursable Redevelopment Project Costs*” means those Redevelopment Project Costs 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.

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

“*Special Allocation Fund*” means the City of St. Louis, Missouri, Special Allocation Fund for the Lafayette Square Historic District Redevelopment Project, created by Ordinance No. 65380 in accordance with the TIF Act, and including the sub-accounts into which TIF Revenues are from time to time deposited in accordance with the TIF Act and this Agreement.

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

“*TIF Obligations*” means bonds, notes or other obligations, singly or in series, issued by the City pursuant to the TIF Act and in accordance with this Agreement.

“*TIF Revenues*” means: (1) Payments in Lieu of Taxes attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property located within the Redevelopment Area over and above the initial equalized assessed value (as that term is used and described in Section 99.845.1 of the TIF Act) of each such unit of property, as paid to the City’s Treasurer by the City’s Collector of Revenue during the term of the Redevelopment Plan and the Redevelopment Project, and (2) fifty percent (50%) of the total additional revenue from taxes, penalties and interest which are imposed by the City or other taxing districts, and which are generated by economic activities within the area of the Redevelopment Project over the amount of such taxes generated by economic activities within the area of the Redevelopment Project in the calendar year ended December 31, 2000, while tax increment financing remains in effect, but excluding personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to Section 70.500 of the Revised Statutes of Missouri, as amended, or taxes levied for the purpose of public transportation pursuant to Section 94.660 of the Revised Statutes of Missouri, as amended, licenses, fees or special assessments other than payments in lieu of taxes and penalties and interest thereon, in accordance with Section 99.845.3 of the TIF Act, as may be amended from time to time.

“*Work*” means all work necessary to prepare the Property and to construct or cause the construction of the Redevelopment Project as specifically described in the Redevelopment Proposal, the Redevelopment Plan, and this Agreement as approved or amended by the Concept Site Plan, including: (1) property acquisition and relocation; (2) professional fees, including architecture, engineering, surveying, legal and planning and consulting; (3) construction or reconstruction of plazas, fountains and entry gates; (4) infrastructure construction or reconstruction, including without limitation road and sidewalk work and installation of traffic calming devices; (5) installation of lighting, public furniture, and landscaping; (6) construction, reconstruction or repair of Lafayette Park, including without limitation irrigation, fencing, lighting and reconstruction or repairs to buildings, lakes, bandstands, statues, and roadways; (7) construction of a community garden; (8) all other work described in the Redevelopment Proposal and the Redevelopment Plan, as modified by the Concept Site Plan, or reasonably necessary to effectuate the intent of this Agreement.

**ARTICLE II.
ACCEPTANCE OF PROPOSAL**

2.1 Developer Designation. The City hereby selects the Developer to acquire the Property and to perform or cause the performance of the Work in accordance with the Redevelopment Plan, the Concept Site Plan, this Agreement and all Governmental Approvals. To the extent of any inconsistency among the foregoing, the parties agree that the Concept Site Plan shall govern so long as performance in accordance therewith does not constitute a change to the Redevelopment Plan or the Redevelopment Project as would require further hearing pursuant to the TIF Act or a violation of Governmental Approvals.

2.2 Developer to Advance Costs. The Developer agrees to incur 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 Redevelopment Project and to terminate this Agreement as set forth in **Section 7.1** of this Agreement. Additionally, and not by way of limitation:

(i) the City acknowledges that, prior to the execution of this Agreement, the Developer has paid an initial fee of Twenty Four Thousand Five Hundred Dollars (\$24,500), which monies have been paid one half to the Comptroller of the City and one half to the St. Louis Development Corporation to reimburse the City's Comptroller and the St. Louis Development Corporation for their administrative costs in reviewing the Redevelopment Plan and the Redevelopment Proposal;

(ii) the Developer shall, within ten (10) days after the date of execution of this Agreement, pay the sum of Twenty Four Thousand Five Hundred Dollars (\$24,500), which monies shall be paid one half to the Comptroller of the City and one half to the St. Louis Development Corporation to reimburse the City's Comptroller and the St. Louis Development Corporation for their administrative costs incurred in connection with the negotiation of this Agreement;

(iii) any amounts advanced by the Developer to the City pursuant to this Section shall represent Reimbursable Redevelopment Project Costs to be reimbursed exclusively from the disbursement of Available Revenues in the Project Fund or from the proceeds of TIF Obligations, if any, as provided in and subject to **Articles IV and V** of this Agreement.

**ARTICLE III.
CONSTRUCTION OF REDEVELOPMENT PROJECT**

3.1 Acquisition of Property. Developer represents to the City that it will use reasonable efforts to acquire by negotiated purchase, donation, option, easement or lease, those parcels of the Property described in **Exhibit F** which it does not own but which are necessary for the implementation of the Work as depicted on the Concept Site Plan and in accordance with the schedule set forth in **Section 3.4** of this Agreement. With respect to the parcels of Property set forth on **Exhibit F**, the Developer shall obtain all title commitments, inspections, tests, surveys and reports, hire and retain all experts, professionals, including attorneys or engineers, and staff, and incur all Acquisition Costs as necessary to acquire the Property and all interests in the Property, subject to the Developer's rights as set forth in **Section 7.1** of this Agreement. Such parcels of the Property and any other properties acquired by the Developer for completion of the Work shall be dedicated to the City and shall be subject to the terms, conditions and covenants contained herein and in the Redevelopment Plan immediately upon acquisition.

