

ORDINANCE #66222
Board Bill No. 403

AN ORDINANCE AFFIRMING ADOPTION OF A REDEVELOPMENT PLAN, REDEVELOPMENT AREA, REDEVELOPMENT PROJECT; AUTHORIZING THE EXECUTION OF A REDEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY AND HIGHLANDS HOTEL, LLC; PRESCRIBING THE FORM AND DETAILS OF SAID AGREEMENT; DESIGNATING HIGHLANDS HOTEL, LLC, AS DEVELOPER OF THE REDEVELOPMENT AREA; MAKING CERTAIN FINDINGS WITH RESPECT THERETO; AUTHORIZING AND APPROVING THE CREATION OF A TRANSPORTATION DEVELOPMENT DISTRICT TO FINANCE A PORTION OF THE REDEVELOPMENT PROJECT; AUTHORIZING AND APPROVING THE FORM OF AN INTERGOVERNMENTAL COOPERATION AND ACCESS AND PARKING AGREEMENT BY AND BETWEEN THE CITY AND SUCH TRANSPORTATION DEVELOPMENT DISTRICT; AUTHORIZING OTHER RELATED ACTIONS IN CONNECTION WITH THE REDEVELOPMENT OF CERTAIN PROPERTY WITHIN THE REDEVELOPMENT AREA; AND CONTAINING A SEVERABILITY CLAUSE.

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, on December 10, 2003, after all proper notice was given, the TIF Commission held a public hearing in conformance with the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 through 99.865 of the Revised Statutes of Missouri (2000), as amended (the "TIF Act"), and received comments from all interested persons and taxing districts affected by the Redevelopment Plan and the redevelopment project described therein; and

WHEREAS, pursuant to the TIF Act and after due consideration of the TIF Commission's recommendations, the Board of Aldermen of the City of St. Louis, Missouri adopted Ordinance No. _____ [Board Bill No. 402] on _____, 2004, which Ordinance: (i) adopted and approved a redevelopment plan entitled "Hampton Inn and Suites @ the Highlands @ Forest Park (the "Redevelopment Plan"), (ii) designated the Hampton Inn and Suites @ the Highlands @ Forest Park TIF Redevelopment Area (as described in the Redevelopment Plan) as a "redevelopment area" as that term is defined in the TIF Act (the "Redevelopment Area" or "Area"), (iii) adopted and approved the Redevelopment Project described in the Redevelopment Plan, (iv) adopted tax increment allocation financing within the Redevelopment Area, (v) established the City of St. Louis, Missouri "Highlands Hotel Special Allocation Fund," and (vi) made certain findings with respect thereto, all as set forth in such Ordinance and in accordance with the requirements of the Act; and

WHEREAS, the Redevelopment Plan proposes to redevelop the Redevelopment Area by rehabilitating and renovating the Area into a hotel and restaurant with a surface parking lot and other improvements as set forth in the Redevelopment Plan (the "Redevelopment Project," or "TIF Project" as further set forth in the Redevelopment Plan); and

WHEREAS, pursuant to Ordinance No. _____ [Board Bill No. 402], the Board of Aldermen has determined that completion of the Redevelopment Project is of economic significance to the City, will serve to benefit the general welfare, qualifies for the use of tax increment allocation financing to alleviate the conditions that qualify it as a "redevelopment area" as provided in the TIF Act, and further, that redevelopment of the Redevelopment Area in accordance with the Redevelopment Plan is not financially feasible without the adoption of tax increment allocation financing and would not otherwise be completed; and

WHEREAS, the Redevelopment Area qualifies for the use of tax increment allocation financing to alleviate the conditions that qualify it as a "blighted area" as provided in the TIF Act and as set forth herein; and

WHEREAS, it is necessary and desirable and in the best interest of the City to enter into the Redevelopment Agreement with Highlands Hotel, LLC, as "Developer," in order that Developer may complete the Redevelopment Project which will provide for the promotion of the general welfare through redevelopment of the Redevelopment Area in accordance with the Redevelopment Plan which redevelopment includes, but is not limited to, assistance in the physical, economic, and social development of the City of St. Louis, providing for a stabilized population and plan for the optimal growth of the City of St. Louis, encouragement of a sense

of community identity, safety and civic pride, prevention of physical and environmental blighting factors, and the elimination of impediments to land disposition and development in the City of St. Louis; and

WHEREAS, pursuant to the provisions of the TIF Act, the City is authorized to enter into a redevelopment agreement with Highlands Hotel, LLC, as “Developer,” setting forth the respective rights and obligations of the City and Developer with regard to the redevelopment of the Redevelopment Area (the “Redevelopment Agreement”); and

WHEREAS, the Board of Aldermen hereby determines that the terms of the Redevelopment Agreement attached as Exhibit A hereto and incorporated herein by reference are acceptable and that the execution, delivery and performance by the City and the Developer of their respective obligations under the Redevelopment Agreement are in the best interests of the City and the health, safety, morals and welfare of its residents, and in accord with the public purposes specified in the TIF Act and the Redevelopment Plan; and

WHEREAS, Section 16 of Article VI of the Missouri Constitution allows and provides that any municipality or political subdivision of the State of Missouri may contract and cooperate with other municipalities or political subdivisions thereof, for the planning, development, construction, acquisition or operation of any public improvement or facility, or for a common service, in the matter provided by law; and

WHEREAS, the Redevelopment Project will be financed, in part, by a transportation development district (the “District”) to be created by the Developer pursuant to the Missouri Transportation Development District Act, Sections 238.200 to 238.275 of the revised statutes of Missouri (2000), as amended (the “TDD Act”).

WHEREAS, it is necessary and desirable and in the best interest of the City to enter into the Intergovernmental Cooperation and Access and Parking Agreement with the District in order that Developer may complete the Redevelopment Project which will provide for the promotion of the general welfare through redevelopment of the Redevelopment Area in accordance with the Redevelopment Plan; and

WHEREAS, pursuant to the provisions of the TDD Act, the City and the District are authorized to enter into an Intergovernmental Cooperation and Access and Parking Agreement setting forth the respective rights and obligations of the City and the District; and

WHEREAS, the Board of Aldermen hereby determines that the terms of the Intergovernmental Cooperation and Access and Parking Agreement attached as Exhibit I to the Redevelopment Agreement attached hereto and incorporated herein by reference are acceptable and that the execution, delivery and performance by the City and the District of their respective obligations under the Intergovernmental Cooperation and Access and Parking Agreement are in the best interests of the City and the health, safety, morals and welfare of its residents, and in accord with the public purposes specified in the TIF Act, TDD Act and the Redevelopment Plan.

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

Section One. The Board of Aldermen hereby adopts the foregoing recitals as findings.

Section Two. The Board of Aldermen hereby ratifies and confirms its approval of the Redevelopment Plan, Redevelopment Area, and Redevelopment Project. The Board of Aldermen further finds and determines that it is necessary and desirable to enter into the Redevelopment Agreement with Highlands Hotel, LLC as Developer of the Redevelopment Area, in order to implement the Redevelopment Project and to enable the Developer to carry out its proposal for development of the Redevelopment Project.

Section Three. The Board of Aldermen finds and determines that the assistance of tax increment financing is necessary and desirable in order to implement the Redevelopment Project and to enable Highlands Hotel, LLC, as “Developer,” to carry out its proposal for development of the Redevelopment Project.

Section Four. The Board of Aldermen hereby approves, and the Mayor and Comptroller of the City 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 Five. The Board of Alderman hereby approved, and the Mayor and Comptroller are hereby authorized and directed to execute, on behalf of the City, and directed to take any and all actions to execute and deliver for and on behalf of the City any and all additional documents, agreements or other instruments as may be necessary, desirable, convenient or proper in order to create and approve the creation of a Transportation Development District to finance a portion of the Redevelopment Project.

Section Six. The Board of Alderman hereby approves, and the Mayor and Comptroller are hereby authorized and directed to execute, on behalf of the City, the Intergovernmental Cooperation and Access and Parking Agreement by and between the City and the District once the District has been created, and the City Register is hereby authorized and directed to attest to the Intergovernmental Cooperation and Access and Parking Agreement and to affix the seal of the City thereto. The Intergovernmental Cooperation and Access and Parking Agreement shall be in substantially the form set forth on Exhibit I to the Redevelopment Agreement 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 Seven. The Mayor and Comptroller of the City or their designated representatives are hereby authorized and directed to take any and all actions to execute and deliver for and on behalf of the City any and all additional certificates, documents, agreements or other instruments as may be necessary, desirable, convenient or proper in order to carry out the matters herein authorized.

Section Eight. The Mayor and the 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 Nine. 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 Ten. After adoption of this Ordinance by the Board of Aldermen, this Ordinance shall become effective on the 30th day after its approval by the Mayor or adoption over his veto; provided that, if the Developer has not executed a redevelopment agreement pertaining to the Redevelopment Project within ninety (90) days after the effective date of this Ordinance, the provisions of this Ordinance shall be deemed null and void and of no effect and all rights conferred by this Ordinance on Highlands Hotel, LLC shall terminate, provided further, however, that prior to any such termination the Developer may seek an extension of time in which to execute the Redevelopment Agreement, which extension may be granted in the sole discretion of the Board of Estimate and Apportionment of the City of St. Louis.

EXHIBIT A

Redevelopment Agreement Between the City of St. Louis and Highlands Hotel, LLC

(Attached hereto)

REDEVELOPMENT AGREEMENT By and Between the CITY OF ST. LOUIS, MISSOURI and HIGHLANDS HOTEL, LLC

Dated as of

_____, 2004

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REDEVELOPMENT AGREEMENT

THIS REDEVELOPMENT AGREEMENT (this “Agreement”) is made and entered into as of this ____ day of _____, 2004, by and between the **CITY OF ST. LOUIS, MISSOURI** (the “City”), a city and political subdivision duly organized and existing under its charter and the Constitution and laws of the State of Missouri, and **HIGHLANDS HOTEL, LLC**, (the “Developer”), a Missouri limited liability company. (All capitalized terms used but not otherwise defined herein shall have the meanings ascribed to them in **Article I** of this Agreement.)

RECITALS

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

The City published a notice on _____, 2003 and _____, 2003, in the St. Louis Post-Dispatch, a newspaper of general circulation within the City, soliciting proposals for the redevelopment of the Redevelopment Area (as hereinafter defined), and made such requests for proposals available for potential developers of the Redevelopment Area.

Developer submitted its development proposal dated July 23, 2003, (the "Redevelopment Proposal"), to the TIF Commission for redevelopment of the Redevelopment Area.

On December 10, 2003, following a public hearing held on December 10, 2003, in accordance with the TIF Act, the TIF Commission adopted a resolution approving the Redevelopment Plan titled "Hampton Inn and Suites at the Highlands at Forest Park TIF Redevelopment Plan," dated October 24, 2003, (the "Redevelopment Plan"), the Redevelopment Project described in the Redevelopment Plan (the "Redevelopment Project") and the Redevelopment Area, and recommending that the Board of Aldermen: (1) adopt tax increment financing with respect to the Redevelopment Area by passage of an ordinance complying with the terms of Section 99.845 of the Act; and (2) adopt an ordinance in the form required by the Act (a) approving the Redevelopment Plan, (b) approving and designating the Redevelopment Area as a "redevelopment area" as provided in the Act, (c) approving the Redevelopment Project, and (d) creating the Highlands at Forest Park Special Allocation Fund.

On _____, 2004, after due consideration of the TIF Commission's recommendations, the Board of Aldermen adopted Ordinance No. _____ [Board Bill No. 402] designating the Redevelopment Area as a "redevelopment area" as provided in the TIF Act, approving the Redevelopment Plan, approving the Redevelopment Project described in the Redevelopment Plan, adopting tax increment allocation financing within the Redevelopment Area and establishing the Special Allocation Fund.

On _____, 2004, the Board of Alderman adopted Ordinance No. _____ [Board Bill No. 403] affirming adoption of the Redevelopment Area, Redevelopment Plan and Redevelopment Project, designating the Developer as developer of the Redevelopment Area, and authorizing the City to enter into this Agreement with Developer.

On _____, 2004, the Board of Alderman adopted Ordinance No. _____ [Board Bill No. 404] authorizing the issuance of TIF Notes as evidence of the City's obligation to pay certain Redevelopment Project Costs incurred in furtherance of the Redevelopment Plan and the Redevelopment Project and pledging TIF Revenues to the payment of the TIF Notes.

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

Pursuant to provisions of the TIF Act and Ordinance Nos. _____, _____ and _____ [Board Bill Nos. 402, 403 and 404], the City is authorized to enter into this Agreement, to issue TIF Notes as evidence of the City's obligation to pay certain Redevelopment Project Costs incurred in furtherance of the Redevelopment Plan and the Redevelopment Project, and to pledge TIF Revenues to the payment of the TIF Notes.

AGREEMENT

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

ARTICLE I. DEFINITIONS

1.1 Definitions.

As used in this Agreement, the following words and terms shall have the following meanings:

"*Acquisition Costs*" means all costs of acquiring a fee simple interest in 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 (2000), as amended.

"*Agreement*" means this Redevelopment Agreement, as the same may be from time to time modified, amended or

supplemented in writing by the parties hereto.

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

“*Approving Ordinance*” means Ordinance No. _____ [Board Bill No. 402], designating the Redevelopment Area, approving the Redevelopment Plan, approving the Redevelopment Project, adopting tax increment allocation financing within the Redevelopment Area and establishing the Special Allocation Fund.

“*Authorizing Ordinance*” means Ordinance No. _____ [Board Bill No. 403] affirming approval and adoption of the Redevelopment Plan, Redevelopment Project, and designation of the Redevelopment Area, designating Developer as the developer of the Redevelopment Area, 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 that have been appropriated to the repayment of the TIF Notes, excluding (i) any amount paid under protest until the protest is withdrawn or resolved against the taxpayer or (ii) any sum received by the City which is the subject of a suit or other claim communicated to the City which suit or claim challenges the collection of such sum.

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

“*Bond Counsel*” means the law firm of 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 Commencement of Construction*” means a document substantially in the form of **Exhibit H**, attached hereto and incorporated by reference herein, delivered by Developer to the City in accordance with this Agreement and evidencing commencement of construction of the Redevelopment Project.

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

“*Certificate of Substantial Completion*” means a document substantially in the form of **Exhibit B**, attached hereto and incorporated herein by reference, issued by the Developer to the City in accordance with this Agreement and evidencing the Developer’s Substantial Completion of the Work in accordance with 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.

“*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 and as required by this Agreement.

“*Developer*” means HIGHLANDS HOTEL, LLC, a Missouri limited liability company, or its permitted successors or assigns in interest.

“*EATS Account*” means the Economic Activity Tax Account in the Special Allocation Fund.

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

“*Finance Officer*” means the Comptroller of the City or her authorized agent.

“*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 Highlands at Forest Park Redevelopment Project related to the Redevelopment Area and consistent with the Redevelopment Plan and this Agreement.

“*Intergovernmental Cooperation and Access and Parking Agreement*” means the agreement by and between the City and the Highlands Transportation Development District as approved by the City by Ordinance No. _____ which shall be substantially in the form of **Exhibit I**, attached hereto and incorporated herein by reference.

“*Note Ordinance*” means Ordinance No. _____ [Board Bill No. 404], adopted by the Board of Aldermen authorizing the TIF Note and TIF Notes, any trust indenture relating thereto, and all related ordinances, resolutions, and proceedings.

“*Note Purchaser*” means the Original Purchaser.

“*Notice to Issue TIF Notes*” means a document substantially in the form of **Exhibit G** attached hereto and incorporated herein by reference issued by the Developer to the City in accordance with this Agreement and evidencing the Developer’s request that the City issue TIF Notes to a Note Purchaser.

“*Original Purchaser*” means an Approved Investor.

“*Parking Field*” means that portion of the Transportation Project consisting of the surface parking lot located near the corner of Oakland Avenue and Highlander.

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

“*PILOTS Account*” means the PILOTS Account in the Special Allocation Fund.

“*Project Fund*” means the Project Fund created in the Note Ordinance.

“*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) in the Redevelopment Area necessary for the implementation of the Redevelopment Project.

“*Redevelopment Area*” means the real property described in **Exhibit C**, attached hereto and incorporated herein by reference, comprising approximately 2.98 acres of land.

“*Redevelopment Plan*” means the plan titled Hampton Inn and Suites at the Highlands at Forest Park TIF Redevelopment Plan as approved by the City on _____, 2004, pursuant to Ordinance No. _____ [Bill Board No. 402], as such plan may from time to time be amended in accordance with the TIF Act.

“*Redevelopment Project*” or “*Highlands at Forest Park Redevelopment Project*” means the redevelopment identified in the Redevelopment Plan consisting of the construction of an approximately 121-room hotel and adjacent restaurant, as well as related internal sidewalks and parking facilities, and screening and site landscaping on the Property.

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

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

“*Reimbursable Transportation Project Costs*” means those Transportation Project Costs as described in **Exhibit D**, 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)

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, in conformity with Ordinance No. 62481 of the City.

