

AN ORDINANCE APPROVING A MASTER DEVELOPMENT AGREEMENT BY AND BETWEEN THE CITY OF RICHMOND HEIGHTS, MISSOURI, AND UNITED PLAZA, LLC.

WHEREAS, on February 3, 2009, the City of Richmond Heights, Missouri (the “City”), solicited new redevelopment proposals for the redevelopment area described in the Hadley Township Redevelopment Plan (the “Redevelopment Area”); and

WHEREAS, on May 29, 2009, Gateway Real Estate Partners (“GRE”) submitted a proposal for the redevelopment of the Redevelopment Area (the “Proposal”); and

WHEREAS, the Proposal envisions the construction of a mixed-use project within the Redevelopment Area, including office, retail, hotel, residential and entertainment uses; and

WHEREAS, GRE assigned its interests in the Proposal to United Plaza, LLC (the “Developer”); and

WHEREAS, the City desires to enter into a master development agreement (the “Master Development Agreement”) with the Developer to set forth the terms upon which property required for the implementation of the Proposal may be acquired and upon which certain redevelopment incentives will be further considered by the City;

NOW, THEREFORE, BE IT ORDAINED BY THE CITY COUNCIL OF THE CITY OF RICHMOND HEIGHTS, MISSOURI, AS FOLLOWS:

SECTION 1. The City Council finds and determines that it is necessary and desirable to enter into an agreement with the Developer to set forth the terms upon which property required for the implementation of the Proposal may be acquired and upon which certain redevelopment incentives will be further considered by the City. The Mayor is hereby authorized and directed to execute, on behalf of the City, the Master Development Agreement between the City and the Developer, and the Deputy City Clerk is hereby authorized and directed to attest to the Master Development Agreement and to affix the seal of the City thereto. The Master Development Agreement shall be in substantially the form attached hereto as **Exhibit A**, which Master Development Agreement is hereby approved by the City Council, with such changes therein as shall be approved by the officers of the City executing the same.

SECTION 2. The officers, agents and employees of the City are hereby authorized and directed to execute all documents and take such steps as they deem necessary and advisable in order to carry out and perform the purpose of this Ordinance.

SECTION 3. It is hereby declared to be the intention of the City Council 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 City Council 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 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.

SECTION 4. This Ordinance shall take effect and be in full force on the thirty-first day following its passage and being signed as provided by law; provided, if the Developer has not executed the Master Development Agreement within 15 days after the effective date, all rights conferred by this Ordinance on the Developer shall terminate.

PASSED and SIGNED this 25th day of May, 2010.

JAMES J. BECK
MAYOR

ATTEST:

PATRICIA S. VILLMER
DEPUTY CITY CLERK

APPROVED AS TO FORM:

KENNETH J. HEINZ
CITY ATTORNEY

First reading: May 3, 2010
Second reading: May 17, 2010 amended and held over
Final reading: May 25, 2010

EXHIBIT A
MASTER DEVELOPMENT AGREEMENT
by and between the
CITY OF RICHMOND HEIGHTS, MISSOURI,
and
UNITED PLAZA, LLC
dated as of
[DATE]