3.2 Condemnation . With respect to the parcels of Property set forth on **Exhibit F**, attached hereto and incorporated herein by reference, or any interest therein (including without limitation, any tenant's or lessee's interest in any lease affecting the Property acquired by the Developer which Developer desires to acquire) not acquired by negotiated purchase, donation, option, easement or lease in accordance with **Section 3.1** of this Agreement, the Developer shall notify the City and the St. Louis Development Corporation in writing that the City should initiate eminent domain proceedings to acquire such parcel or parcels of the Property or interest therein at the sole expense of the Developer; provided, however, that no such request to initiate eminent domain proceedings shall be made by the Developer after December 21, 2006.

Prior to requesting the initiation of condemnation proceedings with respect to any such leasehold or like interest in the Property necessary to complete the Work, the Developer shall:

(i) Make a written request for the initiation of condemnation proceedings not later than fifteen (15) days prior to the initiation of such condemnation proceedings. Said request shall include a legal description of such leasehold or other like interest to be taken by such proceedings, together with all other information reasonably required by the City

to proceed.

(ii) Satisfy all jurisdictional prerequisites to the initiation of eminent domain proceedings, including the requirement to negotiate in the City's name in good faith.

(iii) With respect to any parcel or parcels of Property or other interest in the Property proposed to be acquired by eminent domain, obtain (at the Developer's expense) and deliver to the City and the St. Louis Development Corporation an appraisal dated no more than six (6) months prior to the Developer's written request for the initiation of condemnation proceedings, which appraisal shall be from an independent third party MAI appraiser reasonably acceptable to the City and the St. Louis Development Corporation, and make an offer (as verified by the St. Louis Development Corporation) at least equal to the appraised value to the owner of such leasehold or other like interest.

(iv) Make available to the City and the St. Louis Development Corporation any documentation relating to the Developer's good faith efforts to acquire by negotiation such leasehold or other like interest to be part of the proceedings.

The City and the St. Louis Development Corporation shall not be required to approve a request for the initiation of condemnation proceedings unless the above information provided by the Developer demonstrates to the reasonable satisfaction of the City and the St. Louis Development Corporation the following: (i) the existence of facts, circumstances or claims with respect to any parcel or parcels of Property or other interest in the Property that have a material adverse effect on the value of such parcel or parcels of Property or other interest in the Property or the feasibility of the entire Redevelopment Project, and (ii) the Developer has made good faith efforts to acquire such parcel or parcels of Property or other interest in the Property by negotiation based upon such facts, circumstances or claims; and (iii) the Developer has provided the City and the St. Louis Development Corporation with a bond or collateral or a letter of credit naming the City as beneficiary, which bond, collateral or letter of credit shall be in an amount equal to fifty percent (50%) of the difference, if any, between the appraised value and the amount of damages reasonably claimed by the owner of such leasehold or like interest.

Upon approval of the Developer's request by the City and the St. Louis Development Corporation, the City and the St. Louis Development Corporation agree to take all necessary or other reasonable action in such proceedings required by the Developer or its counsel and to execute all documents which may be reasonably necessary and/or required during the prosecution of such proceedings. Upon initiation of the condemnation proceedings, the City and the St. Louis Development Corporation may designate in writing to the Developer an individual who is authorized to represent the City and the St. Louis Development Corporation in consultations with the Developer and its counsel. The City and the St. Louis Development Corporation, acting through their designated representative(s), shall have the right to inspect and to receive copies of any documentation relating to the efforts to acquire such parcels of the Property or other interest that is part of the proceedings and to make suggestions based upon any appraisals regarding the price or settlement to be paid therefor. Within thirty (30) days after any commissioners' award, the Developer shall pay the amount of any commissioners' award issued in conjunction with any such condemnation proceedings.

The Developer shall indemnify, defend and hold the City, the St. Louis Development Corporation and their officers, employees, agents and independent contractors harmless from and against any and all claims, suits, damages, expenses or liabilities, including court costs and reasonable attorneys' fees, arising out of (i) any condemnation proceedings initiated pursuant to this Agreement, including any proceedings that are abandoned and that result in any statutory award of interest that the City is compelled by the Court to pay pursuant to Section 523.045 of the Revised Statutes of Missouri, as amended; and (ii) any environmental condition existing in, on or under any of the parcels of Property set forth on **Exhibit F**, attached hereto and incorporated herein by reference, if acquired by the Developer.

Notwithstanding anything contained herein to the contrary, except for the final amount of the commissioners' award, no court costs, professional fees, or any other expense incurred as a result of the initiation of eminent domain proceedings by the City shall constitute a Reimbursable Redevelopment Project Cost.