“*Revenue Fund*” means the fund by that name created in **Section 6.3** of this Agreement.

“*Special Allocation Fund*” means the City of St. Louis, Missouri, Highlands at Forest Park Special Allocation Fund created by the Approving Ordinance, and including the accounts and sub-accounts for the Highlands at Forest Park Redevelopment Project into which TIF Revenues and TDD Revenues are from time to time deposited in accordance with the TIF Act and this Agreement, including a PILOTS Account, an EATS Account and a TDD Account.

“*Special TIF Counsel*” means the law firm of Armstrong Teasdale LLP, St. Louis, Missouri, or an attorney at law or a firm of the attorneys acceptable to the City.

“*Substantial Completion*” means the stage in the progress of the Work when the Redevelopment Project is sufficiently complete in accordance with the Redevelopment Plan, the Construction Plans and this Agreement so that the Redevelopment Project can be occupied and utilized for its intended use; provided that as a condition precedent to Substantial Completion, the Developer has received all certificates of occupancy and any other permits, approvals, licenses and other documents necessary for the beneficial occupancy of the Redevelopment Project.

“*TDD*” or “*District*” means the Highlands Transportation Development District created and operated pursuant to **Section 3.9** of this Agreement.

“*TDD Account*” means the account of that name to be created in accordance with Section 6.1 of this Agreement.

“*TDD Act*” means the Missouri Transportation Development District Act, Sections 238.200 through 238.275 of the Revised Statutes of Missouri (2000), as amended.

“*TDD Debt Service Fund*” means the fund by that name created in the Note Ordinance.

“*TDD Issuance Costs*” means all costs reasonably incurred by the City in furtherance of the issuance of that portion of the TDD Notes that are reasonably related to the Transportation Project, including without limitation, the fees and expenses of financial advisors and consultants, the City’s attorneys (including Bond Counsel).

“*TDD Maturity Date*” means the date that is forty (40) years after the date of adoption of the Approving Ordinance.

“*TDD Notes*” means the Tax Increment and Transportation Development Revenue Notes (Highlands @ Forest Park Redevelopment Project), Series B, issued by the City pursuant to and subject to this Agreement and the Note Ordinance in substantially the form set forth in **Exhibit F-1**, to evidence the City’s limited obligation to repay Reimbursable Transportation Project Costs incurred by the Developer on behalf of the City in accordance with the TDD Act and this Agreement.

“*TDD Revenues*” means revenues of the TDD created in accordance with the TDD Act and as described in **Section 3.9** of this Agreement (1) less (i) costs of collection, not to exceed 1% of the actual amount collected by the TDD; (ii) that portion of revenues that constitutes an Economic Activity Tax; (iii) the District’s reasonable operating costs, not to exceed \$10,000 per year, commencing in 2004; and (iv) actual costs of the District associated with its Cleaning & Maintenance Obligations in an amount not to exceed \$50,000; and (2) plus all Pass-Through Payments received by the District pursuant to **Section 6.6.2** of this Agreement. TDD Revenues shall not include (i) any amount paid under protest until the protest is withdrawn or resolved against the taxpayer or (ii) any sum received by the District which is the subject of a suit or other claim communicated to the District which suit or claim challenges the collection of such sum.

“*TDD Sales Tax*” means the transportation development district sales tax levied by the TDD in accordance with the TDD Act and **Section 3.9** of this Agreement.

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

“*TIF Debt Service Fund*” means the fund by that name created in the Note Ordinance.

“*TIF Issuance Costs*” means all costs reasonably incurred by the City in furtherance of the issuance of TIF Notes, including without limitation, the fees and expenses of financial advisors and consultants, the City’s attorneys (including Special TIF Counsel and Bond Counsel), the City’s administrative fees and expenses (including fees and costs of the St. Louis Development Corporation).

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

“*TIF Notes*” means the Tax Increment and Transportation Development Revenue Notes (Highlands @ Forest Park Redevelopment Project), Series A, issued by the City pursuant to and subject to this Agreement and the Note Ordinance in substantially the form set forth in **Exhibit F**, to evidence the City’s limited obligation to repay Reimbursable Redevelopment Project Costs incurred by the Developer on behalf of the City in accordance with the TIF Act and this Agreement.

“*TIF Revenues*” means: (1) payments in lieu of taxes (as that term is defined in Section 99.805(10) of the TIF Act) attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract, or parcel of real property located within the 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 Treasurer by the City Collector of Revenue during the term of the Redevelopment Plan and the Highlands at Forest Park Redevelopment Project, and (2) fifty percent (50%) of the total additional revenues from taxes which are imposed by the City or other taxing districts (as that term is defined in Section 99.805(16) of the TIF Act) and which are generated by economic activities within the Redevelopment Area over the amount of such taxes generated by economic activities within the Redevelopment Area in the calendar year ending December 31, 2003 (subject to annual appropriation by the City as provided in the TIF Act), as defined and described in Sections 99.805(4) and 99.845 of the TIF Act, but excluding therefrom personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, licenses, fees or special assessments, taxes levied pursuant to Section 70.500 of the Revised Statutes of Missouri, as amended, and taxes levied for the purpose of public transportation pursuant to Section 94.660 of the Revised Statutes of Missouri, as amended, all as provided in Section 99.845 of the TIF Act, as amended from time to time. Notwithstanding the foregoing, TIF Revenues shall not include the operating levy for school purposes imposed by or any sales tax imposed by the Transitional School District of the City of St. Louis.

“*Transportation Project*” means that portion of the Work that includes but is not limited to the following: (i) engineering and design work for the Transportation Project improvements; (ii) site work, drainage, pavement, lighting, striping; (iii) construction of a public surface parking lot, provided that there are no private use restrictions accruing to the benefit of any tenants or the Developer (to the extent that such restrictions exist, such restrictions shall apply to less than 10% of the parking improvements, whether measured by area or costs); and (iv) construction of accompanying curb, gutter, sidewalk, storm water facilities or other similar or related infrastructure or improvement. The approximate location of the Transportation Project is as follows: the southwest corner of Oakland Avenue and Highlander within the boundaries of the City of St. Louis, Missouri.

“*Transportation Project Costs*” means all costs reasonably incurred by the Developer to construct the Transportation Project.

“*Work*” means all work necessary to prepare the Redevelopment Area and to construct or cause the construction of the Redevelopment Project and Transportation Project as specifically described in the Redevelopment Plan and this Agreement including, but not limited to: (1) property acquisition; (2) professional fees, including architecture, engineering, soil, surveying, legal and planning and consulting; (3) site preparation including without limitation site re-grading and excavation and environmental remediation; (4) construction or re-construction of utilities and other public improvements, including water distribution and service facilities, sanitary sewers, storm water improvements, electrical service facilities, roadways, street lighting and traffic signalization that serve the Redevelopment Area; (4) construction of an approximately 121 room hotel and adjacent restaurant, as well as related internal sidewalks and parking facilities, and screening and site landscaping on the Property; and (5) all other work described in the Redevelopment Plan or reasonably necessary to effectuate the intent of this Agreement.

ARTICLE II. ACCEPTANCE OF PROPOSAL

2.1 Developer Designation

The City hereby designates the Developer to perform or cause the performance of the Work in accordance with the Redevelopment Plan, this Agreement, and all Governmental Approvals. To the extent of any inconsistency among the foregoing,

the parties agree that the Redevelopment Plan shall govern.

2.2 Developer to Advance Costs

The Developer agrees to advance all Redevelopment Project Costs as necessary to complete the Work, all subject to the Developer's right to abandon the Highlands at Forest Park Redevelopment Project and to terminate this Agreement as set forth in **Section 7.1** of this Agreement. Additionally, and not by way of limitation:

(a) the City acknowledges payment by the Developer of a Five Thousand Dollar (\$5,000.00) TIF Application Fee;

(b) the City acknowledges that, prior to the execution of this Agreement, the Developer paid the sum of Seven Thousand Two Hundred Sixty Dollars (\$7,260) (which sum represents 0.3% of the maximum amount of TIF Notes allowed to be issued by the City pursuant to **Section 4.1** of this Agreement), which monies have been paid one half to the Comptroller 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;

(c) the Developer shall, within ten (10) days after the date of execution of this Agreement, pay the sum of Seven Thousand Two Hundred Sixty Dollars (\$7,260) (which sum represents 0.3% of the maximum amount of TIF Notes allowed to be issued by the City pursuant to **Section 4.1** of this Agreement), which monies shall be paid one half to the Comptroller 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;

(d) the Developer shall pay to the Comptroller an additional amount, which amount shall be paid upon execution of the Redevelopment Agreement to reimburse the Comptroller for its actual legal expenses incurred in connection with the adoption of the Approving Ordinance and Authorizing Ordinance and the negotiation and execution of the Redevelopment Agreement and related documents;

(e) the Developer shall, concurrently with the initial issuance of the TIF Notes, pay to the City a flat fee of Ten Thousand Dollars (\$10,000.00) for the City's TIF Issuance Costs of such TIF Notes; and

(f) the Developer shall, concurrently with the initial issuance of the TDD Notes, pay to the City a flat fee of Ten Thousand Dollars (\$10,000.00) for the City's TDD Issuance Costs of such TDD Notes; and

All amounts advanced to the City under Section 2.2(a)-2.2(e) shall represent Reimbursable Redevelopment Project Costs to be reimbursed exclusively from the proceeds of TIF Notes as provided in and subject to **Articles IV and V** of this Agreement.

All amounts advanced to the City under Section 2.2(f) and that portion of costs reasonably related to the Transportation Project and advanced to the City under **Section 2.2(e)** shall represent Reimbursable Transportation Project Costs to be reimbursed exclusively from the proceeds of TDD Notes as provided in and subject to **Articles IV and V** of this Agreement.

ARTICLE III. CONSTRUCTION OF HIGHLANDS AT FOREST PARK REDEVELOPMENT PROJECT

3.1 Acquisition of Property

Developer represents that, as of the date of this Agreement, Developer is the fee owner of the Property, excluding City streets or any portion thereof. Any additional properties acquired by the Developer for completion of the Work shall be held in the name of the Developer 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 use of eminent domain will be necessary to acquire any portion of the real property in the Redevelopment Area.

3.3 Relocation

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

3.4 Developer to Construct the Work. The Developer shall commence or cause the commencement of the construction of the Work within one hundred eighty (180) days following the date of this Agreement, which Work shall be constructed in a good and workmanlike manner in accordance with the terms of this Agreement and the Redevelopment Plan. The Developer shall complete or cause the Substantial Completion of the Work not later than January 1, 2006 absent an event of Force Majeure within the meaning of **Section 7.5** of the Agreement. In the event of any delay caused by an event of Force Majeure, Developer shall be granted additional time to Substantially Complete the Work which additional time shall not extend beyond January 1, 2007.

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

3.5 Governmental Approvals

The City, including at its direction, 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.

3.6 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, including dates of commencement; 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 Highlands at Forest Park 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 City and the St. Louis Development Corporation, which consent shall not be unreasonably withheld or delayed. For purposes of this **Section 3.6**, "material changes" shall mean any change in the project uses of the Highlands at Forest Park Redevelopment Project that could reasonably be expected to result in a decrease of at least ten percent (10%) in the aggregate amount of PILOTs or TDD Sales Tax, during the time period while any TIF Obligation is expected to be outstanding.

3.7 Certificate of Commencement of Construction. Promptly after commencement of construction of the Work, the Developer shall furnish to the St. Louis Development Corporation, with a copy to the Comptroller, a Certificate of Commencement of Construction, which certificate shall be in substantially the same form as Exhibit H attached hereto and incorporated herein by reference. The Certificate of Commencement of Construction shall be deemed accepted by the St. Louis Development Corporation upon receipt of the same.

3.8 Certificate of Substantial Completion

Promptly after Substantial Completion of the Work, the Developer shall furnish to the City and the St. Louis Development Corporation a Certificate of Substantial Completion. The Mayor or his designee and the St. Louis Development Corporation shall, within thirty (30) days following delivery of the Certificate of Substantial Completion, carry out such inspections as it deems necessary to verify to its reasonable satisfaction the accuracy of the certifications contained in the Certificate of Substantial Completion. The Certificate of Substantial Completion shall be deemed accepted by the City and the St. Louis Development Corporation unless, within thirty (30) days following delivery of the 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. In the case where the Mayor or his designee or the St. Louis Development Corporation, within thirty (30) days following delivery of the Certificate of Substantial Completion for the Developer with specific written objections to the status of the Work, the Developer shall have such amount of time as is reasonably necessary to address such objections and when addressed shall re-submit the Certificate of Substantial Completion to the Mayor or his designee or the St. Louis Development Corporation in accordance with this Section. Upon acceptance of the Certificate of Substantial Completion by the Mayor or his designee and the St. Louis Development Corporation or upon the lapse of thirty (30) days after delivery thereof to the Mayor or his designee 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 all Work. The Certificate of Substantial Completion shall be in substantially the form attached as **Exhibit B**, attached hereto and incorporated by referenced herein.

3.9 Transportation Development District

The Developer shall petition the Circuit Court of the City of St. Louis, Missouri, for the creation of the TDD pursuant to the TDD Act, to be known as the Highlands Transportation Development District. The TDD shall be created solely for the purpose of providing tax revenues (in addition to TIF Revenues) for funding Transportation Project Costs paid or incurred in connection with the Transportation Project in an amount not to exceed Seven Hundred Thousand Dollars (\$700,000) plus TDD Issuance Costs, which amount shall be in addition to the Reimbursable Redevelopment Project Costs authorized to be reimbursed pursuant to **Section 4.1** of this Agreement. The Developer shall use its best efforts to cause the TDD to be created and to operate in accordance with the following:

- (a) The TDD's boundaries shall consist of the Redevelopment Area in its entirety but excluding any portions of Oakland Avenue or Highlander included within the Redevelopment Area.
- (b) Upon issuance of the TDD Notes, the District shall acquire a leasehold interest in the Parking Field from the Developer and enter into the Intergovernmental Cooperation and Access and Parking Agreement with the City as provided for in **Section 3.11** of this Agreement.
- (c) The District shall be authorized to impose a transportation development district sales tax (the "TDD Sales Tax") in an amount not to exceed one percent (1%) on taxable sales within the District pursuant to Section 238.235 of the TDD Act, the net proceeds of which TDD Sales Tax shall be applied to debt service on the TDD Notes funding Project Costs paid or incurred in connection with the Transportation Project. The TDD shall impose no other tax, assessment, toll or charge whatsoever without the written consent of the City.
- (d) The District's board of directors shall consist of five members, a minimum of three of whom shall be elected by the Developer and subsequent property owners and, to the extent permitted by law, one of whom shall be appointed by the Mayor of the City and one of whom shall be appointed by the Finance Officer of the City.
- (e) All TDD Revenues shall be deposited into the TDD Account of the Special Allocation Fund to provide for the payment of principal of and interest on TDD Notes issued in connection with the Transportation Project.
- (f) 100% of TDD Sales Tax proceeds shall be used to pay debt service on the TDD Notes for the Transportation Project in accordance with this Agreement and the Note Ordinance, excepting therefrom the portion of the TDD Sales Tax proceeds deducted by the TDD for the TDD's reasonable and actual costs of administering, collecting, enforcing and operating the TDD Sales Tax as provided in the TDD Act, not to exceed one percent (1%) of TDD Sales Tax revenues.

(g) The TDD shall keep accurate records of TDD Revenues received and costs incurred, and such records shall be open to inspection by the City at all reasonable times.

(h) The TDD shall maintain its existence until all TDD Notes have been paid in full, at which time the TDD shall dissolve and the TDD Sales Tax shall no longer be levied unless a subsequent project has been authorized by the TDD and approved by the City in accordance with the TDD Act.

3.10 City and Developer Actions

The City acknowledges that, when the Developer seeks to create a TDD, the City will be the local transportation authority required to approve the Transportation Project in accordance with the TDD Act. The City further acknowledges the general economic benefit and the overall value to the community created by the construction of the Transportation Project. To that end, the City and the Developer agree as follows:

(a) The City and Developer shall use their best efforts and cooperate with each other in good faith in all proceedings relating to the creation and certification of the TDD, including the execution of all consents, approvals, authorizations or other documents required to create and certify the TDD or cause the City to be designated as the local transportation authority within the meaning of the TDD Act. The form of the petition for creation of the District shall be subject to approval by the City Counselor's Office, which approval shall not be unreasonably withheld, conditioned or delayed and shall be deemed granted if written approval or denial of the form petition is not received by the Developer within fifteen (15) days from receipt thereof.

(b) The City shall approve the Transportation Project identified in the Redevelopment Plan as a "project" within the meaning of the TDD Act.

(c) The City, may, through the Board of Estimate and Apportionment, appoint at least one advisor to its board of directors having the authority and rights set forth in Section 238.220.4 of the TDD Act in the event the Mayor or Comptroller have not appointed members to the Board of Directors.

(d) The Developer shall not object to the City's designation as a "local transportation authority" within the meaning of Section 238.202 of the TDD Act.