UNITED PLAZA REDEVELOPMENT AREA

TABLE OF CONTENTS

ARTICLE I DEFINITIONS	2
SECTION 1.1. DEFINITIONS	2
ARTICLE II ACCEPTANCE OF PROPOSAL; ADVANCE OF PROJECT COSTS	4
SECTION 2.1. DEVELOPER DESIGNATION.....	4
SECTION 2.2. DEVELOPER ADVANCES AND REIMBURSEMENTS OF CITY’S COSTS	4
ARTICLE III ACQUISITION OF THE PROPERTY	5
SECTION 3.1. DEVELOPER TO ACQUIRE THE PROPERTY BY NEGOTIATION	5
SECTION 3.2. TERMS OF PURCHASE AGREEMENTS	5
SECTION 3.3. CONDEMNATION	8
SECTION 3.4. COVENANT TO COMPLY WITH STATUTORY REQUIREMENTS	9
SECTION 3.5. CONDEMNATION PROCEDURES	9
SECTION 3.6. DUE DILIGENCE	10
SECTION 3.7. RESOLUTION OF CONDEMNATION ISSUES FOLLOWING TERMINATION OF AGREEMENT	11
SECTION 3.8. SECURITY FOR DEVELOPER’S CONDEMNATION OBLIGATIONS.....	11
SECTION 3.9. ENVIRONMENTAL PREREQUISITES TO ACQUISITION OF TITLE BY CONDEMNATION	12
SECTION 3.10. INDEMNIFICATION OF CITY UPON ABANDONMENT.....	13
SECTION 3.11. CITY PROPERTY	13
SECTION 3.12. RELOCATION.....	15
SECTION 3.13. TERMINATION OF CONDEMNATION FOR SETTLEMENT PURPOSES	15
SECTION 3.14. CITY OPTION TO ACQUIRE PROPERTY.....	15
SECTION 3.15. ABANDONMENT OF CONDEMNATION	16
ARTICLE IV PERFORMANCE, COMPLETION AND MAINTENANCE OF THE REDEVELOPMENT PROJECT	16
SECTION 4.1. DEVELOPER’S PERFORMANCE OF THE REDEVELOPMENT PROJECT.	16
SECTION 4.2. CONCEPT SITE PLAN	17
SECTION 4.3. GOVERNMENTAL APPROVALS.....	17
SECTION 4.4. PERFORMANCE OF THE REDEVELOPMENT PROJECT	17
SECTION 4.5. PROJECT MANAGEMENT; REVIEW AND INSPECTIONS.....	17
SECTION 4.6. MAINTENANCE OF THE PROPERTY	17
ARTICLE V IMPLEMENTATION OF REDEVELOPMENT PROGRAM	18
SECTION 5.1. REDEVELOPMENT PROGRAM.....	18
SECTION 5.2. REDEVELOPMENT AGREEMENT.....	18
SECTION 5.3. FURTHER AGREEMENT.....	20
ARTICLE VI GENERAL PROVISIONS	20
SECTION 6.1. SUCCESSORS AND ASSIGNS	20
SECTION 6.2. REMEDIES	21
SECTION 6.3. FORCE MAJEURE AND OTHER EXTENSIONS OF TIME FOR PERFORMANCE.....	21
SECTION 6.4. ACTIONS CONTESTING THE VALIDITY AND ENFORCEABILITY OF THE TIF PLAN, THE REDEVELOPMENT PROGRAM AND RELATED MATTERS	22
SECTION 6.5. INSURANCE	22
SECTION 6.6. COMPETITIVE BIDS; PREVAILING WAGE; EXCESSIVE UNEMPLOYMENT	22
SECTION 6.7. NOTICES.....	23
SECTION 6.8. ENVIRONMENTAL.....	24
SECTION 6.9. CONFLICT OF INTEREST.....	24
SECTION 6.10. CHOICE OF LAW	24
SECTION 6.11. ENTIRE AGREEMENT; AMENDMENT.....	24
SECTION 6.12. COUNTERPARTS	24

SECTION 6.13.	SEVERABILITY	24
SECTION 6.14.	REPRESENTATIVES NOT PERSONALLY LIABLE.....	25
SECTION 6.15.	MUTUAL ASSISTANCE.....	25
SECTION 6.16.	SURVIVAL	25
SECTION 6.17.	NONDISCRIMINATION.....	25
ARTICLE VII RELEASE AND INDEMNIFICATION.....		25
SECTION 7.1.	INDEMNIFICATION.....	25
SECTION 7.2.	FINANCIAL COVENANT	25
ARTICLE VIII TERM		26
SECTION 8.1.	TERM OF AGREEMENT.....	26
ARTICLE IX REPRESENTATIONS OF THE PARTIES		26
SECTION 9.1.	REPRESENTATIONS OF THE CITY	26
SECTION 9.2.	REPRESENTATIONS OF THE DEVELOPER.....	26

- Exhibit A: Legal Description of Redevelopment Area
- Exhibit B: Redevelopment Program
- Exhibit C: Option Agreement

MASTER DEVELOPMENT AGREEMENT

THIS MASTER DEVELOPMENT AGREEMENT (this “**Agreement**”) is made and entered into as of May 25, 2010, by and between the **CITY OF RICHMOND HEIGHTS, MISSOURI**, a home rule charter city and political subdivision of the State of Missouri (the “**City**”), and **UNITED PLAZA, LLC**, a Delaware limited liability company (the “**Developer**”).

RECITALS

1. The Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865 of the Revised Statutes of Missouri, as amended (the “**TIF Act**”), authorizes municipalities to undertake redevelopment projects in blighted, conservation or economic development areas, as defined in the TIF Act.

2. The City Council has previously approved a plan for redevelopment known as the Hadley Township Redevelopment Plan (including all amendments thereto, the “**TIF Plan**”), for an area containing approximately 63 acres and consisting of two redevelopment project areas, which collectively are generally bounded by a portion of the Highway 40/Interstate 64 right-of-way and Dale Avenue on the north; Laclede Station Road on the east; West Bruno Avenue on the south; and Hanley Road on the west (collectively, the “**TIF Area**”), as depicted in Appendix A of the TIF Plan and legally described in Appendix B of the TIF Plan.