3.3 Relocation. The Developer shall identify any Displaced Person, as defined in the Relocation Plan, that is entitled to relocation payments or relocation assistance. The City shall, at the Developer's sole cost and expense, subject to reimbursement as a Reimbursable Redevelopment Project Cost in accordance with **Article IV** of this Agreement, coordinate such relocation payments and relocation assistance in accordance with the Relocation Plan.

3.4 Project and Construction Schedule. Subject to sufficient Available Revenues being transferred to the Project

Fund to pay for Reimbursable Redevelopment Project Costs, the Developer shall commence and complete each of its obligations under this Agreement with respect to the acquisition, construction and completion of the Redevelopment Project in accordance with the following schedule set forth in this Section. If sufficient Available Revenues are transferred to the Project Fund to pay for Reimbursable Redevelopment Project Costs related to a particular Phase and the Developer fails to submit a Certificate of Substantial Completion for such Phase in accordance with the schedule set forth below, the City may terminate this Agreement in accordance with **Section 7.2** of this Agreement.

| Activity | Maximum Time for Performance (Absent an Event of Force Majeure) | Maximum Time for Performance (Notwithstanding an Event of Force Majeure) |
|---|---|--|
| Submit Certificate of Substantial Completion of PHASE I | Five (5) years from the date of this Agreement | December 21, 2024 |
| Submit Certificate of Substantial Completion of PHASE II | Ten (10) years from the date of this Agreement | December 21, 2024 |
| Submit Certificate of Substantial Completion of PHASE III | Twenty (20) years from the date of this Agreement | December 21, 2024 |

3.5 Developer to Construct the Work; Construction Contracts; Insurance. The Developer shall commence or cause the commencement of the construction of the Work in a good and workmanlike manner in accordance with the terms of this Agreement and the Concept Site Plan. The Developer shall complete or cause the completion of all of the Work in accordance with the schedule set forth in **Section 3.4** of this Agreement, subject to sufficient Available Revenues being transferred to the Project Fund to pay for Reimbursable Redevelopment Project Costs. The Developer may enter into or cause to be entered into one or more construction contracts to complete the Work. Prior to the commencement of construction of any portion of the Work, the Developer shall obtain or shall require that any of its contractors obtain workers’ compensation, comprehensive public liability and builder’s risk insurance coverage in amounts customary in the industry for similar type projects. The Developer shall require that such insurance be maintained by any of its contractors for the duration of the construction of such portion of the Work. To the extent that laws pertaining to prevailing wage and hour apply to any portion of the Work, the City and the Developer agree to cooperate and take all actions necessary to apply for the wage and hour determinations and otherwise comply with such laws.

3.6 Governmental Approvals. The City and the St. Louis Development Corporation 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.

3.7 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, including dates of commencement and completion, 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 viability of the Redevelopment Project and as may be in furtherance of the general objectives of the Redevelopment Plan; provided that (a) the Developer shall comply with all laws, regulations and ordinances of the City and (b) prior to any material changes, the Developer shall obtain the advance written consent of the St. Louis Development Corporation, which consent shall not be unreasonably withheld or delayed. For purposes of this Section, “material changes” shall mean (i) any change that could reasonably be expected to result in an increase of Reimbursable Redevelopment Project Costs within any Phase of more than twenty five percent (25%); or (ii) any change that would result in the reduction in scope or elimination of any Phase or portion thereof, including any such change resulting from a determination that the amount of Available Revenues will not be sufficient to pay for all Reimbursable Redevelopment Project Costs associated with a particular Phase or any portion thereof in accordance with the Concept Site Plan, the Redevelopment Plan and this Agreement.

3.8 Certificate of Substantial Completion. Promptly after substantial completion of each Phase of the Work in accordance with this Agreement, the Developer shall furnish to the City and the St. Louis Development Corporation a Certificate of Substantial Completion. The City and the St. Louis Development Corporation shall, within thirty (30) days following delivery

of a Certificate of Substantial Completion, carry out such inspections as it deems necessary to verify to its reasonable satisfaction the accuracy of the certifications contained in each Certificate of Substantial Completion. A Certificate of Substantial Completion shall be deemed accepted by the City and the St. Louis Development Corporation unless, within thirty (30) days following delivery of a Certificate of Substantial Completion, the City or the St. Louis Development Corporation furnishes the Developer with specific written objections to the status of the Work, describing such objections and the measures required to correct such objections in reasonable detail. Upon acceptance of each Certificate of Substantial Completion by the City and the St. Louis Development Corporation or upon the lapse of thirty (30) days after delivery thereof to the City and the St. Louis Development Corporation without any written objections thereto, the Developer may record the Certificate of Substantial Completion with the City's Recorder of Deeds, and the same shall constitute evidence of the satisfaction of the Developer's agreements and covenants to perform the Work for each Phase to which the Certificate of Substantial Completion pertains. The Certificate of Substantial Completion shall be in substantially the form attached as **Exhibit C**, attached hereto and incorporated by referenced herein.