(e) The Developer, as the owner of record of all real property located within the TDD, shall in good faith cooperate and assist in obtaining approval for and levying of the TDD Sales Tax contemplated by the Agreement by voting to approve the TDD Sales Tax at an election held in accordance with Section 238.216 of the TDD.

(f) Upon the completion by the Developer of the Transportation Project, the Developer shall convey to the TDD by Ground Lease the property to be included in the Parking Field. The ground lease shall contain at least the following terms and conditions:

(i) During the term of such ground lease, the Developer shall maintain or cause the maintenance of the Parking Field.

(ii) Upon expiration of the ground lease, the TDD's ownership interest in the Parking Field shall terminate and possessory interest in the Parking Field shall revert to the Developer pursuant to the terms of the ground lease.

(iii) The term of such ground lease shall expire fifteen (15) days after the later of: (1) the satisfaction in full of all TDD Notes; or (2) the end of the reasonably expected economic life of the Parking Field, as determined by a qualified engineer or architect licensed in the State of Missouri, and shall be selected by Developer with the consent of SLDC, which consent shall not be unreasonably withheld, conditioned or delayed.

(g) The Developer shall use its best efforts to ensure that every retailer shall add the TDD Sales Tax to the retailer's sales price and when so added such TDD Sales Tax shall constitute a part of the price, shall be a debt of the purchaser to the retailer until paid, and shall be recoverable at law in the same manner as the purchase price, all as provided for in Section 238.235 of the TDD Act.

(h) The City and the Developer shall waive the right to file suit to set aside the TDD Sales Tax or TDD special assessment otherwise question the validity of the proceedings relating thereto.

(i) The City shall be authorized to issue on behalf of the District TDD Notes in a principal amount not to exceed Seven Hundred Thousand Dollars (\$700,000), plus (1) TDD Issuance Costs, (2) any amounts advanced by the Developer to the City pursuant to **Section 2.2(e) and 2.2(f)**, and (3) the TDD's administrative costs. No TDD Notes shall be issued pursuant to this **Section 3.10(i)** until satisfaction of the conditions of **Section 2.2 and Section 5.5(i)-(v)** of this Agreement.

3.11 Intergovernmental Cooperation and Access and Parking Agreement. The City and the Developer acknowledge and agree that the City shall enter into the Intergovernmental Cooperation and Access and Parking Agreement with the District, which Intergovernmental Cooperation and Access and Parking Agreement shall constitute a mutually satisfactory agreement between the City and the District regarding development and future maintenance of the Transportation Project in accordance with Section 238.222 of the TDD Act. The City and the Developer further acknowledge and agree that the Intergovernmental Cooperation and Access and Parking Agreement shall also constitute a contract pertaining to the transfer of ownership and control of the Transportation Project from the District to the City in accordance with Section 238.275 of the TDD Act. The Intergovernmental Cooperation and Access and Parking Agreement shall be in substantially the form of Exhibit I, attached hereto and incorporated herein by reference, and shall contain the following terms:

(a) During the term of the Intergovernmental Cooperation and Access and Parking Agreement, the District shall make the Parking Field available to the general public subject to the terms and conditions of the Ground Lease and further subject to the District's right to limit and control access in accordance with Section 238.245 of the TDD Act. The City acknowledges that it has agreed to enter into the Access and Parking Agreement for the overall benefit of the community and that the commitment to make available the Parking Field does not constitute a specific economic benefit from the Developer to the City.

(b) The District shall pay to the City all TDD Revenue received by the District for deposit into the TDD Account.

(c) The City shall apply all TDD Revenue received from the District to debt service on the TDD Notes.

(d) The term of the Intergovernmental Cooperation and Access and Parking Agreement shall expire fifteen (15) days after the later of: (1) the satisfaction in full of all TDD Notes; or (2) the end of the reasonably expected economic life of the Parking Field, as determined by a qualified engineer or architect licensed in the State of Missouri, and shall be selected by Developer with the consent of SLDC, which consent shall not be unreasonably withheld.

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 an amount not to exceed Two Million Four Hundred Thousand Dollars (\$2,400,000) plus TIF Issuance Costs. Subject to the terms of the Note Ordinance and this Agreement, the City agrees to issue TIF Notes to evidence the City's obligation to reimburse Developer for verified Reimbursable Redevelopment Project Costs in an amount not to exceed Two Million Four Hundred Thousand 00/100 dollars (\$2,400,000.00) plus TIF Issuance Costs and interest as provided in **Section 5.2** of this Agreement, subject to the limitations of **Article IV** of this Agreement.

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

Nothing in this Agreement shall obligate the City to issue TIF Notes to reimburse the Developer for any cost that is not incurred pursuant to Section 99.820.1 of the TIF Act or that does not qualify as a "redevelopment project cost" under Section 99.805(14) of the TIF Act. The Developer shall provide to the City (a) itemized invoices, receipts or other information evidencing such costs; and (b) a Certificate of Reimbursable Redevelopment Project Costs constituting certification by the Developer that such cost is eligible for reimbursement under the TIF Act. Within thirty (30) days of the City's receipt from the Developer of a Certificate of Reimbursable Redevelopment Project Costs, the City shall review and act upon such Certificate of Reimbursable Redevelopment

Project Costs. The parties agree that each of the categories of costs set forth in **Exhibit D**, attached hereto and incorporated herein by reference, shall constitute Reimbursable Redevelopment Project Costs which are eligible for reimbursement in accordance with the TIF Act and this Agreement. The Developer shall be entitled to reimbursement for Redevelopment Project Costs from any of the categories set forth in **Exhibit D** up to the maximum aggregate amount established in **Section 4.1** of this Agreement; provided that the Developer shall be obligated to advance to the City the full amounts identified in **Section 2.2(a)-(d)**, of this Agreement. If the City determines that any cost identified as a Reimbursable Redevelopment Project Cost is not a “redevelopment project cost” under Section 99.805(14) of the TIF Act, the City shall so notify the Developer in writing within thirty (30) days of its receipt of the Certificate of Reimbursable Project Costs and shall identify 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. If the City fails to approve or disapprove any Certificate within thirty (30) days after receipt thereof, the Certificate of Reimbursable Redevelopment Project Costs shall be deemed approved.

4.3 Reimbursement of Transportation Project Costs; Developer’s Right to Substitute

After the execution of this Agreement, upon the incurring of Transportation Project Costs, the Developer may deliver to the District and the City a Certificate of Reimbursable Transportation Project Costs in substantially the same form as **Exhibit J**. Such Certificates of Reimbursable Transportation Project Costs shall be accompanied by itemized invoices, receipts or other information which confirm that any such cost has been incurred by the Developer and qualified as a Transportation Project Cost. Within thirty (30) days of receipt by the District and City of a Certificate of Reimbursable Transportation Project Costs, the District and City shall review and act upon such Certificate Reimbursable Transportation Project Costs. The parties agree that each of the categories of costs set forth in Exhibit D, attached hereto and incorporated herein by reference, shall constitute Reimbursable Transportation Project Costs which are eligible for reimbursement in accordance with the TDD Act and this Agreement. The Developer shall be entitled to reimbursement for Transportation Project Costs from any of the categories set forth in **Exhibit D** up to the maximum aggregate amount established in **Section 3.10(i)** of this Agreement; provided that the Developer shall be obligated to advance to the City the full amounts identified in **Section 2.2(a)-(d)**, of this Agreement. If the District determines that any cost identified as a Transportation Project Cost is not necessary or incidental to plan, acquire, finance, develop, design and construct the Transportation Project, the District shall so notify the Developer in writing within 30 days of its receipt of the Certificate of Reimbursable Transportation Project Costs and shall identify the ineligible cost and the basis for determining the cost to be ineligible, whereupon the Developer shall have the right to identify and substitute other Transportation Project Costs with a supplemental application for payment.

4.4 Limit on District’s and City’s Obligation to Reimburse

The District’s and the City’s obligation hereunder to reimburse the Developer for Transportation Project Costs is payable only from TDD Revenues on deposit in the Special Allocation Fund and from no other source. Upon satisfaction in full of the TDD Notes, the Developer and the City shall cooperate with each other to cause the District to immediately implement the procedures in the TDD Act for repeal of the TDD Sales Tax and abolishment of the District.

4.5 City’s Obligations Limited to Special Allocation Fund

Notwithstanding any other term or provision of this Agreement, TIF Notes and TDD Notes issued by the City to the Note Holder for Reimbursable Redevelopment Project Costs or Reimbursable Transportation Project Costs are payable only from the Special Allocation Fund and from Bond Proceeds, if any, and from no other source. The City has not pledged its full faith and credit relative to the City’s obligation to issue the TIF Notes, the TDD Notes or to pay any Reimbursable Redevelopment Project Costs or Reimbursable Transportation Project Costs. The TIF Notes and TDD Notes shall be special, limited obligations of the City, and shall not constitute debt to the City within any constitutional or statutory meaning of the word “debt.”

ARTICLE V. TIF & TDD NOTES

5.1 Conditions Precedent to the Issuance of TIF Notes

No TIF Notes shall be issued until such time as the City has received (i) a Certificate of Substantial Completion; (ii) a Certificate of Reimbursable Redevelopment Project Costs in substantially the form of **Exhibit A**, attached hereto and incorporated herein by reference; (iii) the full payment of all advances required to be paid under **Section 2.2** of this Agreement; (iv) an opinion of Bond Counsel regarding the taxable nature of the TIF Notes; and (v) such other documentation as the City shall reasonably require

of Developer in order for the City to obtain an opinion of Bond Counsel as required by this Section 5.1.

5.2 Issuance of TIF Notes

Upon satisfaction of the conditions of **Section 2.2 and Section 5.1** of this Agreement, the City agrees to issue one or more TIF Notes as provided in the Note Ordinance to reimburse the Developer for Reimbursable Redevelopment Project Costs up to the maximum amount established in **Section 4.1** of this Agreement, subject to the limitations of **Article IV** of this Agreement. The TIF Notes shall be in substantially the form set forth in **Exhibit F**, attached hereto and incorporated herein by reference.

(a) **Terms.** Each TIF Note shall bear simple interest at a fixed rate per annum equal to (i) seven and one-half percent (7½%) if the interest on such TIF Note, in the opinion of Bond Counsel, is not exempt from Federal income taxation, or (ii) six percent (6%) if the interest on such TIF Note, in the opinion of Bond Counsel, is exempt from Federal income taxation. All TIF Notes shall have a stated maturity of the Maturity Date.

(b) **Procedures for Issuance of TIF Notes.** Except as otherwise provided in this Agreement, the City shall, within ten (10) days after acceptance by the City of the Certificate of Reimbursable Redevelopment Project Costs, proceed to issue or cause to be issued a TIF Note or an endorsement to an existing TIF Note, evidencing an advance for the reimbursement of Reimbursable Redevelopment Project Costs, respectively. In lieu of an endorsement to the TIF Note, the City shall, upon written request by the Developer, issue additional TIF Notes in denominations of at least One Hundred Thousand Dollars (\$100,000) and in increments of \$1,000 in excess thereof, to evidence the City's obligation to pay such advances of Redevelopment Project Reimbursement Costs.

If the City accepts the Certificate of Reimbursable Redevelopment Project Costs within thirty (30) days after submission by the Developer, the resulting endorsement to the TIF Note shall be deemed to have been made on the date that the City accepts the Certificate of Reimbursable Redevelopment Project Costs. If the City accepts the Certificate of Reimbursable Redevelopment Project Costs more than thirty (30) days after submission by Developer (or rejects it more than thirty (30) days after submission by Developer and provides the Developer the right to identify and substitute eligible Reimbursable Redevelopment Project Costs in accordance with **Section 4.2** of this Agreement), the resulting endorsement to the TIF Note or shall be deemed to have been made on the thirty-first (31st) day after submission of the Certificate of Reimbursable Redevelopment Project Costs by the Developer.

Notwithstanding anything contained in this Agreement to the contrary, upon the acceptance by the City of a Certificate of Reimbursable Redevelopment Project Costs and the issuance by the City of an endorsed TIF Note as provided in this **Section 5.2** and **Section 3.10(i)**, to the extent the Note Purchaser is the Developer, the Developer shall be deemed to have advanced funds necessary to purchase such TIF Note and the City shall be deemed to have deposited such funds in the Project Fund and shall be deemed to have reimbursed the Developer in full for such costs from the amounts deemed to be on deposit in the Project Fund from time to time.

(c) **Issuance of TIF Notes.** Upon submittal by Developer of a Notice to Issue TIF Notes to the City, the City shall issue the TIF Notes to the Note Purchaser in accordance with the Note Ordinance in a principal amount not to exceed the maximum amount as established in **Section 4.1** and **Section 3.10(i)** of this Agreement.

Upon approval of each Certificate of Reimbursable Redevelopment Project Costs submitted to the City by the Developer in accordance with **Section 5.2.(b)**, the Comptroller shall:

(i) forward such approved Certificate of Reimbursable Redevelopment Project Costs to the Note Purchaser with directions to the Note Purchaser to remit to the City, the purchase price of the TIF Note to be issued by the City in the amount set forth in the approved Certificate of Reimbursable Redevelopment Project Costs; and

(ii) disburse such purchase price of such TIF Note to Developer not later than two (2) business days after the City receives the purchase price for such TIF Note or from the Note Purchaser.

Upon the City's completion of the procedure outlined in this **Section 5.2.(c)**, the City shall have fully discharged its obligation to reimburse the Developer for Reimbursable Redevelopment Project Costs, pursuant to **Section 4.1** of this Agreement.

In addition to, and not in lieu of, the respective indemnifications set forth in **Section 7.16** of this Agreement, the Developer does hereby agree that the City shall not be liable for, and the Developer agrees to release, indemnify, defend and save the City, Comptroller and their respective officials, directors, officers, agents and employees harmless against and from any and all liabilities, losses, damages, claims, causes of action, suits, costs and expense (including attorneys' fees), demands and judgments by or arising from the City's obligations outlined in this **Section 5.2(c)**.

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

5.3 Financing of the Transportation Project

The City expects to issue the TDD Notes in accordance with the terms of the Redevelopment Agreement, in part for the purpose of financing the construction of the Transportation Project. In consideration of the City's financing of the construction of the Transportation Project the District shall agree to deposit for the term of this Agreement all TDD Revenues in the Special Allocation Fund as required by the TDD Act. The District further agrees to refrain from encumbering or pledging, on a superior or parity lien basis, any portion of the TDD Revenues deposited in the Special Allocation Fund in such a manner that would be inconsistent with the terms and intent of this Agreement.

5.4 Pledge of TDD Revenues

Subject to the limits provided in **Sections 5.4 and 6.1** of this Agreement and this Section, the District shall pledge all TDD Revenues that are from time to time on deposit in the Special Allocation Fund solely to the payment of debt service on the portion of the TDD Notes related to the Transportation Project. The District's obligations under this Section shall be the exclusive responsibility of the District payable solely out of District funds and property as provided in Section 238.200 to 238.275 of the TDD Act and shall not constitute a debt or liability of the State of Missouri or any agency or political subdivision of the State. Neither the District nor the City shall be obligated to pledge any funds other than those specifically pledged to repayment of the TDD Notes.

5.5 Conditions Precedent to the Issuance of TDD Notes

No TDD Notes shall be issued until such time as the City has received (i) a Certificate of Substantial Completion; (ii) a Certificate of Reimbursable Transportation Project Costs in substantially the form of **Exhibit J**, attached hereto and incorporated herein by reference and approved by the District; (iii) the full payment of all advances required to be paid under **Section 2.2** of this Agreement; (iv) an opinion of Bond Counsel regarding the taxable nature of the TDD Notes; and (v) such other documentation as the City shall reasonably require of Developer in order for the City to obtain an opinion of Bond Counsel as required by this **Section 5.5**.

5.6 Issuance of TDD Notes

Upon satisfaction of the conditions of **Section 2.2** and **Section 5.5** of this Agreement, the City agrees to issue one or more TDD Notes as provided in the Note Ordinance to reimburse the Developer for Reimbursable Transportation Project Costs up to the maximum amount established in **Section 3.10(i)** of this Agreement, subject to the limitations of **Article IV** of this Agreement. The TDD Notes shall be in substantially the form set forth in **Exhibit F-1**, attached hereto and incorporated herein by reference.

(a) **Terms.** Each TDD Note shall bear simple interest at a fixed rate per annum equal to (i) seven and one-half percent (7½%) if the interest on such TDD Note, in the opinion of Bond Counsel, is not exempt from Federal income taxation, or (ii) six percent (6%) if the interest on such TDD Note, in the opinion of Bond Counsel, is exempt from Federal income taxation. All TDD Notes shall have a stated maturity of the Maturity Date.

(b) **Procedures for Issuance of TDD Notes.** Except as otherwise provided in this Agreement, the City shall, within ten (10) days after receipt from the District of an approved Certificate of Reimbursable Transportation Project Costs, proceed to issue or cause to be issued a TDD Note or an endorsement to an existing TDD Note, evidencing an advance for the reimbursement of Reimbursable Transportation Project Costs, respectively. In lieu of an endorsement to the TDD Note, the City shall, upon written request by the Developer, issue additional TDD Notes in denominations of at least One Hundred Thousand Dollars (\$100,000) and in increments of \$1,000 in excess thereof, to evidence the City's

obligation to pay such advances of Transportation Project Reimbursement Costs.