3. The City and Michelson Commercial Realty and Development, LLC., a Missouri limited liability company (together with all successors and assigns, the “**Prior Developer**”), entered into a Redevelopment Agreement for the TIF Area dated as of November 17, 2006, subsequently amended as follows: (a) First Amendment to Redevelopment Agreement approved by the City Council on April 16, 2007 by Ordinance No. 5017; (b) Second Amendment to Redevelopment Agreement approved by the City Council on July 2, 2008 by Ordinance No. 5076; (c) Third Amendment to Redevelopment Agreement approved by the City Council on August 18, 2008 by Ordinance No. 5083; (d) Fourth Amendment to Redevelopment Agreement approved by the City Council on August 29, 2008 by Ordinance No. 5085; (e) Fifth Amendment to Redevelopment Agreement approved by the City Council on September 2, 2008 by Ordinance No. 5086; (f) Sixth Amendment to Redevelopment Agreement approved by the City Council on October 29, 2008 by Ordinance No. 5089; and (g) Seventh Amendment to Redevelopment Agreement approved by the City Council on December 29, 2008 by Ordinance No. 5093. (collectively, the “**Prior Redevelopment Agreement**”), wherein the Prior Developer agreed to redevelop a portion of the TIF Area, and the City authorized such redevelopment, upon the terms and conditions contained in the Prior Redevelopment Agreement.

4. The Prior Developer failed to complete the activities required by Section 3.5 of the Prior Redevelopment Agreement within the time limits set forth therein and as a result, on February 3, 2009, the City solicited new redevelopment proposals for the TIF Area. The deadline for submitting responses was set for May 29, 2009.

5. Gateway Real Estate Partners (“**GRE**”) submitted a redevelopment proposal in response to the City’s request on May 29, 2009 (the “**Development Proposal**”). GRE

subsequently assigned its rights in the Development Proposal to United Plaza, LLC (the “Developer”).

6. The City and the Developer have entered into a preliminary funding agreement to assist the City in implementing the project generally described in the Development Proposal and to provide for the payment of certain preliminary redevelopment start-up costs (the “Preliminary Funding Agreement”).

7. Pursuant to Resolution No. 10-07, adopted by the City Council on March 15, 2010, the City terminated the Prior Redevelopment Agreement pursuant to the terms of Article VII thereof.

8. The City Council hereby determines that the acceptance of the Development Proposal and the fulfillment generally of this Agreement are in the best interests of the City, and the health, safety, morals and welfare of its residents.

AGREEMENT

In consideration of the above premises and the mutual obligations of the parties hereto, each party hereby agrees as follows:

ARTICLE I DEFINITIONS

Section 1.1. Definitions.

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

“**Acquisition Costs**” means all costs of acquiring the Property, including, but not limited to: cost of land and improvements; brokerage commissions; costs of title commitments, reports or policies; surveys; engineering costs; soil and hazardous waste and other site and property related reports; 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, and all associated court costs, fees and expenses.

“**Agreement**” means this Master Development Agreement, as the same may be from time to time modified, amended or supplemented in writing by the parties hereto.

“**Ancillary Properties**” means the Property owned by the City within the Redevelopment Area that is not referenced by address or locator number in **Section 3.11(b), (c) or (d)**.

“**Chapter 353**” means the Urban Redevelopment Corporations Law, Chapter 353 of the Revised Statutes of Missouri, as amended.

“**CID**” means the community improvement district formed in connection with the Redevelopment Project to be created and maintained pursuant to the CID Act and ARTICLE V hereof.

“**CID Act**” means Sections 67.1401 to 67.1571 of the Revised Statutes of Missouri, as amended.

“**City**” means the City of Richmond Heights, Missouri, a home rule charter city and political subdivision of the State of Missouri.

“**City Attorney**” means Kenneth J. Heinz of Curtis, Heinz, Garrett & O’Keefe, P.C., or an attorney at law or firm of attorneys acceptable to the City and serving in such capacity at any time on behalf of the City, duly admitted to the practice of law before the highest court of the State of Missouri

“**City Council**” means the City Council of the City of Richmond Heights, Missouri.

“**City Streets**” means all public streets, roadways, easements, alleys or rights-of-way within the Redevelopment Area that will be vacated in accordance with **Section 3.11** hereof.

“**Commissioners’ Award**” means the commissioners’ award described in Chapter 523 of the Revised Statutes of Missouri, as amended, plus any statutory interest thereon and any costs related thereto.

“**Developer**” means United Plaza, LLC, a Delaware limited liability company, and its successors or assigns.

“**Development Proposal**” means the proposal submitted by the Developer on May 29, 2009, in response to a request for proposals published by the City on February 3, 2009.

“**Governmental Approvals**” means all plat approvals, re-zoning or other zoning changes, site plan approvals, conditional use permits, variances, building permits, or other subdivision, zoning, or similar approvals required for the implementation of the Redevelopment Project, as applicable.

“**Preliminary Funding Agreement**” means that Preliminary Funding Agreement between the City and the Developer dated as of February 16, 2010, providing for the payment of costs related to the approval of the Redevelopment Program.