ARTICLE IV. REIMBURSEMENT OF DEVELOPER COSTS

4.1 City's Obligation to Reimburse Developer. The City agrees to reimburse Developer for the verified Reimbursable Redevelopment Project Costs in the amounts and as set forth on **Exhibit B**, attached hereto and incorporated herein by reference. Subject to the limitations of **Article IV** of this Agreement, the City agrees to reimburse the Developer or verified Reimbursable Redevelopment Project Costs in an amount not to exceed Eight Million One Hundred Sixty One Thousand Dollars (\$8,161,000).

4.2 Reimbursements Limited to Reimbursable Redevelopment Project Costs; Developer's Right to Substitute. Nothing in this Agreement shall obligate the City to reimburse the Developer or to issue TIF Obligations to reimburse the Developer for any cost that is not incurred pursuant to Section 99.820.1 of the TIF Act or that does not qualify as a "redevelopment project cost" under Section 99.805(14) of the TIF Act. The Developer shall provide itemized invoices, receipts or other information, if any, reasonably necessary for the City and the St. Louis Development Corporation to confirm that any such cost is so incurred and does so qualify. Each such request shall be accompanied by a certification by the Developer that such cost is eligible for reimbursement under the TIF Act. The parties agree that each of the categories of costs set forth in **Exhibit B**, attached hereto and incorporated herein by reference, shall constitute Reimbursable Redevelopment Project Costs that are eligible for reimbursement in accordance with the TIF Act and this Agreement. Subject to the limitations of **Section 3.7** of this Agreement, the Developer shall not be limited to the total amount of reimbursement shown for each such category on **Exhibit B**, but shall be entitled to reimbursement for Redevelopment Project Costs from any of the categories set forth therein, without regard to the maximum amounts shown for each category, up to the maximum aggregate amount established in **Section 4.1** of this Agreement; provided that the Developer shall be obligated to advance to the City its Issuance Costs, if any. If the City determines that any cost identified as a Reimbursable Redevelopment Project Cost is not a "redevelopment project cost" under Section 99.805(14) of the TIF Act, the City shall so notify the Developer in writing within thirty (30) days identifying the ineligible cost and the basis for determining the cost to be ineligible, whereupon the Developer shall have the right to contest such determination and/or identify and substitute other Redevelopment Project Costs as Reimbursable Redevelopment Project Costs with a supplemental application for payment.

4.3 Reimbursement of the Development on a "Pay-As-You-Go" Basis. Prior to reimbursement by the City from for Reimbursable Redevelopment Project Costs, the Developer shall first provide to the Comptroller a Certificate of Reimbursable Redevelopment Project Costs in substantially the form of **Exhibit B**, requesting payment of a specified amount of such Reimbursable Redevelopment Project Costs incurred by the Developer, provided that professional services submitted as Reimbursable Redevelopment Project Costs under category E of Phase I or Category F of Phases II or III shall not exceed twenty five percent (25%) of the total amount requested in any Certificate of Reimbursable Redevelopment Project Costs submitted by the Developer unless the Comptroller specifically waives such a limitation in writing. The Developer may specify in the Certificate of Reimbursable Redevelopment Project Costs that the City's reimburse directly the person, firm, or corporation that incurred the Reimbursable Redevelopment Project Costs identified. The Developer shall not submit more than one Certificate of Reimbursable Redevelopment Project Costs each month. The Comptroller or other financial officer of the City shall disburse any payment required hereunder within ten (10) days after acceptance of each Certificate of Reimbursable Redevelopment Project Costs by the City and the St. Louis Development Corporation.

4.4 City's Obligations Limited to Special Allocation Fund and the Proceeds of TIF Obligations. Notwithstanding any other term or provision of this Agreement to the contrary, any reimbursement by the City pursuant to **Section 4.3** of this Agreement is payable only from Available Revenues and from the proceeds of the TIF Obligations, if any, and from no other source.

**ARTICLE V.
TIF OBLIGATIONS**

5.1 Conditions Precedent to the Issuance of TIF Obligations. Subject to the terms of this Agreement and the Note Ordinance, the City may, in its sole and absolute discretion, issue TIF Obligations in an aggregate principal amount not to exceed the limitations provided in **Section 4.1** of this Agreement plus Issuance Costs. In the event that such TIF Obligations are to be sold to the Developer to evidence the City's obligation to reimburse the Developer for verified Reimbursable Redevelopment Project Costs, the Developer shall, as a condition precedent to the issuance of such TIF Obligations, provide the City with (a) evidence that the Developer has secured private financing, including self-financing, of the Work or any Phase thereof; (b) a performance bond, irrevocable letter of credit or other like form of security reasonably acceptable to the City in form, amount and surety, which shall be payable to the City in the event of the Developer's failure to complete the Work in accordance with the terms of this Agreement; (c) a certificate from a planning consultant reasonably acceptable to the City stating that, after due investigation and based on commercially reasonable assumptions, the projected TIF Revenues within the Redevelopment Area will be sufficient to fully amortize the aggregate principal amount of the TIF Obligations and interest thereon, to which certificate is attached documentation and other information supporting the such certification; and (d) a Certificate of Reimbursable Redevelopment Project Costs in substantially the form of **Exhibit B**, attached hereto and incorporated herein by reference, in an initial amount of not less than Two Hundred Fifty Thousand Dollars (\$250,000), which Certificate of Reimbursable Redevelopment Project Costs shall conform to the requirements of **Article IV** of this Agreement.