If the City accepts the Certificate of Reimbursable Transportation Project Costs within thirty (30) days after submission by the Developer, the resulting endorsement to the TDD Note shall be deemed to have been made on the date that the City accepts the Certificate of Reimbursable Transportation Project Costs. If the City accepts the Certificate of Reimbursable Transportation Project Costs more than thirty (30) days after submission by Developer (or rejects it more than thirty (30) days after submission by Developer and provides the Developer the right to identify and substitute eligible Reimbursable Transportation Project Costs in accordance with **Section 4.3** of this Agreement), the resulting endorsement to the TDD Note or shall be deemed to have been made on the thirty-first (31st) day after submission of the Certificate of Reimbursable Transportation Project Costs by the Developer.

Notwithstanding anything contained in this Agreement to the contrary, upon the acceptance by the City of a Certificate of Reimbursable Transportation Project Costs and the issuance by the City of an endorsed TDD Note as provided in this **Section 5.6** and **Section 3.10(i)**, to the extent the Note Purchaser is the Developer, the Developer shall be deemed to have advanced funds necessary to purchase such TDD Note and the City shall be deemed to have deposited such funds in the Project Fund and shall be deemed to have reimbursed the Developer in full for such costs from the amounts deemed to be on deposit in the Project Fund from time to time.

(c) **Issuance of TDD Notes.** Upon submittal by Developer of a Notice to Issue TDD Notes to the City, the City shall issue the TDD Notes to the Note Purchaser in accordance with the Note Ordinance in a principal amount not to exceed the maximum amount as established in **Section 3.10(i)** of this Agreement.

Upon approval of each Certificate of Reimbursable Transportation Project Costs submitted to the City by the Developer in accordance with **Section 5.6(b)**, the Comptroller shall:

- (i) forward such approved Certificate of Reimbursable Transportation Project Costs to the Note Purchaser with directions to the Note Purchaser to remit to the City, the purchase price of the TDD Note to be issued by the City in the amount set forth in the approved Certificate of Reimbursable Transportation Project Costs; and
- (ii) disburse such purchase price of such TDD Note to Developer not later than two (2) business days after the City receives the purchase price for such TDD Note or from the Note Purchaser.

Upon the City's completion of the procedure outlined in this **Section 5.6(c)**, the City shall have fully discharged its obligation to reimburse the Developer for Reimbursable Transportation Project Costs, pursuant to **Sections 4.4 and 3.10(i)** of this Agreement.

In addition to, and not in lieu of, the respective indemnifications set forth in **Section 7.16** of this Agreement, the Developer does hereby agree that the City shall not be liable for, and the Developer agrees to release, indemnify, defend and save the City, Comptroller and their respective officials, directors, officers, agents and employees harmless against and from any and all liabilities, losses, damages, claims, causes of action, suits, costs and expense (including attorneys' fees), demands and judgments by or arising from the City's obligations outlined in this **Section 5.6(c)**.

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

5.7 Cooperation in the Issuance of TIF Notes and TDD Notes

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 Notes or TDD Notes, including disclosure of tenants of the Redevelopment Area and the non-financial terms of the leases between Developer and such tenants. Developer will not be required to disclose to the general public or any investor any proprietary or confidential information, including financial information, pertaining to Developer, but upon the execution of a confidentiality agreement acceptable to Developer, Developer will provide such information to the City's financial advisors, underwriters and their counsel to enable such parties to satisfy their due diligence

obligations. Developer shall make such compliance obligation a covenant running with the land, enforceable as if any subsequent transferee thereof were originally a party to and bound by this Agreement.

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

6.1 Creation of Special Allocation Fund.

The City agrees to cause its Comptroller or other financial officer to maintain the Special Allocation Fund, including a "PILOTS Account," an "EATS Account," and a "TDD Account," and such further 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, the City will promptly upon receipt thereof deposit all TIF Revenues and TDD Revenues into the applicable Account.

6.2 Application of Available Revenues and TDD Revenues to repayment of TIF Notes.

The City hereby agrees for the term of this Agreement to apply the Available Revenues and TDD Revenues and any taxes, fees, or assessments subsequently enacted and imposed in substitution therefor and allocable to the Special Allocation Fund under the TIF Act or this Agreement to the repayment of TIF Notes issued under Article V of this Agreement as provided in the Note Ordinance and this Agreement. As long as any TIF Notes are outstanding, Available Revenues and TDD Revenues shall be applied to payment each March 1 and September 1 (each, a "Payment Date") beginning on the first March 1 or September 1 immediately succeeding issuance of such TIF Notes, from the Special Allocation Fund as follows:

6.2.1 On or before the date that is five (5) days prior to each Payment Date while the TIF Notes or TDD Notes remain outstanding, the City shall transfer all Available Revenues and TDD Revenues in the Special Allocation Fund to the Finance Officer for deposit into the Revenue Fund. The Finance Officer shall deposit Available Revenues constituting Payments in Lieu of Taxes and Economic Activity Taxes into separate, segregated accounts within the Revenue Fund, known as the PILOTS Account, EATS Account and TDD Account, respectively.

6.2.2 On each Payment Date, the Finance Officer shall apply moneys in the Revenue Fund for the purposes and in the amounts as follows:

(i) *First*, from the EATS Account, Pass-Through Payments, as provided below.

(ii) *Second*, from the PILOTS Account, to the Comptroller of the City and the St. Louis Development Corporation, an amount sufficient to pay all or any portion of the fees and expenses incurred by the Comptroller of the City and the St. Louis Development Corporation but not to exceed in any calendar year the lesser of Four Thousand Eight Hundred Forty and 00/100 Dollars (\$4,840.00) or 0.2% of the TIF Notes outstanding on January 1 of such calendar year, plus any accumulated deficiency from previous years, unless the City has incurred costs pursuant to **Section 7.15** of this Agreement that have not otherwise been reimbursed to the City through the issuance of TIF Notes purchased by the Note Purchaser;

(iii) *Third*, from the PILOTS Account to the TIF Debt Service Fund, an amount sufficient to pay all or any portion of past due interest owing as a result of prior deficiencies of moneys to pay interest due on any TIF Notes on each Payment Date;

(iv) *Fourth*, from the PILOTS Account to the TIF Debt Service Fund, an amount sufficient to pay all or any portion of the accrued interest becoming due and payable on any TIF Notes on each Payment Date;

(v) *Fifth*, from the PILOTS Account to the TIF Debt Service Fund, an amount sufficient to pay the principal of any TIF Notes that are subject to redemption pursuant to the Note Ordinance.

(vi) *Sixth*, from the TDD Account to the Comptroller, an amount sufficient to pay all or any portion of the administrative expenses incurred by the Comptroller of the City and the St. Louis Development Corporation but not to exceed in any calendar year the lesser of One Thousand Four Hundred and 001/00 Dollars (\$1,400) or 0.2% of the TDD Notes outstanding on January 1 of such calendar year plus any accumulated

deficiency from previous years, unless the City has incurred costs pursuant to **Section 7.15** of this Agreement that have not otherwise been reimbursed to the City through the issuance of TDD Notes purchased by the Note Purchaser.

(vii) *Seventh*, from the TDD Account to the TDD Debt Service Fund, an amount sufficient to pay all or any portion of past due interest owing as a result of prior deficiencies of moneys to pay interest due on any TDD Notes on each Payment Date;

(viii) *Eighth*, from the TDD Account to the TDD Debt Service Fund, an amount sufficient to pay all or any portion of the accrued interest becoming due and payable on any TDD Notes on each Payment Date; and

(ix) *Ninth*, from the TDD Account to the TDD Debt Service Fund, an amount sufficient to pay the principal of any TDD Notes that are subject to redemption pursuant to the Note Ordinance.

If monies available in the PILOTS Account of the Special Allocation Fund are insufficient to reimburse the City as provided above on any Payment Date, then the unpaid portion shall be carried forward to the next payment date, with interest thereon at the same rate as the tax-exempt TIF Notes.

All money in the EATS Account of the Special Allocation Fund up to an amount equal to one hundred percent (100%) of the EATS payments deposited in the EATS Account for the previous calendar year shall be declared as surplus and distributed in the manner provided in the TIF Act (the "Pass-Through Payment").

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

6.3 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, a request for an appropriation of all Available Revenues on deposit in the EATS Account of the Special Allocation Fund for application to the payment of the principal of (including, but not limited to, payment of a premium, if any) and interest on the TIF Notes.

6.4 Covenant to Appropriate TDD Revenues. Pursuant to the TDD Act, the Developer shall use its best efforts to cause the District to perform all functions incident to the administration, levy, collection, enforcement and operation of the TDD Sales Tax and or to provide for the performance of such functions. Furthermore, the Developer shall cause the officer of the District at any time charged with the responsibility of formulating budget proposals to include in the budget proposal submitted to the District for each fiscal year that the TDD Notes are outstanding a request for an appropriation of TDD Revenues for application to the payment of the TDD Notes. Any funds appropriated as a result of such a request are pledged by the District to payment of the TDD Notes. If, within thirty (30) days after the end of the District's fiscal year, the District's board of directors fails to adopt a budget, the District shall be deemed to have adopted a budget that provides for application of the TDD Revenues collected in such fiscal year in accordance with the budget for the prior fiscal year.

6.5 Certification of Base for PILOTS and EATS.

6.5.1 Upon the reasonable written request of the City, Developer shall use its best efforts to provide or cause to be provided to the Comptroller or its authorized representative any documents necessary for the City to calculate the base for PILOTS and EATS including, but not limited to: (i) the address and locator number of all parcels of real property located within the Redevelopment Area; and (ii) the federal and state tax identification numbers of each "seller" (as that term is defined in Section 144.010(11) of the Missouri Revised Statutes, as amended) located in the Redevelopment Area in the calendar year ending December 31, 2003.

6.5.2 Within ninety (90) days after execution of the Redevelopment Agreement, the City shall provide to the Developer 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 based upon the most recently ascertained equalized assessed value of each taxable lot, block, tract, or parcel of real property within the Redevelopment Area; 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, 2003, but excluding those personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to Section 70.500 of the Revised Statutes of Missouri, taxes levied for the purpose of public transportation, or licenses, fees or special assessments identified as excluded in Section 99.845.3 of the TIF Act.

6.6 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, but not limited to, the City's enforcement and collection of all such payments through all reasonable and ordinary legal means of enforcement. The Developer (or its successor(s) in interest as an owner or owner(s) of the affected portion(s) of the Property) shall require each "seller" (as that term is defined in Section 144.010(11) of the Missouri Revised Statutes, as amended) located on the Property to provide to the Comptroller of the City the following information:

- 6.6.1** Each "seller's" federal and state tax identification numbers.
- 6.6.2** Within thirty (30) days of the end of each calendar quarter, copies of a completed Tax Increment Financing District Quarterly Information Form for each "seller's" business located within the Redevelopment Area along with:
 - 6.6.2.1** copies of all sales tax returns filed with the Missouri Department of Revenue (on Form 53-S.F. Missouri Department of Revenue or such successor form) with respect to the sales taxes originating from businesses located within the Redevelopment Area for such quarter. In the event that a "seller" has multiple business operations within the City, such "seller" shall file separate sales tax returns for the sales taxes originating from the business located within the Redevelopment Area.
 - 6.6.2.2** copies of all earnings tax returns filed with the City (on Business Return Form 234 or such successor form) with respect to earnings taxes originating from the business located within the Redevelopment Area for such quarter. In the event that a business has multiple operations within the City, such business shall file separate earnings tax returns for the earnings taxes originating from the business located within the Redevelopment Area.
 - 6.6.2.3** copies of all earnings tax withholding reports filed with the City (on Form W-10 or such successor form) with respect to earnings tax withholdings originating from the business located within the Redevelopment Area for such quarter. In the event that a business has multiple operations within the City, such business shall file separate earnings tax withholding reports for the earnings tax withholdings originating from the business located within the Redevelopment Area.
 - 6.6.2.4** Within thirty (30) days of receipt, copies of monthly invoices received for utility services provided to the property on which the business within Redevelopment Area is located, including without limitation electric, water, natural gas, and telephone services, for such quarter.

The Developer (or its successor(s) in interest as an owner or owner(s) of any portion(s) of the Property) shall also request any purchaser or transferee of real property and any lessee or other user of real property located within the Redevelopment Area to designate sales subject to sales taxes pursuant to Chapter 144 of the Revised Statutes of Missouri, as amended, to be reported as originating from the Redevelopment Area to the fullest extent permitted by law (including reasonable efforts to negotiate for the inclusion of a clause so providing in the leases of the Property). The Developer shall satisfy this requirement by including the obligations set forth in this Section within any deed conveying a portion of the property to or any lease entered into with any "seller."

6.7 Obligation to Report TIF Revenues.

The Developer shall cause 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, to use all reasonable efforts to timely fulfill such obligations as are required by **Section 6.6** of this Agreement. So long as any of the TIF Notes 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.

6.8 Notice to City of Transfer.

The Developer agrees to notify the City in writing of any sale, transfer, or other disposition of the Property or any interest therein as permitted by **Section 7.3.(b)** of this Agreement within thirty (30) days after the date of said sale, transfer or other disposition. Said notice shall specify the name and address of the person so acquiring any or all of the Property or any interest therein and shall identify the Property to be sold, transferred, or otherwise disposed, whether by voluntary transfer or otherwise.

ARTICLE VII. GENERAL PROVISIONS

7.1 Developer's Right of Termination.

At any time prior to the delivery of the Certificate of Substantial Completion, the Developer may, by giving written notice to the City, abandon the Highlands at Forest Park Redevelopment Project and terminate this Agreement and the Developer's obligations hereunder if the Developer determines, in its sole discretion, that the Highlands at Forest Park 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 Notes or TDD Notes issued in connection with the Highlands at Forest Park Redevelopment Project pursuant to this Agreement shall be deemed null, void and canceled.

7.2 City's Right of Termination.

The City may terminate this Agreement if the Developer fails to submit its Certificate of Substantial Completion, acceptable to the City, in accordance with **Section 3.8** of this Agreement and the schedule set forth in **Section 3.4** of this Agreement. Upon termination of this Agreement for any reason, the City shall have no further obligation to reimburse the Developer for any amounts advanced under this Agreement or costs otherwise incurred or paid by Developer and any TIF Notes or TDD Notes issued in connection with the Highlands at Forest Park Redevelopment Project or the Transportation Project pursuant to this Agreement shall be deemed null, void and canceled.

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 Highlands at Forest Park 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 that until substantial completion of the Highlands at Forest Park 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 to secure loans, advances or extensions of credit to finance or from time to time refinance all or any part of the Highlands at Forest Park 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

the Developer to master lease the Property and/or to admit investor limited partners into Developer in each instance to provide debt and/or equity proceeds to finance Redevelopment Project Costs; (c) the right of Developer to assign the Developer's rights, duties, and obligations under this Agreement to any party 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; provided that in each such event (i) the Developer named herein shall remain liable hereunder for substantial completion of the Work and shall be released from such liability hereunder only upon the City's acceptance of the Certificate of Substantial Completion and (ii) the Developer provides to the City fifteen (15) days' advance written notice of the proposed assignment or transfer.

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 Notes are paid in full or twenty-three (23) years from the date that the Note Ordinance was adopted by the City. The Developer shall make this requirement a covenant running with the land, enforceable for such period as if such purchaser or other transferee or possessor thereof were originally a party to and bound by this Agreement.

7.4 Remedies.

Except as otherwise provided in this Agreement and subject to the Developer's and the City's respective rights of termination set forth in **Sections 7.1** and **7.2**, 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 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 Highlands at Forest Park Redevelopment Project, or the TIF Notes, TDD Notes or this Agreement; 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 notices, demands, consents, approvals and other communications required by this Agreement to be given by either party hereunder shall be in writing and shall be hand delivered or sent by United States first class mail, postage prepaid, addressed to the appropriate party at its address set forth below, or at such other address as such party shall have last designated by notice to the other. Notices, demands, consents, approvals, 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.

In the case of the Developer, to:

Highlands Hotel, LLC
800 St. Louis Union Station, Suite 425
St. Louis, Missouri 63103
Attention: Don Land
Facsimile: 314-621-2229

With copies to:

Husch & Eppenberger, LLC
1232 Washington, Suite 200B
St. Louis, Missouri 63103
Attention: David Richardson
Facsimile: 314-480-1505

In the case of the City, to:

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

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
Facsimile: 314-621-5065

7.7 Conflict of Interest.

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

actions or discussions relating to the activities herein proscribed.

7.8 Damage or Destruction of Highlands at Forest Park Redevelopment Project.

In the event of total destruction or damage to the Highlands at Forest Park Redevelopment Project by fire or other casualty during construction or thereafter during the term of this Agreement, so long as any TIF Notes are outstanding, the Developer shall determine and advise the City in writing within one year of such destruction or damage whether Developer will restore, reconstruct, and repair any such destruction or damage so that the Highlands at Forest Park Redevelopment Project will be completed or rebuilt in accordance with the Redevelopment Plan and this Agreement. Should the Developer determine not to restore, reconstruct, and repair such destruction or damage, all unaccrued liability of the City for any payments of principal of or interest on the TIF Notes shall immediately terminate and the Developer shall promptly surrender the TIF Notes to the City for cancellation.