5.2 Cooperation in the Issuance of TIF Obligations. The Developer covenants to cooperate and take all reasonable actions necessary to assist the City and its Bond Counsel, underwriters and financial advisors in the preparation of offering statements, private placement memorandum or other disclosure documents and all other documents necessary to market and sell the TIF Obligations, including disclosure of tenants of the Property and the non-financial terms of the leases between the Developer and such tenants, to the extent permitted by such leases. The 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 financial 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.

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

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

6.1 Creation of Special Allocation Fund. The City agrees to cause its Comptroller or other financial officer to maintain the Special Allocation Fund, including a Revenue Fund and, within such Revenue Fund, a "PILOTs Account" and an "EATs Account," and such further funds, accounts or sub-accounts as are required by this Agreement or as the Comptroller of the City 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 Creation of Project Fund for Reimbursement on a "Pay-As-You-Go" Basis. The City hereby establishes and creates within the Special Allocation Fund a fund to be known as the Project Fund, which Project Fund shall be held in the custody of the Comptroller or other financial officer of the City. Except as provided in **Section 6.3** of this Agreement, on the first business day of each month, all Available Revenues shall be transferred to the Project Fund. The City hereby agrees for the term of this Agreement to apply moneys in the Project Fund, while it is in the custody of the Comptroller or other financial officer of the City, to the payment of the Developer or any person, firm, or corporation specified by the Developer pursuant to a Certificate of Reimbursable Redevelopment Project Costs submitted and approved by the City and the St. Louis Development Corporation in accordance with **Section 4.3** of this Agreement.

6.3 Application of Available Revenues. In the event that the City issues TIF Obligations pursuant to **Article V** of this Agreement, Available Revenues shall be applied to debt service on such TIF Obligations in accordance with the Note Ordinance. Upon redemption of all outstanding TIF Obligations, Available Revenues shall be applied to the Project Fund in accordance with **Section 6.2** of this Agreement. Available Revenues transferred to the Project Fund shall be applied as follows:

(i) *First*, on or before March 1 of each calendar year, to payment of fees and expenses incurred by the Comptroller of the City and the St. Louis Development Corporation in the administration of the Redevelopment Plan (but the Available Revenues applied to the fees and expenses incurred by the City and the St. Louis Development Corporation shall not exceed the lesser of Thirty Two Thousand Eight Hundred Dollars (\$32,800) or 0.4% of the amount of Reimbursable Redevelopment Project Costs that have been approved as part of Certificates of Reimbursable Redevelopment Project Costs during the prior calendar year, unless the City has incurred costs pursuant to **Section 7.14** of this Agreement that have not otherwise been reimbursed to the City);

(ii) *Second*, to payment of Reimbursable Redevelopment Project Costs on a “pay-as-you-go” basis in accordance with **Article IV** of this Agreement.

If Available Revenues transferred to the Project Fund during a particular calendar year are insufficient to reimburse the City as provided in clause (i) above, then the unpaid portion shall be carried forward to the next calendar year until such deficiency is paid.

6.4 Covenant to Appropriate Available Revenues. The City agrees that the officer of the City at any time charged with the responsibility of formulating budget proposals will be directed to include in the budget proposal submitted to the Board of Aldermen, for each fiscal year during the term of this Agreement, a request for an appropriation of all Available Revenues for deposit in the Special Allocation Fund for application to the payment of Reimbursable Redevelopment Project Costs.

6.5 Certification of Base for PILOTS and EATS. Within ninety (90) days of the date of this Agreement, the City shall provide to the Developer: (i) a true, correct and complete copy of the City Assessor’s calculation of the total initial equalized assessed valuation of the taxable real property within the Redevelopment Area for the calendar year ending December 31, 2001; and (ii) a certification of the amount of revenue from taxes, penalties and interest which are imposed by the City and other taxing districts and which are generated by economic activities within the Redevelopment Area for the calendar year ending December 31, 2000, but excluding those taxes, licenses, fees or special assessments identified in Section 99.845.3 of the TIF Act.

6.6 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 the City’s enforcement and collection of all such payments through all reasonable and ordinary legal means of enforcement.

ARTICLE VII. GENERAL PROVISIONS

7.1 Developer’s Right of Termination. At any time prior to the delivery of the Certificate of Substantial Completion relating to Phase I of the Work, the Developer may, by giving written notice to the City, abandon the Redevelopment Project and terminate this Agreement and the Developer’s obligations hereunder if the Developer determines, in its sole and absolute discretion, that the Redevelopment Project is no longer economically feasible. Upon such termination, the City shall have no obligation to reimburse the Developer for any amounts advanced under this Agreement or costs otherwise incurred or paid by Developer and any TIF Obligations shall be deemed null and void and shall be surrendered to the City for cancellation in accordance with the Note Ordinance.

7.2 City’s Right of Termination. The City may terminate this Agreement: (a) if the Developer defaults in or breaches any provision of this Agreement and fails to cure such default or breach pursuant to **Section 7.4** of this Agreement; or (b) notwithstanding **Section 7.4** of this Agreement, the Developer fails to substantially complete any Phase of the Work in accordance with the construction schedule provided in **Section 3.4** of this Agreement. Upon termination of this Agreement by the City as provided for in this Section, 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 and any TIF Obligations issued pursuant to this Agreement shall be deemed null and void and shall be surrendered to the City for cancellation in accordance with the Note Ordinance; *provided, however*, that if the City terminates this Agreement after acceptance of the Certificate of Substantial Completion of the Work pertaining to Phase I or Phase II, any outstanding TIF Obligations applicable to such Phase or Phases shall not be deemed null, void and shall not

be surrendered for cancellation.

7.3 Successors and Assigns . 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.

7.4 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 (but with respect to the times for performance set out in **Section 3.4** of this Agreement, only to the extent provided therein and established thereunder) in the event of any delay caused by force majeure, including without limitation insufficiency of Available Revenues being transferred to the Project Fund to pay for Reimbursable Redevelopment Project Costs; damage or destruction by fire or casualty; strike; lockout; civil disorder; war; restrictive government regulations; lack of issuance of any permits and/or legal authorization by the governmental entity necessary for the Developer to proceed with construction of the Work or any portion thereof; shortage or delay in shipment of material or fuel; acts of God; unusually adverse weather or wet soil conditions; or other like causes beyond the parties' reasonable control, including without limitation any litigation, court order or judgment resulting from any litigation affecting the validity of the Redevelopment Plan, the Redevelopment Project, this Agreement or the TIF Obligations, if any; provided that 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 further provided that the Developer notifies the City in writing within thirty (30) days of the commencement of such claimed event of force majeure.

7.6 Notices. Any notice, demand or other communication required by this Agreement to be given by either party hereto to the other shall be in writing and shall be sufficiently given or delivered if dispatched by hand delivery, certified United States mail, postage prepaid, or delivered personally,

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

Near Southside Improvement Corporation
1951-B Park Avenue
St. Louis, MO 63104
Attention: Chris Goodson

With a copy to:

Husch & Eppenberger, LLC
231 South Bemiston
8th Floor
St. Louis, Missouri 63105
Attention: David Richardson

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

City of St. Louis
Office of the Mayor
City Hall

1200 Market Street, Room 200
St. Louis, Missouri 63103
Attention: Barbara Geisman, Deputy Mayor for Development

And

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

With a copy to:

St. Louis Development Corporation
1015 Locust Street
Suite 1200
St. Louis, Missouri 63101
Attention: Dale Ruthsatz

And

Armstrong Teasdale LLP
One Metropolitan Square, Suite 2600
St. Louis, Missouri 63102
Attention: James E. Mello

or to such other address(es) with respect to either party as that party may, from time to time, designate in writing and forward to the other as provided in this paragraph.

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

7.8 Inspection . The City may conduct such periodic inspections of the Work as may be generally provided in applicable state and local laws, ordinances and regulations. 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.

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

7.10 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.

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

7.12 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.

7.13 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.

7.14 Actions Contesting the Validity and Enforceability of the Redevelopment Plan. During the term of this Agreement, in the event a third party brings an action against the City or the City's officials, agents, attorneys, employees or representatives contesting the validity or legality of the Redevelopment Area, the Redevelopment Plan, the ordinance approving this Agreement, the Note Ordinance or the TIF Obligations, if any, the 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 which the Developer would agree to, the Developer shall not be responsible for any costs or expenses incurred thereafter in the defense of such claim or action. All cost of any such defense, whether incurred by the City or the Developer, shall be deemed to be Reimbursable Redevelopment Project Costs and reimbursable from any amounts in the Special Allocation Fund, subject to **Article IV** of this Agreement.

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

7.15.1 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.

7.15.2 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.

7.15.3 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.

7.15.4 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.

7.15.5 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.

7.15.6 The Developer releases from and covenants and agrees that the City, its governing body members,

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

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

7.17 Maintenance of the Property. To the extent that the Developer owns or acquires any 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 Work or any portion thereof. Upon substantial completion of the Work, the Developer or its successor(s) in interest, as owner or owners of the affected portion(s) of the Property, shall dedicate the improvement related to such Work to the City or the appropriate public entity for future maintenance.

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

7.19 Fair Employment. Without limiting any of the foregoing, the Developer voluntarily agrees to observe the Equal Opportunity and Nondiscrimination Guidelines set forth as **Exhibit E**, 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 E**, attached hereto and incorporated herein by reference.

ARTICLE VIII. REPRESENTATIONS OF THE PARTIES

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

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

(The remainder of this page intentionally left blank.)

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

“CITY”:

CITY OF ST. LOUIS, MISSOURI

By: _____
Mayor

By: _____
Comptroller

(SEAL)

Attest:

City Register

Approved as to Form:

City Counselor

“DEVELOPER”:

NEAR SOUTHSIDE IMPROVEMENT CORPORATION

By: _____
Chris Goodson, President

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

On this ____ day of _____, 2002, before me appeared Francis G. Slay, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen, and said individual acknowledged said instrument to be the free act and deed of said City.