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

7.10 Choice of Law.

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

7.11 Entire Agreement; Amendment.

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

7.12 Counterparts.

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

7.13 Severability.

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

7.14 Representatives Not Personally Liable.

No elected or appointed official, agent, employee, or representative of the City shall be personally liable to the Developer in the event of any default or breach by any party under this Agreement, or for any amount which may become due to any party or on any obligations under the terms of this Agreement.

7.15 Actions Contesting the Validity and Enforceability of the Redevelopment Plan.

During such time as the Developer is the registered owner of the TIF Notes or TDD Notes, in the event a third party brings an action against the City or the City's officials, agents, attorneys, employees or representatives contesting the validity or legality of the Redevelopment Area, the Redevelopment Plan, the TIF Notes, or the ordinance approving this Agreement, 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.

7.16 Release and Indemnification.

The indemnification provisions 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 Notes 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 Notes 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 gross 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 subsequent 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 Highlands at Forest Park 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,** 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; Leases.

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 Highlands at Forest Park Redevelopment Project or any portion thereof, other than any building code violations to be remedied during construction. Upon substantial completion of the Highlands at Forest Park Redevelopment Project and so long as any TIF Notes 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 of this Agreement), maintain or cause to be maintained the buildings and improvements within the Redevelopment Area which it owns in a good state of repair and attractiveness and in conformity with applicable state and local laws, ordinances and regulations. If there are separately-owned or ground leased parcels of real estate on the 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, and shall maintain or cause to be maintained reasonable casualty and liability insurance with respect to the same in accordance with **Section 7.8** of this Agreement.

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 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.

7.20 Fair Employment.

Without limiting any of the foregoing, the Developer voluntarily agrees to observe the Equal Opportunity and Nondiscrimination Guidelines set forth as **Exhibit 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 Notes, and all of the foregoing have been or will be, upon adoption of ordinances authorizing the issuance of the TIF Notes, duly and validly authorized and approved by all necessary City proceedings, findings and actions. Accordingly, this Agreement constitutes the legal, valid and binding obligation of the City, enforceable in accordance with its terms.

8.2 Representations of the Developer.

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

[THE REMAINDER OF THIS PAGE LEFT BLANK INTENTIONALLY.]

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

“CITY”

CITY OF ST. LOUIS, MISSOURI

By: _____
Francis G. Slay, Mayor

By: _____
Darlene Green, Comtroller

[SEAL]

Attest:

Parrie May, City Register

Approved as to Form:

Patricia Hageman, City Counselor

“DEVELOPER”

HIGHLANDS HOTEL, LLC

By: _____

Name: _____

Title: _____

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

On this ____ day of _____, 2004, before me appeared Francis G. Slay, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the CITY OF ST. LOUIS, MISSOURI, a political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed in behalf of said City by authority of its Board of Aldermen, and said individual acknowledged said instrument to be the free act and deed of said City.

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

Notary Public

[SEAL]

My Commission Expires:

STATE OF MISSOURI)
) SS.

connection with the construction of the Redevelopment Project.

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

4. None of the items listed on **Schedule 1** have previously been paid or reimbursed from money derived from the Special Allocation Fund or any money derived from any project fund established pursuant to the Note Ordinance, and no part thereof has been included in any other certificate previously filed with the City.

5. 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.

6. 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.

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

8. 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.

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

Yes: _____ No: _____

10. 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 _____, ____.

HIGHLANDS HOTEL, LLC

By: _____
Name: _____
Title: _____

Approved for Payment this ____ day _____, ____.

ST. LOUIS DEVELOPMENT CORPORATION

By: _____
Name: _____
Title: _____

Approved for Payment this ____ day of _____, ____.

CITY OF ST. LOUIS, MISSOURI

By: _____
Name: _____
Title: _____

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

The undersigned, HIGHLANDS HOTEL, LLC, a Delaware limited liability company (the "Developer"), pursuant to that certain Redevelopment Agreement dated as of _____, 2004, 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 Highlands at Forest Park Redevelopment Project (as that term is defined in the Agreement) has been substantially completed in accordance with the Agreement.
2. That the Work has been substantially completed or funded pursuant to the Agreement.
3. The Work has been performed in a good and workmanlike manner and substantially in accordance with the Construction Plans (as those terms are defined in the Agreement).
4. Lien waivers for applicable portions 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), a copy of which is attached hereto as Appendix A and by this reference incorporated herein), certifying that the Highlands at Forest Park Redevelopment Project 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 the Highlands at Forest Park Redevelopment Project.
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 Work.

Upon such acceptance by the St. Louis Development Corporation and the City (or failure of the St. Louis Development Corporation and the City to object in writing to this Certificate within such thirty (30) day period), 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 _____, _____.

HIGHLANDS HOTEL, LLC

By: _____

Name: _____

Title: _____

ACCEPTED:

ST. LOUIS DEVELOPMENT CORPORATION

By: _____

Name: _____

Title: _____

EXHIBIT C**LEGAL DESCRIPTION OF
HIGHLANDS AT FOREST PARK REDEVELOPMENT AREA**

A tract of land being part of Lot 5 of the Highlands at Forest Park, a subdivision according to the plat thereof recorded in Plat Book 74, Page 15 of the Recorder of Deeds Office in the City of St. Louis, Missouri, and being located in part of Block 4002 of the City of St. Louis, and being more particularly described as follows:

Beginning at the northeast corner of said Lot 5, said point being located on the south line of Oakland Avenue, 50 feet wide being also on the west line of Highlander Drive, 50 feet wide; thence along the east line of Lot 5 and along the west line of said Highlander Drive South 06 degrees 57 minutes 25 seconds west 606.00 feet; thence leaving said east line of Lot 5 north 83 degrees 00 minutes 15 seconds west 214.77 feet; thence north 06 degrees 59 minutes 44 seconds East 72.40 feet; thence North 83 degrees 22 minutes 02 seconds east 7.52 feet; thence north 06 degrees 37 minutes 58 seconds west 31.00 feet; thence north 06 degrees 59 minutes 45 seconds east 501.70 feet to the said south line of Oakland Avenue; thence along said south line south 83 degrees 00 minutes 15 seconds east 214.36 feet to the point of beginning and containing 2.98 acres.

See attached Exhibit C

EXHIBIT D**REIMBURSABLE REDEVELOPMENT PROJECT COSTS****CATEGORY**

- A. Acquisition Costs (as defined in Section 1.1 of this Agreement).
- B. Site Preparation and Improvements Costs (includes, but is not limited to, landscaping, street and sidewalk improvements, utility work and resetting of curbs).
- C. Building Construction, Rehabilitation or Reconstruction Costs (includes, but is not limited to, construction costs associated with the Redevelopment Project excluding any and all tenant finish costs).
- D. Financing Costs (includes, but is not limited to, loan fees, disbursing fees, construction monitoring and inspection fees, tax credit investor fees, lender's legal fees, loan appraisals, flood certificates, and any and all other costs incurred by the Developer in connection with obtaining financing for and a tax credit investor in the Redevelopment Project).
- E. Environmental Testing, Remediation and/or Abatement Costs (includes, but is not limited to, the testing for and removal and disposal of toxic or hazardous substances or materials).
- F. Professional Service Costs (includes, but is not limited to, architectural, engineering, legal, marketing, financial, planning, or special services).
- G. TIF Costs & Issuance Costs incurred by the Developer pursuant to Section 2.2(i) – 2.2.(v) of this Agreement.

TRANSPORTATION PROJECT COSTS

CATEGORY	
A.	Acquisition Costs
B.	Site Preparation
C.	Parking Field Construction
D.	Environmental Testing, Remediation and/or Abatement Costs (includes, but is not limited to, the testing for and removal and disposal of toxic or hazardous substances or materials).
E.	Financing Costs (includes, but is not limited to, loan fees, disbursing fees, construction monitoring and inspection fees, tax credit investor fees, lender’s legal fees, loan appraisals, flood certificates, and any and all other costs incurred by the Developer in connection with obtaining financing for the Transportation Project).
F.	Professional Service Costs (includes, but is not limited to, architectural, engineering, legal, marketing, financial, planning, or special services).
G.	TDD Issuance Costs incurred by the Developer pursuant to Section 2.2(f) of this Agreement.

**EXHIBIT E
Equal Opportunity and Nondiscrimination Guidelines**

In any contract for Work in connection with the Highlands at Forest Park 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 Highlands at Forest Park Redevelopment Project.

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

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

**EXHIBIT F
Form of TIF Note**

THIS TIF NOTE OR ANY PORTION HEREOF MAY BE TRANSFERRED, ASSIGNED OR NEGOTIATED ONLY TO “APPROVED INVESTORS,” AS DEFINED HEREIN, AND IN ACCORDANCE WITH THE PROVISIONS HEREOF.

**UNITED STATES OF AMERICA
STATE OF MISSOURI**

Registered
No. R-__

Registered
Not to Exceed \$2,400,00
plus TIF Issuance Costs
(See Schedule A attached hereto)

CITY OF ST. LOUIS, MISSOURI

TAX INCREMENT AND TRANSPORTATION DEVELOPMENT REVENUE NOTE
(Highlands at Forest Park Redevelopment Project)
SERIES 200__-A

Rate of Interest: Maturity Date: Dated Date: CUSIP Number:
[7.5%][6.0%] _____ _____ None

REGISTERED OWNER:

PRINCIPAL AMOUNT: See SCHEDULE A attached hereto.

The CITY OF ST. LOUIS, MISSOURI, a body corporate and a political subdivision duly organized and validly existing under its charter and the Constitution and laws of the State of Missouri (the "City"), for value received, hereby promises to pay to the Registered Owner shown above, or registered assigns, the Principal Amount shown from time to time on Schedule A attached hereto on the Maturity Date shown above unless called for redemption prior to the Maturity Date, and to pay interest thereon from the effective date of registration shown from time to time on Schedule A attached hereto or from the most recent Payment Date to which interest has been paid or duly provided for, at the Rate of Interest shown above computed on the basis of a 360-day year of twelve 30-day months. Interest and principal shall be payable each March 1 and September 1 (each, a "Payment Date"), commencing on the first March 1 or September 1 following the acceptance of the Certificate of Substantial Completion in accordance with the Redevelopment Agreement between the City and HIGHLANDS HOTEL, LLC (the "Developer"), dated as of _____, 2004 (the "Redevelopment Agreement"), until the TIF Notes are paid in full. The TIF Notes shall bear interest from their registration date or from the most recent Payment Date to which interest has been paid or duly provided for. Interest that accrues but remains unpaid on any Payment Date shall be compounded semi-annually.

Except as otherwise provided herein, the capitalized terms herein shall have the meanings as provided in Ordinance No. _____ [Board Bill ___] adopted by the Board of Aldermen on _____, 2004 (the "Note Ordinance") or the Redevelopment Agreement.

THE OBLIGATIONS OF THE CITY WITH RESPECT TO THIS TIF NOTE TERMINATE ON _____, 2027, WHETHER OR NOT THE PRINCIPAL AMOUNT OR INTEREST HEREON HAS BEEN PAID IN FULL. REFERENCE IS MADE TO THE NOTE ORDINANCE FOR A COMPLETE DESCRIPTION OF THE CITY'S OBLIGATIONS HEREUNDER.

Subject to the preceding paragraph, the principal of and interest on this TIF Note shall be paid at maturity or upon earlier redemption as provided in Article III of the Note Ordinance to the person in whose name this TIF Note is registered at the maturity or redemption date hereof, upon presentation and surrender of this TIF Note at the payment office of the Comptroller of the City or her authorized agent (the "Finance Officer"). The principal of and interest on the TIF Notes shall be payable in any coin or currency of the United States of America which, at the respective dates of payment thereof, is legal tender for the payment of debts due the United States of America. The principal of or interest on this TIF Note shall be payable by check or draft at the office of the Finance Officer to the person in whose name this TIF Note is registered on the Register on each Payment Date. Except as otherwise provided in Section 208 of the Note Ordinance with respect to mutilated, destroyed, lost or stolen TIF Notes, no principal on the TIF Notes is payable unless the Owner thereof has surrendered such TIF Notes at the office of the Finance Officer.

This TIF Note is one of an authorized series of fully registered Notes of the City designated "City of St. Louis, Missouri, Tax Increment and Transportation Development Revenue Note (Highlands at Forest Park Redevelopment Project) Series 200__-A," issued in an aggregate principal amount of not to exceed \$2,400,000 (the "Notes"). The TIF Notes are being issued for the purpose of paying a portion of the Redevelopment Project Costs in connection with the Redevelopment Plan, under the authority of and in full compliance with the Constitution and laws of the State of Missouri, including particularly the Real Property Tax Increment

Allocation Redevelopment Act, Sections 99.800 to 99.865, of the Revised Statutes of Missouri, as amended (the "Act"), and pursuant to the Note Ordinance.

The TIF Notes and the interest thereon shall be special, limited obligations of the City payable solely from and secured as to the payment of principal and interest, by the Available Revenues and other moneys pledged thereto and held by the Finance Officer as provided herein. "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 Notes, 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.

The monies on deposit in the PILOTS Account of the Special Allocation Fund are those payments in lieu of taxes (as defined in Sections 99.805(10) and 99.845 of the Act) attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract or parcel of real property in the Redevelopment Area (as described in Exhibit A to the Note Ordinance) over and above the initial equalized assessed valuation (as provided for by Section 99.855 of the Act) of each taxable lot, block, tract or parcel of real property in the Redevelopment Area, 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.

The monies on deposit in the TDD Account of the Special Allocation Fund are those revenues of the TDD created in accordance with the TDD Act and Section 3.9 of the Redevelopment Agreement.

The monies on deposit in the EATS Account of the Special Allocation Fund are those amounts equal to fifty percent (50%) of the total additional revenues from taxes which are imposed by the City or other taxing districts (as that term is defined in Section 99.805(16) of the TIF Act) and which are generated by economic activities within the Redevelopment Area over the amount of such taxes generated by economic activities within the Redevelopment Area in the calendar year ending December 31, 2003 (subject to annual appropriation by the City as provided in the TIF Act), as defined and described in Sections 99.805(4) and 99.845 of the TIF Act, but excluding therefrom personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, licenses, fees or special assessments, taxes levied pursuant to Section 70.500 of the Revised Statutes of Missouri, as amended, and taxes levied for the purpose of public transportation pursuant to Section 94.660 of the Revised Statutes of Missouri, as amended, all as provided in Section 99.845 of the TIF Act, as amended from time to time. Notwithstanding the foregoing, TIF Revenues shall not include the operating levy for school purposes imposed by or any sales tax imposed by the Transitional School District of the City of St. Louis.

All TIF Notes shall be equally and ratably secured by Available Revenues. The TIF Notes shall be special, limited obligations of the City payable solely from and secured as to the payment of principal and interest by a pledge of the Available Revenues. The taxing power of the City is not pledged to the payment of the TIF Notes either as to principal or interest. The TIF Notes shall not be or constitute a general obligation of the City, nor shall they constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provision, limitation or restriction. THE OBLIGATIONS OF THE CITY WITH RESPECT TO THE TIF NOTES SHALL TERMINATE ON THE FIRST TO OCCUR OF THE FULL PAYMENT AND DISCHARGE OF THE TIF NOTES OR THE MATURITY DATE (WHETHER OR NOT THE PRINCIPAL AMOUNT OR INTEREST HAS BEEN PAID IN FULL).

On each Payment Date, the Finance Officer shall apply moneys in the Revenue Fund for the purposes and in the amounts as follows:

First, from the EATS Account, Pass-Through Payments, as provided below.

Second, from the PILOTS Account, to the Comptroller of the City and the St. Louis Development Corporation, an amount sufficient to pay all or any portion of the fees and expenses incurred by the Comptroller of the City and the St. Louis Development Corporation but not to exceed in any calendar year the lesser of Four Thousand Eight Hundred Forty and 00/100 Dollars (\$4,840.00) or 0.2% of the TIF Notes outstanding on January 1 of such calendar year, plus any accumulated deficiency from previous years, unless the City has incurred costs pursuant to Section 7.15 of the Agreement that have not otherwise been reimbursed to the City through the issuance of TIF Notes purchased by the Note Purchaser;

Third, from the PILOTS Account to the TIF Debt Service Fund, an amount sufficient to pay all or any portion of past due interest owing as a result of prior deficiencies of moneys to pay interest due on any TIF Notes on

each Payment Date;

Fourth, from the PILOTS Account to the TIF Debt Service Fund, an amount sufficient to pay all or any portion of the accrued interest becoming due and payable on any TIF Notes on each Payment Date;

Fifth, from the PILOTS Account to the TIF Debt Service Fund, an amount sufficient to pay the principal of any TIF Notes that are subject to redemption pursuant to the Note Ordinance.