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

Notary Public

(SEAL)

My Commission Expires:

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

On this ____ day of _____, 2002, 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

(SEAL)

My Commission Expires:

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

On this ____ day of _____, 2002, before me appeared Chris Goodson, to me personally known, who, being by me duly sworn, did say that he is the President of NEAR SOUTHSIDE DEVELOPMENT CORPORATION., a Missouri corporation, and that he is authorized to sign the instrument on behalf of said 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

(SEAL)

My Commission Expires:

EXHIBIT A
Legal Description of the Redevelopment Area

(Attached hereto.)

Beginning at the point of intersection of the north line of Chouteau Avenue and the west line of Mackay Place; thence eastwardly along the north line of Chouteau Avenue across all intervening streets and alleys to an intersection with the northward projection of the east line of Lot 6 of the George H. Crossman's Subdivision in City Block 482E, property owned now or formerly by the Eden Partnerships; thence south along said east line of Lot 6, to a point of intersection with the north line of an east-west alley, 15 feet wide, in City Block 482E; thence southwestwardly to a point of intersection with the east line of a north-south alley, width varies, in City Block 482E; thence southwardly and along the east line of alley across all intervening streets and alleys to an intersection with the north line of Park Avenue, 80 feet wide, and the northwardly projection of the east line of a north-south alley, 20 feet wide, in City Block 1254; thence southwardly along the northwardly projection of the east line of said alley to a point of intersection with the east line and the south line of an east-west alley, 20 feet wide, in City Block 1254; thence westwardly along the south line of the east-west alley to a point of intersection with the east line Dolman Street; thence southwardly and along the east line of Dolman Street across all intervening streets to an intersection with the eastward projection of the south line of Lot 17 of City Commons Addition,

Block 3; thence westwardly along said south line of Lot 17, to a point of intersection with the west line of S. 18th Street, 60 feet wide; thence northwardly along said west line of S. 18th Street to a point of intersection with the southeast corner of Lots 1-27 of Ryan & McNulty Addition in City Block 1808; thence westwardly along the south line of Lots 1-27 to the west line of Vail Place; thence northwardly along the west line of Vail Place to a point of intersection with the northeast corner of Lot 18N-17 of Ryan & McNulty Addition in City Block 1807; thence westwardly along said north line of Lot 18N-17, to a point of intersection with the west line of a north-south alley in City Block 1807; thence northwardly along the west line of said alley to a point of intersection with the southeast corner of Lot 3S2, Amended Dillon Addition, in City Block 1809; thence westwardly along the south line of Lot 3S2 to the intersection of the east line of Mississippi Avenue; thence north along the east line of Mississippi Avenue to the intersection of the southwest corner of Lot 1-2-3 of Holmes Subdivision, in City Block 484; thence westwardly across Mississippi Avenue to a point of intersection with the southward projection of the west line of Lot 1 of JJ Hoppe Addition, Block 1, in City Block 2279E; thence northwardly along said west line of Lot 1 to the intersection with the north line of the east-west alley in City Block 2279E; thence eastwardly along the north line of said alley to a point of intersection with the west line of Mississippi Avenue; thence northwardly along the west line of Mississippi Avenue across all intervening streets and alleys to a point of intersection with the south line of Hickory Street; thence westwardly along the south line of Hickory Street to a point of intersection with the west line of Mackay Place; thence northwardly along the west line of Mackay Place to the point of beginning.

**EXHIBIT B
Reimbursable Redevelopment Project Costs**

| | REIMBURSEMENT COSTS | ESTIMATED COST* |
|------------------|---|----------------------------------|
| A. | Park Avenue Land Acquisition | \$350,000.00 |
| B. | Construction of Park Avenue Plaza and Fountain | \$150,000.00 |
| C. | Construction of Entry Gate at Park Avenue and Grattan Street | \$50,000.00 |
| D. | Road and Sidewalk Improvements Along Park Avenue, Dolman and 18 th Street | \$400,000.00 |
| E. | Professional Services (Includes architectural, engineering, legal, surveying, planning and consulting fees) | \$133,000.00 |
| | | TOTAL PHASE I |
| PHASE II | | |
| A. | Construct Entry Gates | \$150,000.00 |
| B. | Roadway improvements (including installation of brick or cobblestone pavers at intersections) | \$180,000.00 |
| C. | Park Avenue Landscaping | \$100,000.00 |
| D. | Land Acquisitions for Housing and Commercial Development | \$500,000.00 |
| E. | Lafayette Park Improvements | \$916,666.00 |
| F. | Professional Services (Includes architectural, engineering, legal, surveying, and consulting fees) | \$85,500.00 |
| | | TOTAL PHASE II \$1,932,166.00 |
| PHASE III | | |
| A. | Lafayette Square Park Improvements | \$1,833,334.00 |

| | | |
|----|---|--------------------------------------|
| B. | Installation of Historic Pedestrian Lighting | \$2,750,000.00 |
| C. | Construct Entry Gates (including permanent entry with gates at 18 th Street and | \$175,000.00 |
| D. | Construction of Community gardens | \$35,000.00 |
| E. | Road and Intersection Improvements (including construction of traffic calming devices, and pedestrian and intersection safety improvements) | \$325,000.00 |
| F. | Professional Services (Includes architectural, engineering, legal, surveying, | |
| | TOTAL OF REIMBURSABLE | TOTAL PHASE III \$5,145.834.00 |