Sixth, from the TDD Account to the Comptroller, an amount sufficient to pay all or any portion of the administrative expenses incurred by the Comptroller of the City and the St. Louis Development Corporation but not to exceed in any calendar year the lesser of One Thousand Four Hundred and 001/00 Dollars (\$1,400) or 0.2% of the TDD notes outstanding on January 1 of such calendar year plus any accumulated deficiency from previous years, unless the City has incurred costs pursuant to Section 7.15 of the Agreement that have not otherwise been reimbursed to the City through the issuance of TDD Notes pursuant by the Note Purchaser.

Seventh, from the TDD Account to the TDD Debt Service Fund, an amount sufficient to pay all or any portion of past due interest owing as a result of prior deficiencies of moneys to pay interest due on any TDD Notes on each Payment Date;

Eighth, from the TDD Account to the TDD Debt Service Fund, an amount sufficient to pay all or any portion of the accrued interest becoming due and payable on any TDD Notes on each Payment Date; and

Ninth, from the TDD Account to the TDD Debt Service Fund, an amount sufficient to pay the principal of any TDD Notes that are subject to redemption pursuant to the Note Ordinance.

If monies available in the PILOTS Account of the Special Allocation Fund are insufficient to reimburse the City as provided above on any Payment Date, then the unpaid portion shall be carried forward to the next payment date, with interest thereon at the same rate as the tax-exempt TIF Notes.

All money in the EATS Account of the Special Allocation Fund up to an amount equal to one hundred percent (100%) of the EATS payments deposited in the EATS Account for the previous calendar year shall be declared as surplus and distributed in the manner provided in the TIF Act (the "*Pass-Through Payment*").

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

NOTWITHSTANDING ANY PROVISION IN THE NOTE ORDINANCE OR IN THE TIF NOTES TO THE CONTRARY, THE TIF NOTES MAY BE SUBJECT TO CANCELLATION AND DISCHARGE BY THE CITY IN WHOLE WITHOUT PENALTY UNDER THE CONDITIONS SET FORTH IN SECTIONS 7.1 and 7.2 OF THE REDEVELOPMENT AGREEMENT.

The TIF Notes are subject to optional redemption by the City in whole at any time or in part on any Payment Date at a redemption price of 100% of the principal amount of the TIF Note to be redeemed, plus accrued interest thereon to the date fixed for redemption.

The TIF Notes are subject to special mandatory redemption by the City on each Payment Date, at a redemption price equal to 100% of the principal amount being redeemed, together with accrued interest thereon to the date fixed for redemption, in an amount equal to Available Revenues on deposit in the applicable account of the Special Allocation Fund and which will not be required for the payment of interest on such Payment Date.

The TIF Notes or portions of Notes to be redeemed shall become due and payable on the redemption date, at the redemption price therein specified, and from and after the redemption date (unless the City defaults in the payment of the redemption price) such TIF Notes or portion of TIF Notes shall cease to bear interest. Upon surrender of such TIF Notes for redemption in accordance with such notice, the redemption price of such TIF Notes shall be paid by the Finance Officer. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any

TIF Note, there shall be prepared for the Registered Owner a new TIF Note or Notes of the same maturity in the amount of the unpaid principal as provided herein. All TIF Notes that have been redeemed shall be cancelled and destroyed by the Finance Officer as provided herein and shall not be reissued.

TIF Notes shall be redeemed only in the principal amount of One Thousand Dollars (\$1,000) or any integral multiple thereof. When less than all of the outstanding TIF Notes are to be redeemed and paid prior to maturity, such TIF Notes shall be selected by the Finance Officer in Five Thousand Dollar (\$5,000) units of face value in such equitable manner as the Finance Officer may determine.

The TIF Notes are issuable in the form of fully registered Notes without coupons in minimum denominations of One Hundred Thousand Dollars (\$100,000) or any integral multiple \$1,000 in excess thereof, except with respect to the Notes issued upon acceptance by the City of the final Certificate of Reimbursable Redevelopment Project Costs, which Notes may be issued in any denomination, subject to the limitation on the aggregate Principal Amount.

This TIF Note may be transferred or exchanged as provided in the Note Ordinance only upon the Register, upon surrender of this TIF Note together with a written instrument of transfer satisfactory to the Finance Officer duly executed by the Registered Owner or the Registered Owner’s duly authorized agent.

THE OWNER HEREOF EXPRESSLY AGREES, BY SUCH OWNER’S ACCEPTANCE HEREOF, THAT THE RIGHT TO PURCHASE, TRANSFER, ASSIGN OR NEGOTIATE THIS TIF NOTE SHALL BE LIMITED TO PURCHASE, TRANSFER, ASSIGNMENT OR NEGOTIATION TO APPROVED INVESTORS AND UPON THE EXECUTION BY THE PROPOSED PURCHASER OR TRANSFEREE OF AN INVESTMENT LETTER IN SUBSTANTIALLY THE FORM OF EXHIBIT C TO THE NOTE ORDINANCE, SIGNED BY THE PROPOSED PURCHASER OR TRANSFEREE, SHOWING THAT THE PROPOSED PURCHASER OR TRANSFEREE IS AN APPROVED INVESTOR. “Approved Investor” means (a) the Developer or any party or entity related to the Developer by one of the relationships described in Section 267(b) of the Internal Revenue Code of 1986, as amended, (b) an “accredited investor” under Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, (c) a “qualified institutional buyer” under Rule 144A promulgated under the Securities Act of 1933 or (d) any general business corporation or enterprise with total assets in excess of \$50,000,000.

Subject to the limitations on transfer, exchange and assignment of this TIF Note as set forth herein, upon surrender thereof at the office of the Finance Officer, the Finance Officer shall transfer or exchange any TIF Note for a new TIF Note of the same maturity and in the same principal amount as the Outstanding principal amount of the TIF Note that was presented for transfer or exchange. Any TIF Note presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Finance Officer, duly executed by the Registered Owner thereof or by the Registered Owner’s duly authorized agent.

This TIF Note shall not be valid or binding on the City or be entitled to any security or benefit under the Indenture until the Certificate of Authentication hereon has been executed by the Finance Officer.

IT IS HEREBY CERTIFIED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the TIF Notes have existed, happened and been performed in due time, form and manner as required by law.

IN WITNESS WHEREOF, the CITY OF ST. LOUIS, MISSOURI has executed this TIF Note by causing it to be signed by the manual or facsimile signature of its Mayor, Comptroller and Treasurer and attested by the manual or facsimile signature of its City Register, and its official seal to be affixed or imprinted hereon, and this TIF Note to be dated as of the effective date of registration as shown on Schedule A attached hereto.

CITY OF ST. LOUIS, MISSOURI

By: _____
Mayor

By: _____
Comptroller

By: _____
Treasurer

Attest:

(Seal)

City Register

Approved as to Form:

City Counsel

ASSIGNMENT

FOR VALUE RECEIVED, the undersigned sells, assigns and transfers unto

(Print or Type Name, Address and Social Security Number or other Taxpayer Identification Number of Transferee)

the within TIF Note and all rights thereunder, and hereby irrevocably constitutes and appoints _____ agent to transfer the within Note on the books kept by the Finance Officer for the registration thereof, with full power of substitution in the premises.

Dated: _____.

NOTICE: The signature to this assignment must correspond with the name of the Registered Owner as it appears on the face of the within Notes in every particular.

(Name of Eligible Guarantor Institution)

By: _____
Title: _____

NOTICE: Signature(s) must be guaranteed by an eligible guarantor institution as defined by SEC Rule 17 Ad-15 (17 CFR 240.17 Ad-15).

PRINCIPAL AMOUNT: **See Schedule A attached hereto.**

The **CITY OF ST. LOUIS, MISSOURI**, a body corporate and a political subdivision duly organized and validly existing under its charter and the Constitution and laws of the State of Missouri (the “City”), for value received, hereby promises to pay to the registered Owner shown above, or registered assigns, the principal amount shown from time to time on **Schedule A** attached hereto on the Maturity Date shown above unless called for redemption prior to the Maturity Date, and to pay interest thereon from the date of issuance of this Note or from the most recent Payment Date to which interest has been paid or duly provided for, at the Rate of Interest shown above computed on the basis of a 360-day year of twelve 30-day months. Interest shall be payable semiannually commencing on the first March 1 or September 1 (each, a “*Payment Date*”), following acceptance of the Certificate of Substantial Completion in accordance with the Redevelopment Agreement between the City and **HIGHLANDS HOTEL, LLC** (the “*Developer*”) dated as of _____, 2004 (the “*Redevelopment Agreement*”), until the TDD Notes are paid in full. The TDD Notes shall bear interest from their registration date or from the most recent Payment Date to which interest has been paid or duly provided for. Interest that accrues but remains unpaid on any Payment Date shall be compounded semi-annually.

Except as otherwise provided herein, the capitalized terms herein shall have the meanings as provided in Ordinance No. _____ [Board Bill 404] adopted by the Board of Aldermen on _____, 2004 (the “*Note Ordinance*”) or the Redevelopment Agreement.

NOTWITHSTANDING ANY PROVISION HEREIN OR IN THE NOTES TO THE CONTRARY, THE NOTES OWNED BY THE DEVELOPER OR ANY ASSIGNEE OF THE DEVELOPER ARE SUBJECT TO CANCELLATION AND DISCHARGE BY THE DISTRICT IN WHOLE WITHOUT PAYMENT UNDER THE CONDITIONS DESCRIBED IN SECTION 7.1 and 7.2 OF THE REDEVELOPMENT AGREEMENT.

THE OBLIGATIONS OF THE CITY WITH RESPECT TO THIS TDD NOTE TERMINATE ON _____, 2044, WHETHER OR NOT THE PRINCIPAL AMOUNT OR INTEREST HEREON HAS BEEN PAID IN FULL. REFERENCE IS MADE TO THE NOTE ORDINANCE FOR A COMPLETE DESCRIPTION OF THE CITY’S OBLIGATIONS HEREUNDER.

Subject to the preceding paragraph, the principal of and interest on this TDD Note shall be paid at maturity or upon earlier redemption as provided in **Article III** of the Note Ordinance to the person in whose name this TDD Note is registered at the maturity or redemption date hereof, upon presentation and surrender of this TDD Note at the payment office of the Comptroller of the City or her authorized agent (the “*Finance Officer*”). The principal of and interest on the TDD Notes shall be payable in any coin or currency of the United States of America which, at the respective dates of payment thereof, is legal tender for the payment of debts due the United States of America. The principal of or interest on this TDD Note shall be payable by check or draft at the office of the Finance Officer to the person in whose name this TDD Note is registered on the Register on each Payment Date. Except as otherwise provided in **Section 208** of the Note Ordinance with respect to mutilated, destroyed, lost or stolen TDD Notes, no principal on the TDD Notes is payable unless the Owner thereof has surrendered such TDD Notes at the office of the Finance Officer.

This Note is one of an authorized series of fully registered Notes of the Highlands Transportation Development District (the “*District*”) designated “Tax Increment and Transportation Development Revenue Notes (Highlands at Forest Park Redevelopment Project) Series 200__-B” in an aggregate principal amount of up to \$700,000 plus TDD Issuance Costs (the “*Notes*”). The Notes are being issued for the purpose of paying a portion of the Transportation Project Costs in connection with the Developer’s construction of the Transportation Project, under the authority of and in full compliance with the Constitution and laws of the State of Missouri, including particularly the Missouri Transportation Development District Act, Sections 238.200 through 238.275, inclusive, of the Revised Statutes of Missouri, as amended (the “*TDD Act*”) and pursuant to the Note Resolution.

The Notes constitute special, limited obligations of the City payable as to principal and interest solely from TDD Revenues. “*TDD Revenues*” means revenues of the TDD created in accordance with the TDD Act and as described in **Section 3.9** of this Agreement (1) less (i) costs of collection, not to exceed 1% of the actual amount collected by the TDD; (ii) that portion of revenues that constitutes an Economic Activity Tax; (iii) the District’s reasonable operating costs, not to exceed \$10,000 per year, commencing in 2004; and (iv) actual costs of the District associated with its Cleaning & Maintenance Obligations in an amount not to exceed \$50,000; and (2) plus all Pass-Through Payments received by the District pursuant to **Section 6.2.2** of this Agreement. TDD Revenues shall not include (i) any amount paid under protest until the protest is withdrawn or resolved against the taxpayer or (ii) any sum received by the District which is the subject of a suit or other claim communicated to the District which suit or claim challenges the collection of such sum.

The moneys on deposit in the TDD Account of the Special Allocation Fund are those TDD Revenues received as a result of the TDD Sales Tax levied at a rate of up to one percent (1%) on all retail sales within the District that are subject to taxation pursuant to Section 238.235 of the TDD Act, as authorized by Resolution No. _____ adopted by the District on _____, and approved by the qualified voters of the District at an election held in accordance with Section 238.216 of the TDD Act, which sales tax became effective _____, and expires no later than forty (40) years from the date of establishment of the District.

“District Administrative Costs” means overhead expenses of the District for administration, supervision and inspection incurred in connection with the Transportation Projects. District Administrative Costs are expressly limited to the following: (1) reimbursement of the board of directors of the District for actual expenditures in the performance of their duties on behalf of the District pursuant to Section 238.222 of the TDD Act; (2) expenses incurred in the exercise of the contractual powers of the District pursuant to Section 238.250 of the TDD Act; (3) reimbursement of the petitioners for the costs of filing and defending the petition to establish the District and all publication and incidental costs incurred in obtaining certification of the petition pursuant to Section 238.217 of the TDD Act; (4) costs related to any authorized indebtedness of the District, including the issuance and repayment of TDD Obligations pursuant to Section 238.242 of the TDD Act; (5) the cost of insurance obtained by the District pursuant to Section 238.255 of the TDD Act; (6) the cost of any audit by the state auditor pursuant to Section 238.272 of the TDD Act or any other audit performed for the District; and (7) expenses incurred by the District in the exercise of the powers granted under Section 238.252 of the TDD Act, which consist of: (a) compensation of employees or contractors, (b) suits by or against the District, (c) the purchase of personal property necessary or convenient for the District’s activities, and (d) the collection and disbursement of funds for District activities; and (8) costs incurred in connection with abolishment of the District in accordance with Section 238.275 of the TDD Act.

The monies on deposit in the PILOTS Account of the Special Allocation Fund are those payments in lieu of taxes (as defined in Sections 99.805(10) and 99.845 of the Act) attributable to the increase in the current equalized assessed valuation of each taxable lot, block, tract or parcel of real property in the Redevelopment Area (as described in Exhibit A to the Note Ordinance) over and above the initial equalized assessed valuation as provided for by Section 99.855 of the Act) of each taxable lot, block, tract or parcel of real property in the Redevelopment Area, as paid to the City’s Treasurer by the City’s Collector or Revenue during the term of the Redevelopment Plan and the Redevelopment Project.

The monies on deposit in the EATS Account of the Special Allocation Fund are those amounts equal to fifty percent (50%) of the total additional revenues from taxes which are imposed by the City or other taxing districts (as that term is defined in Section 99.805(16) of the TIF Act) and which are generated by economic activities within the Redevelopment Area over the amount of such taxes generated by economic activities within the Redevelopment Area in the calendar year ending December 31, 2003 (subject to annual appropriation by the City as provided in the TIF Act), as defined and described in Sections 99.805(4) and 99.845 of the TIF Act, but excluding therefrom personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, licenses, fees or special assessments, taxes levied pursuant to 70.500 of the Revised Statutes of Missouri, as amended and taxes levied for the purpose of public transportation pursuant to Section 94.660 of the Revised Statutes of Missouri, as amended, all as provided in Section 99.845 of the TIF Act, as amended from time to time. Notwithstanding the foregoing, TIF Revenues shall not include the operating levy for school purposes imposed by or any sales tax imposed by the Transitional School District of the City of St. Louis.

The Notes shall not constitute a debt or liability of the City, the District, the State of Missouri or any political subdivision thereof within the meaning of any constitutional or statutory debt limitation or restriction. None of the City, officials, officers or employees of the City, nor any person executing the Notes, shall be personally liable for such obligations by reason of issuance thereof.

The moneys on deposit in the TDD Account of the Special Allocation Fund shall be applied as follows:

First, from the EATS Account, Pass-Through Payments, as provided below.

Second, from the PILOTS Account, to the Comptroller of the City and the St. Louis Development Corporation, an amount sufficient to pay all or any portion of the fees and expenses incurred by the Comptroller of the City and the St. Louis Development Corporation but not to exceed in any calendar year the lesser of Four Thousand Eight Hundred Forty and 00/100 Dollars (\$4,840.00) or 0.2% of the TIF Notes outstanding on January 1 of such calendar year, plus any accumulated deficiency from previous years, unless the City has incurred costs pursuant to **Section 7.15** of the Agreement that have not otherwise been reimbursed to the City through the issuance of TIF Notes purchased by the Note Purchaser;

Third, from the PILOTS Account to the TIF Debt Service Fund, an amount sufficient to pay all or any

portion of past due interest owing as a result of prior deficiencies of moneys to pay interest due on any TIF Notes on each Payment Date;

Fourth, from the PILOTS Account to the TIF Debt Service Fund, an amount sufficient to pay all or any portion of the accrued interest becoming due and payable on any TIF Notes on each Payment Date;

Fifth, from the PILOTS Account to the TIF Debt Service Fund, an amount sufficient to pay the principal of any TIF Notes that are subject to redemption pursuant to the Note Ordinance.