*Subject to the limitations of **Article IV** of this Agreement

EXHIBIT C
Form of Certificate of Substantial Completion
CERTIFICATE OF SUBSTANTIAL COMPLETION

The undersigned, NEAR SOUTHSIDE IMPROVEMENT CORPORATION, a Missouri corporation (the “*Developer*”), pursuant to that certain Redevelopment Agreement dated as of _____, 2002, 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 _____, 20__, the construction of Phase ___ of the Work (as that term is defined in the Agreement) has been substantially completed in accordance with the Agreement.
2. That Phase ___ of the Work has been substantially completed or funded pursuant to **Exhibit B** to the Agreement and the Concept Site Plan set forth in the Redevelopment Plan.
3. That Phase ___ of the Work has been performed in a workmanlike manner and substantially in accordance with the Construction Plans, as that term is defined in the Agreement.
4. Lien waivers for Phase ___ of the Work in excess of Five Thousand Dollars (\$5,000) have been obtained.
5. 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), if applicable, a copy of which is attached hereto as **Appendix A** and by this reference incorporated herein), certifying that Phase ___ of the Work has been substantially completed in accordance with the Agreement.
6. This Certificate of Substantial Completion is being issued by the Developer to the St. Louis Development Corporation and the City in accordance with the Agreement to evidence the Developer’s satisfaction of all material obligations and covenants with respect to Phase ___ of the Work.
7. The acceptance (below) or the failure of the St. Louis Development Corporation and the City to object in writing to this Certificate within thirty (30) days of the date of delivery of this Certificate to the St. Louis Development Corporation 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 Phase ___ of the Work.

Upon such acceptance by the St. Louis Development Corporation and the City, 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__.

NEAR SOUTHSIDE IMPROVEMENT CORPORATION

By: _____
Name: _____
Title: _____

ACCEPTED:

ST. LOUIS DEVELOPMENT CORPORATION

By: _____
Name: _____
Title: _____

CITY OF ST. LOUIS, MISSOURI

By: _____
Name: _____
Title: _____

(Insert Notary Form(s) and Legal Description)

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

St. Louis Development Corporation
1015 Locust Street, Suite 1200
St. Louis, MO 63101
Attention: Dale Ruthsatz

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

Re: City of St. Louis, Missouri, Lafayette Square Historic District Redevelopment Project

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Redevelopment Agreement dated as of _____, 20__ (the "Agreement"), between the City and Near Southside Improvement Corporation, a Missouri corporation (the "Developer"). In connection with said Agreement, the undersigned hereby states and certifies that:

1. This is requisition number _____ for disbursement from the Project Fund.
2. The name and address of the person, firm or corporation to whom the disbursement is due is as follows:
_____.
3. The amount to be disbursed is \$_____.
4. Each item listed on **Schedule 1** hereto is a Reimbursable Redevelopment Project Cost and was incurred in connection with the construction of the Redevelopment Project.
5. The nature of the obligation for which the disbursement is requested is as follows:

6. These Reimbursable Redevelopment Project Costs have been have been paid or incurred by the Developer and are reimbursable pursuant to the Agreement.

7. Each item listed on **Schedule 1** has not previously been paid or reimbursed from money derived from the Project Fund of the Special Allocation Fund or from any proceeds of any TIF Obligations issued pursuant to the Note Ordinance, and no part thereof has been included in any other certificate previously filed with the City.

8. 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.

9. 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.

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

12. 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 in accordance with the Agreement.

13. 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 _____, _____.

NEAR SOUTHSIDE IMPROVEMENT CORPORATION

By: _____
Name: _____
Title: _____

Approved for Payment this ____ day of _____, _____.

ST. LOUIS DEVELOPMENT CORPORATION

By: _____
Name: _____
Title: _____

Approved for Payment this ____ day of _____, _____.

CITY OF ST. LOUIS, MISSOURI

By: _____
Name: _____
Title: _____

EXHIBIT E
Equal Opportunity and Nondiscrimination Guidelines

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

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

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

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

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

EXHIBIT F
Parcel I.D. Numbers and Property Addresses for Parcels Subject to Eminent Domain

| Parcel ID | Address |
|-------------|-------------------------|
| 18090001000 | 1802 Park Avenue |
| 18090000900 | 1804 Park Avenue |
| 18090000800 | 1808 Park Avenue |
| 18090000700 | 1810 Park Avenue |
| 18090000600 | 1820 Park Avenue |
| 18090000500 | 1828 Park Avenue |
| 18090000400 | 1908 Park Avenue |
| 22760300100 | 1005 Mississippi Avenue |

Approved: May 1, 2002