Sixth, from the TDD Account to the Comptroller, an amount sufficient to pay all or any portion of the administrative expenses incurred by the Comptroller of the City and the St. Louis Development Corporation but not to exceed in any calendar year the lesser of One Thousand Four Hundred and 001/00 Dollars (\$1,400) or 0.2% of the TDD Notes outstanding on January 1 of such calendar year plus any accumulated deficiency from previous years, unless the City has incurred costs pursuant to **Section 7.15** of the Agreement that have not otherwise been reimbursed to the City through the issuance of TDD Notes purchased by the Note Purchaser.

Seventh, from the TDD Account to the TDD Debt Service Fund, an amount sufficient to pay all or any portion of past due interest owing as a result of prior deficiencies of moneys to pay interest due on any TDD Notes on each Payment Date;

Eighth, from the TDD Account to the TDD Debt Service Fund, an amount sufficient to pay all or any portion of the accrued interest becoming due and payable on any TDD Notes on each Payment Date; and

Ninth, from the TDD Account to the TDD Debt Service Fund, an amount sufficient to pay the principal of any TDD Notes that are subject to redemption pursuant to the Note Ordinance.

If monies available in the PILOTS Account of the Special Allocation Fund are insufficient to reimburse the City as provided above on any Payment Date, then the unpaid portion shall be carried forward to the next payment date, with interest thereon at the same rate as the tax-exempt TIF Notes.

All money in the EATS Account of the Special Allocation Fund up to an amount equal to one hundred percent (155%) of the EATS payments deposited in the EATS Account for the previous calendar year shall be declared as surplus and distributed in the manner provided in the TIF Act (the "Pass-Through Payment").

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

The Notes are subject to optional redemption by the City in whole at any time or in part on any Payment Date at a redemption price equal to 100% of the principal amount being redeemed, together with interest accrued to the date fixed for redemption.

The Notes are subject to special mandatory redemption by the City on any Payment Date at a redemption price of 100% of the principal amount being redeemed, together with accrued interest thereon to the date fixed for redemption, in an amount equal to the TDD Revenues on deposit in the TDD Account of the Special Allocation Fund and which will not be required for the payment of interest on such Payment Date.

The TDD Notes or portions of Notes to be redeemed shall become due and payable on the redemption date, at the redemption price therein specified, and from and after the redemption date (unless the City defaults in the payment of the redemption price) such TDD Notes or portion of TDD Notes shall cease to bear interest. Upon surrender of such TDD Notes for redemption in accordance with such notice, the redemption price of such TDD Notes shall be paid by the Finance Officer. Installments of interest due on or prior to the redemption date shall be payable as herein provided for payment of interest. Upon surrender for any partial redemption of any TDD Note, there shall be prepared for the Registered Owner a new TDD Note or Notes of the same maturity in the amount of the unpaid principal as provided herein. All TDD Notes that have been redeemed shall be cancelled and destroyed by the Finance Officer as provided herein and shall not be reissued.

Notes shall be redeemed only in the principal amount of \$1,000 or any integral multiple thereof. When less than all of the outstanding Notes are to be redeemed and paid prior to maturity, such Notes shall be selected by the Finance Officer in \$1,000 units of face value in such equitable manner as the Finance Officer may determine.

In the case of a partial redemption of Notes when Notes of denominations greater than the minimum Authorized Denomination are then Outstanding, then for all purposes in connection with such redemption each minimum Authorized Denomination unit of face value shall be treated as though it was a separate Note of the denomination of the minimum Authorized Denomination.

The Notes are issuable in the form of fully registered Notes without coupons in the denomination of \$100,000 or any \$1,000 increment in excess thereof.

THE OWNER HEREOF EXPRESSLY AGREES, BY SUCH OWNER’S ACCEPTANCE HEREOF, THAT THE RIGHT TO PURCHASE, TRANSFER, ASSIGN OR NEGOTIATE THIS TDD NOTE SHALL BE LIMITED TO PURCHASE, TRANSFER, ASSIGNMENT OR NEGOTIATION TO APPROVED INVESTORS AND UPON THE EXECUTION BY THE PROPOSED PURCHASER OR TRANSFEREE OF AN INVESTMENT LETTER IN SUBSTANTIALLY THE FORM OF EXHIBIT C TO THE NOTE ORDINANCE, SIGNED BY THE PROPOSED PURCHASER OR TRANSFEREE, SHOWING THAT THE PROPOSED PURCHASER OR TRANSFEREE IS AN APPROVED INVESTOR. “Approved Investor” means (a) the Developer or any party or entity related to the Developer by one of the relationships described in Section 267(b) of the Internal Revenue Code of 1986, as amended, (b) an “accredited investor” under Rule 501(a) of Regulation D promulgated under the Securities Act of 1933, (c) a “qualified institutional buyer” under Rule 144A promulgated under the Securities Act of 1933 or (d) any general business corporation or enterprise with total assets in excess of \$50,000,000.

Subject to the limitations on transfer, exchange and assignment of this TDD Note as set forth herein, upon surrender thereof at the office of the Finance Officer, the Finance Officer shall transfer or exchange any TDD Note for a new TDD Note of the same maturity and in the same principal amount as the Outstanding principal amount of the TDD Note that was presented for transfer or exchange. Any TDD Note presented for transfer or exchange shall be accompanied by a written instrument or instruments of transfer or authorization for exchange, in a form and with guarantee of signature satisfactory to the Finance Officer, duly executed by the Registered Owner thereof or by the Registered Owner’s duly authorized agent.

This Note shall not be valid or binding on the City or be entitled to any security or benefit under the Note Resolution until the Certificate of Authentication hereon has been executed by the Registrar.

IT IS HEREBY CERTIFIED AND DECLARED that all acts, conditions and things required to exist, happen and be performed precedent to and in the issuance of the Notes have existed, happened and been performed in due time, form and manner as required by law.

IN WITNESS WHEREOF, the **CITY OF ST. LOUIS, MISSOURI** has executed this TDD Note by causing it to be signed by the manual or facsimile signature of its Mayor, Comptroller and Treasurer and attested by the manual or facsimile signature of its City Register, and its official seal to be affixed or imprinted hereon, and this TDD Note to be dated as of the effective date of registration as shown on Schedule A attached hereto.

CITY OF ST. LOUIS, MISSOURI

By: _____
Mayor

By: _____
Comptroller

By: _____
Treasurer

Attest:

(Seal)

City Register

Approved as to Form:

City Counsel

ASSIGNMENT

(Print or Type Name, Address, and Social Security number or other Taxpayer Identification Number of Transferee)

the within Note and all rights thereunder, and hereby irrevocably constitutes and appoints _____
_____ agent to transfer the within Note on the books kept by the Register for the registration thereof, with
full power of substitution in the premises.

Dated: _____

NOTICE: The signature to this assignment must correspond with the name of the Registered Owner as it appears on the face of the within note in every particular.

Signature Guaranteed By:

(Name of Eligible Guarantor Institution)

By: _____

Title: _____

NOTICE: Signatures) must be guaranteed by and eligible guarantor institution as defined by SEC Rule 17 Ad-15 (17 CFR 240.17 Ad-15).

By: _____
Name: _____
Title: _____

EXHIBIT H
Form of Certificate of Commencement of Construction
DELIVERED BY
HIGHLANDS HOTEL, LLC

The undersigned, HIGHLANDS HOTEL, LLC (the "Developer"), pursuant to that certain Redevelopment Agreement dated as of _____, 2004, between the City of St. Louis, Missouri (the "City") and Developer (the "Agreement") hereby certifies to the City as follows:

1. All property within the Redevelopment Area necessary for the Redevelopment Project (as legally described on Appendix A attached hereto and by this reference incorporated herein and made a part hereof), has been acquired by Developer in accordance with the Agreement.
2. Developer has entered into an agreement with a contractor or contractors to construct the Redevelopment Project.
3. Developer has obtained all necessary financing to complete the Redevelopment Project.
4. This Certificate of Commencement of Construction is being issued by Developer to the City in accordance with the Agreement to evidence Developer's satisfaction of all obligations and covenants with respect to commencement of construction of the Redevelopment Project.

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

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

HIGHLANDS HOTEL, LLC

By: _____
Name: _____
Title: _____

EXHIBIT I
Form of Intergovernmental Cooperation and
Access and Parking Agreement

INTERGOVERNMENTAL COOPERATION AND
ACCESS AND PARKING AGREEMENT

THIS INTERGOVERNMENTAL COOPERATION AND ACCESS AND PARKING AGREEMENT (this "Agreement") is made and entered into as of the ____ day of _____, 2004, by and between the **HIGHLANDS TRANSPORTATION DEVELOPMENT DISTRICT**, a political subdivision duly organized and existing under the laws of the State of Missouri (the "District"), and 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 (the "City").

Recitals:

1. The District has acquired from Highlands Hotel, LLC, a Missouri limited liability company, a leasehold interest in certain real estate described on **Exhibit A**, attached hereto and incorporated herein by reference, upon which real estate Highlands Hotel, LLC will design, develop and construct a Parking Field (as defined in **Section 1** of this Agreement).
2. Preliminary conceptual drawings of the Parking Field are set forth on **Exhibit B**, attached hereto and incorporated herein by reference.

3. The City and the District desire to enter into this Agreement in order to acknowledge the general economic benefit and value to the community created by the construction of the Redevelopment Project and the Transportation Project and to provide for public access to the parking spaces within the Parking Field in accordance with the TDD Act and on the terms set forth herein. The City acknowledges that it is entering into this Agreement for the overall benefit of the community and that the commitment to make parking spaces available to the public does not constitute a specific economic benefit to the City or the District.

NOW, THEREFORE, in consideration of the foregoing, and for other good and valuable consideration, receipt and sufficiency of which are acknowledged, the District and the City hereby agree as follows:

Section 1. Definitions. In addition to the capitalized terms defined elsewhere in this Agreement and in the Recitals, the following capitalized terms used in this Agreement shall have the meanings ascribed to them in this Section.

Agreement. This Intergovernmental Cooperation and Access and Parking Agreement made and entered into as of the _____ day of _____, 2004, by and between the District and the City.

City. 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.

Cleaning & Maintenance Obligations. Janitorial and cleaning services (including, without limitation, sweeping, trash removal, and cleaning of sidewalks), replacement of light bulbs, snow removal, landscaping, periodic re-painting (including, without limitation, re-striping, curb re-painting and re-painting of signs), and, unless specifically included as a Maintenance & Repair Obligation hereunder, any other repair or replacement with a reasonably expected useful life of no more than two (2) years.

Developer. Highlands Hotel, LLC, a Missouri limited liability company, or its permitted successors and assigns.

District. The Highlands Transportation Development District, a political subdivision duly organized and existing under the laws of the State of Missouri.

Effective Date. The first date on which all of the conditions set forth in **Sections 2.1 and 2.2** of this Agreement shall have been satisfied or waived hereunder.

Environmental Laws. Any federal, state or local law, statute, regulation, rule or ordinance or amendments thereto, and all applicable judicial, administrative or regulatory decrees, judgments or orders relating to the protection of human health or the environment, including, without limitation, The Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. 9601 et seq. ("CERCLA"), as amended, the Resource, Conservation and Recovery Act, as amended, 42 U.S.C. 6901 et seq. ("RCRA"), the Toxic Substances Control Act, 15 U.S.C. Sections 2601-2671, the Clean Air Act, 42 U.S.C. Sections 7401 et seq., and the Federal Water Pollution Control Act, 33 U.S.C. Sections 1251 to 1387, as the foregoing may be amended from time to time.

Force Majeure. Delays as a result of acts of God, war, civil disturbance, governmental action (including the revocation or refusal to grant licenses or permits, where such revocation or refusal is not due to the fault of the party whose performance is to be excused for reasons of Force Majeure), strikes, lockouts, boycotts, embargoes, fire, casualty or any other causes beyond the reasonable control of either party.

Governmental Approvals. Any and all governmental licenses, permits, consents or other approvals necessary or desirable for the design, construction, development, improvement, financing, operation or maintenance of the Parking Field.

Ground Lease. The Ground Lease between the District and the Developer pertaining to the Parking Property.

Legal Requirements. Any federal, state, or local law, code, rule, ordinance, regulation, or order of any governmental authority or agency having jurisdiction over the business or operation of the Parking Field, including, without limitation, the following: (i) any buildings, zoning, or use laws, ordinances, regulations, or orders; and (ii) Environmental Laws.

Maintenance & Repair Obligations. Routine maintenance and repairs to sidewalks, initial striping and painting of curbs and signs immediately following the construction of the Parking Field, sealants, penetrating sealer, drainage maintenance, power washing, maintaining property insurance for the Parking Field in accordance with Section 8 hereof, and, unless specifically included as a Cleaning & Maintenance Obligation hereunder, any other repairs or improvements with a reasonably expected useful life of more

than two (2) years.

Parking Field. A parking facility, located in the Redevelopment Area, consisting of approximately _____ automobile parking spaces, which parking facility is described by those certain preliminary conceptual drawings set forth as **Exhibit B**, attached hereto and incorporated herein by reference, and in the Redevelopment Agreement.

Parking Property. The leased property legally described in **Exhibit A**, attached hereto and incorporated herein by reference.

Qualified Engineer. A person or firm who is a qualified expert in the field of structural or civil engineering and experienced with other first-class facilities within the St. Louis metropolitan area.

Reasonably Expected Useful Life. A period of time expressed in years beginning on the Effective Date of the Agreement and ending on the anniversary of the Effective Date next succeeding the date that the Parking Field is reasonably expected to no longer have any useful value, as certified by a Qualified Engineer selected or approved by the District. Prior to the issuance of TDD Revenue Obligations, such Qualified Engineer shall determine the Reasonably Expected Useful Life and shall provide written notification thereof to both parties hereto.

Redevelopment Agreement. The Redevelopment Agreement dated _____, between the Developer and the City.

Redevelopment Area. The real property described in Exhibit C to the Redevelopment Agreement, comprising approximately 2.9 acres.

Taxes. All ad valorem taxes and other governmental assessments and charges, general and special, ordinary and extraordinary, of any kind whatsoever (including those levied or assessed by either party hereto), attributable or allocable to the Parking Field.

TDD Act. The Missouri Transportation Development District Act, Sections 238.200 to 238.275 of the Revised Statutes of Missouri (2000), as amended.

TDD Sales Tax. The transportation development district sales tax to be imposed by the District pursuant to Section 238.235 of the TDD Act.

Term. The period commencing on the Effective Date and, unless otherwise terminated hereunder prior thereto, continuing until the end of the calendar month that includes that date that is the later of: (i) the end of the Reasonably Expected Useful Life; or (ii) the satisfaction in full of any and all Transportation Development Revenue Obligations.

Transportation Development Revenue Obligations or TDD Revenue Obligations. The transportation development revenue obligations issued by or on behalf of the District.

Section 2. Access to Parking Field.

2.1 The District's obligations under this Agreement are contingent upon and shall become effective only upon the satisfaction or waiver of all of the following conditions (including the material satisfaction of all required time limitations):

a. The Developer and the District mutually agree upon terms of and execute the Ground Lease with respect to the Parking Field within twelve (12) months following the date of execution of the Redevelopment Agreement;

b. The Developer and the District obtain all Governmental Approvals related to design, development, construction and financing of the Parking Field;

c. The District determines, in its sole discretion, that the design, development, construction, financing and operation of the Parking Field (including any and all costs of environmental remediation and utilities relocation) are economically feasible and provides the City with written notice thereof prior to the Transportation Development Revenue Obligations issuance; and

- d. The Transportation Development Revenue Obligations issuance.

Notwithstanding anything to the contrary herein, the time limitations required by the foregoing conditions shall be subject to Force Majeure, and the District may waive any one or more of the foregoing conditions by providing written notice thereof to the City. Upon the satisfaction or waiver of all of the foregoing conditions, the District shall promptly provide written notice thereof to the City.

2.2 The City's obligations under this Agreement are contingent upon and shall become effective only upon the satisfaction or waiver of all of the following conditions (including the material satisfaction of all required time limitations):

a. The Developer and the District mutually agree upon terms of and execute the Ground Lease with respect to the Parking Field within twelve (12) months following the execution of the Redevelopment Agreement; and

b. The Developer completes the construction of the Parking Field and reasonable certification of such completion is delivered to the City on or before January 1, 2005, absent an event of Force Majeure or, in the event of a delay caused by an event of Force Majeure, on or before January 1, 2006, all as provided for in the Redevelopment Agreement.

Notwithstanding anything to the contrary herein, the City may waive any one or more of the foregoing conditions by providing written notice thereof to the District. Upon the satisfaction or waiver of all of the foregoing conditions, the City shall promptly provide written notice thereof to the District.

2.3 Commencing on the Effective Date and for the term of this Agreement, the District hereby grants, conveys and sets over to the City, for the use and benefit of the general public in accordance with the TDD Act, a non-exclusive easement for parking over and upon the Parking Field upon the terms and conditions hereinafter set forth and subject to the terms and conditions of the Ground Lease and to the District's right to limit and control access in accordance with Section 238.245 of the TDD Act.

2.4 The District shall retain all operational control of and jurisdiction over the Parking Field and shall have the continuing right to operate and control the Parking Field in accordance with the TDD Act. The District shall, and shall cause its agents and contractors to, comply with all Legal Requirements in connection with its operation of the Parking Field.

2.5 The District shall, and shall cause its agents and contractors to, comply with all Legal Requirements in connection with the design, development, construction, maintenance and improvement of the Parking Field.

Section 3. Covenant to Appropriate TDD Revenues and TDD Surplus. Pursuant to the TDD Act, the District shall perform all functions incident to the administration, levy, collection, enforcement and operation of the TDD Sales Tax. Furthermore, the District agrees that the officer of the District at any time charged with the responsibility of formulating budget proposals shall be directed to include in the budget proposal submitted to the District for each fiscal year that the Transportation Development Revenue Obligations are outstanding a request for an appropriation of TDD Revenues and TDD Surplus for application to the payment of the Transportation Development Revenue Obligations. Any funds appropriated as a result of such a request are pledged by the District to payment of the Transportation Development Revenue Obligations. If, within thirty (30) days after the end of the District's fiscal year, the District's board of directors fails to adopt a budget, the District shall be deemed to have adopted a budget that provides for application of the TDD Revenues and TDD Surplus collected in such fiscal year in accordance with the budget for the prior fiscal year.

Section 4. Parking Field Operation and Maintenance.

4.1 Except as otherwise provided herein, during the Term hereof, the District shall perform, or cause to be performed, all obligations connected with or arising out of owning, occupying or using the Parking Field or any part thereof, including without limitation the payment of all expenses required for the operation of the Parking Field, Taxes and assessments, if any, or payments in lieu thereof, utility charges and expenses, and the like, all as and when the same shall become due and payable.

4.2 During the Term hereof, the District shall be solely responsible for and bear, pay and discharge, before the delinquency thereof, all Taxes and assessments, general and special, if any, which may be lawfully taxed, charged, levied, assessed or imposed upon or against or be payable for or in respect of the Parking Field, including any taxes and assessments not of the kind enumerated above to the extent that the same are lawfully made, levied or assessed in lieu of or in addition to taxes or assessments

now customarily levied against real or personal property, and further including all water and sewer charges, assessments and other general governmental charges and impositions whatsoever, foreseen or unforeseen, which if not paid when due would impair the interest of the City or encumber the Parking Field or the Parking Property. The sole exception shall be that, for the federal income tax and financial reporting purposes, the Developer shall retain the economic benefits of ownership.

4.3 The District shall perform all Cleaning & Maintenance Obligations for the Parking Field in accordance with the same standards used for other first-class parking fields in the St. Louis metropolitan area. The District shall perform all Maintenance & Repair Obligations in accordance with the same standards used for other first-class parking fields in the St. Louis metropolitan area.

Section 5. Assignment. The District shall not assign its interest in this Agreement without the prior written consent of the City provided this Agreement may be assigned by the District to a lender or bond trustee in connection with the financing of the Parking Field without the necessity of obtaining the City's consent. The City shall not assign its interest in this Agreement without the prior written consent of the District.

Section 6. Dispute Resolution Process.

6.1 The District and the City agree that, in the event of a disagreement concerning the matters described herein, they shall negotiate, in good faith, in an attempt to resolve such disagreement for a period of at least sixty (60) days following receipt of notice from either party setting forth the specifics of the disagreement and the relief requested.

6.2 Should the District and the City be unable to resolve such disagreement through good faith negotiation, the District and the City agree to attempt in good faith to resolve such disagreement through mediation administered by an organization offering commercial mediation services. Unless otherwise agreed all mediation proceedings shall be conducted in the City of St. Louis, Missouri.

6.3 The District and the City may seek an adjudication of the controversy by the Circuit Court of the City of St. Louis, Missouri, and the prevailing party therein shall be entitled to recover all costs and expenses, including reasonable legal fees and expenses associated therewith.

Section 7. District Requirements. The District acknowledges that, pursuant to the Redevelopment Agreement and such other agreements as may be entered into between the District and the Developer, the District shall require that any and all funds received by the Developer from the District or through other means as repayment of the Transportation Development Revenue Obligations in relation to the Parking Field and the Redevelopment Project (as defined in the Redevelopment Agreement) are for the benefit of the general welfare and are intended to benefit the community at large by eliminating blight and encouraging visitors through the redevelopment of the Property. Such funds shall be used by the Developer as reimbursement for its additions to permanent working capital through the construction of the Parking Field.

Section 8. Insurance. At all times during the construction of the Parking Field and any improvements thereto, the District shall maintain or shall cause the Developer to maintain, with insurance companies of recognized responsibility, a minimum of the following: (a) property insurance written on a builder's risk "all-risk" or equivalent policy form in the amount of the replacement cost of the Parking Field; (b) general liability insurance against claims for bodily injury, death, or property damage occurring on, in, or about the Parking Field and automobile liability insurance on vehicles operated in conjunction with the Parking Field, with a combined single limit for each occurrence of not less than \$1,000,000; and (c) worker's compensation and employer's liability insurance as may be required under applicable law covering any employees retained in connection with the operation of the Parking Field. At all times while the Transportation Development Revenue Obligations remain outstanding, the District shall maintain or shall cause the Developer to maintain, with insurance companies of recognized responsibility, a minimum of the following: (i) property insurance in the amount of the greater of the full insurable value of the Parking Field or the outstanding principal amount of the Transportation Development Revenue Obligations; and (ii) general liability insurance against claims for bodily injury, death, or property damage occurring on, in, or about the Parking Field.

Section 9. Casualty; Condemnation.

9.1 If, during the Term, the Parking Field is damaged by fire, flood or other casualty and the cost to repair and/or replace such damage does not exceed \$100,000, the District shall, with all reasonable diligence, repair and/or replace the damaged portion of the Parking Field to the same condition as existed previously. In the event that the cost to repair and/or replace such

damaged portion of the Parking Field exceeds \$100,000, the District may, in its reasonable discretion, determine whether it is practical to make such repairs and/or replacements. To the extent available, proceeds from the insurance described in Section 8 of this Agreement shall be applied to the repairs and/or replacements made by the District hereunder.

9.2 Notwithstanding any provision of **Section 9.1** of this Agreement to the contrary, if, while the Transportation Development Revenue Obligations remain outstanding, the Parking Field is damaged or destroyed, in whole or in part, by fire or other casualty, to such extent that a claim for loss (including any deductible amount pertaining thereto) resulting from such damage, destruction or taking is greater than \$100,000, the District shall promptly notify the City in writing as to the nature and extent of such damage or loss and whether it is practicable and desirable to rebuild, repair, restore or replace such damage or loss.

The District shall proceed promptly with and complete with reasonable dispatch such rebuilding, repairing, restoring or replacing of the Parking Field damaged or destroyed so as to place the Parking Field in substantially the same condition as existed prior to the event causing such damage or destruction, with such changes, alterations and modifications as will not impair the utility of the Parking Field. The District will cause the proceeds of any insurance claim, title insurance or other award from a challenge or threat of legal or equitable action related to the title or use of the Parking Field to be applied as provided in this Section. If such proceeds are not sufficient to pay in full the costs of such replacement, repair, rebuilding or restoration, the District shall nonetheless complete the work thereof and shall pay the portion of the costs thereof in excess of the amount of such proceeds.

If the District determines that the repair, restoration, modification or improvement of the Parking Field is not economically feasible or in the best interests of the District but the proceeds are sufficient to fully defease the Transportation Development Revenue Obligations, then, in lieu of making such repair, restoration, modification or improvement, the District shall promptly pay the amount of proceeds sufficient to fully defease the Transportation Development Revenue Obligations.

Section 10. Remedies. All rights and remedies of the City and the District herein enumerated shall be cumulative, and none shall exclude any other right or remedy allowed by law. In addition to the other remedies provided in this Agreement, the City and the District shall be entitled to the restraint by injunction of the violation or attempted violation of any of the covenants, agreements or conditions of this Agreement, and the City and the District shall be entitled to recover all direct damages arising out of or caused by the other party's violation of any of the covenants, agreements or conditions of this Agreement.

Section 11. Indemnification and Release. To the extent permitted by law, the District agrees to indemnify, defend, and hold the City, its employees, agents, and independent contractors and consultants harmless from and against any and all suits, claims, costs of defense, damages, injuries, liabilities, and costs and/or expenses, including court costs and reasonable attorneys' fees and expenses, resulting from, arising out of, or in any way connected with: (i) the development and construction of the Parking Field, including liability under any Environmental Laws; and (ii) the negligence or willful misconduct of the District or the Developer or their respective employees, agents or independent contractors in connection with the management, development, and construction of the Parking Field. To the extent permitted by law, the City agrees to indemnify, defend, and hold the District it employees, agents, and independent contractors harmless from and against any and all suits, claims, damages, injuries, liabilities, and costs and/or expenses, including court costs and reasonable attorneys' fees and expenses, resulting from, arising out of, or in any way connected with the negligence or willful misconduct of the City, its employees, agents, and independent contractors and consultants, or arising from a default by the City of its obligations hereunder. The indemnifications set forth in this Section shall survive termination or expiration of this Agreement.

Section 12. Consents and Cooperation.

12.1 Wherever in this Agreement the consent or approval of the District or the City is required, such consent or approval shall not be unreasonably withheld, delayed or conditioned, shall be in writing and shall be executed by a duly authorized officer or agent of the party granting such consent or approval. Further, the District and the City agree to take such reasonable actions as may be necessary both to carry out the terms, provisions and intent of this Agreement and the Redevelopment Agreement, and to aid and assist each other in carrying out such terms, provisions and intent.

12.2 The City shall cooperate with the District and the Developer in all aspects of the predevelopment, design, construction, improvement, financing, operation and maintenance of the Parking Field, including without limitation, the following: (a) expediting the performance of any and all inspections and the processing and approval of any and all permits, licenses and other entitlements and authorizations, including, without limitation, any and all Governmental Approvals; (b) expediting the review, processing and approval of any and all plans, drawings and other documents and materials; and (c) using its best efforts to assist in facilitating the issuance of Transportation Development Revenue Obligations, including, without limitation, cooperating with the agents, representatives and attorneys of the District and Developer in connection therewith and entering into an agreement to provide

continuing disclosure of information in compliance with all applicable Federal rules and regulations related to the Transportation Development Revenue Obligations issuance.

Section 13. Miscellaneous.

13.1 Representations and Warranties of the District. The District hereby represents and warrants to the City that: (i) the District is authorized to enter into and perform this Agreement and each agreement to be executed and performed by the District, pursuant to this Agreement; (ii) this Agreement was duly authorized by the governing body of the District; and (iii) this Agreement is binding upon, and enforceable against the District, in accordance with its terms.

13.2 Representations and Warranties of the City. The City hereby represents and warrants to the District that: (i) the City is authorized to enter into and perform this Agreement and each agreement to be executed and performed by the City pursuant to this Agreement; (ii) this Agreement was duly authorized by the governing body of the City; and (iii) this Agreement is binding upon, and enforceable against the City, in accordance with its terms.

13.3 Warranty; Right to Make Agreement. The District and the City each warrant to the other with respect to itself that neither the execution of this Agreement nor the finalization of the transactions contemplated hereby shall: (i) violate any provision of law or judgment, writ, injunction, order or decree of any court or governmental authority having jurisdiction over it; (ii) result in or constitute a breach or default under any indenture, contract, other commitment or restriction to which it is a party or by which it is bound; or (iii) require any consent, vote or approval which has not been taken, or at the time of the transaction involved shall not have been given or taken.

13.4 Relationship. Neither this Agreement nor any agreements, instruments, documents, or transactions contemplated hereby shall in any respect be interpreted, deemed or construed as making either party hereto a partner, joint venturer with, or agent of the other party. The District and the City agree that neither party will make any contrary assertion, claim or counterclaim in any action, suit, arbitration or other legal proceedings involving the District and the City.

13.5 Applicable Law. This Agreement shall be taken and deemed to have been fully executed, made by the parties in, and governed by, the laws of the State of Missouri.

13.6 Entire Agreement; Amendment. This Agreement constitutes the entire agreement between the District and the City with respect to the matters herein and no other agreements or representations other than those contained in this Agreement have been made by the parties. It supercedes all prior written or oral understandings with respect thereto. This Agreement shall be amended only in writing and effective when signed by the authorized agents of the District and the City and, if Bonds are issued and outstanding, approved by the Bond Trustee.

13.7 Counterparts. This Agreement is executed in multiple counterparts, each of which shall constitute one and the same instrument.

13.8 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, unless the unenforceable or invalid term or provision is such that a court reasonably would find that the parties, or either of them, would not have entered this Agreement without such term or provision, or would not have intended the remainder of this Agreement to be enforced without such term or provision.

13.9 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 certified mail, postage prepaid, or delivered personally as follows:

In the case of the District:

Highlands Transportation Development District
c/o Balke Brown Associates
800 St. Louis Union Station, Suite 425
St. Louis, MO 63103
Facsimile: 314/621-2229

With copies to:

Husch & Eppenberger, LLC
190 Carondelet Plaza, Suite 600
St. Louis, MO 63105
Attn: David G. Richardson
Facsimile: 314/480-1505

In the case of the City, to:

City of St. Louis
City Hall
1200 Market Street
St. Louis, Missouri 63103
Attention: Mayor, Room 200
Attention: Comptroller, Room 212

With a copy to:

St. Louis Development Corporation
1015 Locust Street
Suite 1200
St. Louis, Missouri 63101
Attention: Executive Director

and

City Counselor
City of St. Louis
1200 Market Street, Room 314
St. Louis, Missouri 63103
Attention: Patricia A. Hageman

or to such other address 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 Section.

13.10 Waiver. The failure of either party to insist upon a strict performance of any of the terms or provisions of this Agreement, or to exercise any option, right or remedy contained in this Agreement, shall not be construed as a waiver or as a relinquishment for the future of such term, provision, option, right or remedy, but the same shall continue and remain in full force and effect. No waiver by either party of any term or provision hereof shall be deemed to have been made unless expressed in writing and signed by such party.

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

IN WITNESS WHEREOF, the parties have caused this Intergovernmental Cooperation and Access and Parking Agreement to be executed as of the date first written above.

**HIGHLANDS TRANSPORTATION
DEVELOPMENT DISTRICT**

By: _____
Name: _____
Title: _____

ATTEST:

Seal

By: _____
Name: _____
Title: _____

CITY OF ST. LOUIS, MISSOURI

By: Mayor

By: Comptroller

Attest:

Register

Approved as to form:

City Counselor

**EXHIBIT A TO INTERGOVERNMENTAL COOPERATION AND
ACCESS AND PARKING AGREEMENT**

**Legal Description of PARKING Property
[to be supplemented]**

(Is on file in the Register's Office.)

**EXHIBIT B TO INTERGOVERNMENTAL COOPERATION AND
ACCESS AND PARKING AGREEMENT**

PRELIMINARY CONCEPTUAL DRAWINGS OF PARKING FIELD

(Is on file in the Register's Office.)

EXHIBIT J

Form of Certificate of Reimbursable Transportation Project Costs

To:	City of St. Louis, Missouri	St. Louis Development Corporation
	City Hall	1015 Locust Street
	1200 Market Street	Suite 1200
	St. Louis, Missouri 63103	St. Louis, Missouri 63101
	Attention: Mayor	Attention: Executive Director
	Attention: Comptroller	

Re: Development Agreement between the City of St. Louis, Missouri (the "City"), and Highlands Hotel, LLC (the "Developer"), dated as of _____, 2004, as may be amended (the "Agreement")

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement. In connection with said Agreement, the undersigned hereby states and certifies that:

1. Each item listed on Schedule 1 hereto is a Reimbursable Transportation Project Cost and was incurred in connection with the construction and implementation of the Transportation Project.

2. These Reimbursable Transportation Project Costs have been incurred by the Developer and are payable or reimbursable by the City as provided for in the Agreement.

3. Each item listed on Schedule 1 has not previously been paid or reimbursed by the City 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 or the District 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 Transportation Project for which this certificate relates have been issued and are in full force and effect.

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

Dated this _____ day of _____, 20____.

**HIGHLANDS HOTEL, LLC,
a Missouri limited liability company**

By: _____
Name: _____
Title: _____

PROJECT ENGINEER/ARCHITECT

By: _____
Name: _____
Title: _____

APPROVED FOR PAYMENT THIS _____ DAY OF _____, 20 _____ :

CITY OF ST. LOUIS, MISSOURI

By: _____
Name: _____
Title: _____

Approved: March 21, 2004

ORDINANCE NO. 66222 - EXHIBIT C

66222