“**Property**” means that portion of the real property (including but not limited to fee interests, leasehold interests, tenant-in-common interests and such other like or similar interests) and improvements situated within the Redevelopment Area which is not currently owned or controlled by Developer or related entities, and which, in the good faith determination of the Developer, is necessary for the implementation of the Redevelopment Project.

“**Redevelopment Area**” means an approximately 63-acre area within the City, legally described in Exhibit A attached hereto and incorporated by reference herein.

“**Redevelopment Program**” means the program for future redevelopment of the Redevelopment Area as generally described in **Section 5.1** hereof.

“**Redevelopment Project**” means the acquisition of real property and related rights-of-way within the Redevelopment Area necessary for the implementation of the Redevelopment Program and the commencement of preliminary site investigations, demolition, remediation and site preparation for the redevelopment of the Redevelopment Area, as further described in the Development Proposal and this Agreement.

“**Redevelopment Project Costs**” means the sum total of all reasonable or necessary costs actually incurred in performing the Redevelopment Project and any such costs incidental to the Redevelopment Project. Such costs include, but are not limited to, the following: (a) costs of studies, surveys, plans, and specifications; (b) professional service costs, including, but not limited to, architectural, engineering, legal, marketing, financial, planning or special services and City costs as described in **Section 2.2** hereof; (c) Acquisition Costs; and (d) costs of demolition of buildings, excavation and haul-off of rock and soil, and sloping, trenching, filling, clearing and grading of land.

“**Related Party**” 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, including any urban redevelopment corporation that is wholly owned by or substantially controlled by Developer or its members.

“**TDD**” means the transportation development district formed in connection with the Redevelopment Project to be created and maintained pursuant to the TDD Act and ARTICLE V hereof.

“**TDD Act**” means Sections 238.200 to 238.280 of the Revised Statutes of Missouri, as amended.

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

“**TIF Area**” means the real property legally described on Appendix B of the TIF Plan.

“**TIF Plan**” means the Hadley Township Redevelopment Plan previously adopted by the City Council by Ordinance No. 4991 for the redevelopment of the TIF Area.

ARTICLE II ACCEPTANCE OF PROPOSAL; ADVANCE OF PROJECT COSTS

Section 2.1. Developer Designation. The City hereby selects the Developer to acquire the Property and to carry out the Redevelopment Project as provided in this Agreement.

Section 2.2. Developer Advances and Reimbursements of City’s Costs. The Developer has previously entered into the Preliminary Funding Agreement with the City and has advanced \$120,000 thereunder to pay for preliminary costs associated with the Redevelopment Program. The Developer further agrees to pay all reasonable out-of-pocket costs incurred by the

City in connection with the Redevelopment Project, including reasonable direct out-of-pocket costs and costs of outside professionals, but not including internal costs of City personnel, which costs have not previously been reimbursed pursuant to the Preliminary Funding Agreement. The City shall submit to the Developer a statement for such costs accompanied by reasonable supporting documentation. If the City reasonably expects to incur additional costs in excess of the amount set forth in the Preliminary Funding Agreement, the City shall provide the Developer with written notice of the same once it has spent 75% of the preliminary funds on deposit, in which case the City and the Developer may mutually agree to provide for reimbursement of those costs in an amendment to the Preliminary Funding Agreement, in the Redevelopment Agreement described in ARTICLE V hereof or in other means acceptable to both parties. Subject to the applicable statutes, all costs so advanced shall be subject to reimbursement under the Redevelopment Agreement described in ARTICLE V hereof; provided however, that the City hereby acknowledges that no third party shall have any beneficial interest in or derived from the Preliminary Funding Agreement.

ARTICLE III ACQUISITION OF THE PROPERTY

Section 3.1. Developer to Acquire the Property by Negotiation. The Developer shall use reasonable efforts to acquire all of the Property (except as otherwise provided below) by negotiated purchase, donation, option, easement or lease in accordance with the schedule set forth in **Section 4.1** hereof. The Developer shall obtain all title commitments, inspections, tests, surveys and reports, hire and retain all experts, professionals, including attorneys or engineers, and staff, and advance all Acquisition Costs as necessary to acquire the Property. The Developer shall have the right to encumber its interest in the Property concurrent with acquisition of the Property and payment of Acquisition Costs. All of the Property acquired by the Developer, subject to the rights of assignment under **Section 6.1** hereof, and except with regard to any Property that may be held by the City, the TDD, the CID or other political subdivision, shall be held in the name of the Developer and shall be subject to the terms, conditions and covenants contained herein immediately upon acquisition and prior to any encumbrances placed thereon. The Developer may obtain purchase options on each of the parcels comprising the Property, but shall not be required to take title to any parcel until the Developer has enforceable option contracts or leases entitling the Developer to acquire the Property.

Section 3.2. Terms of Purchase Agreements. The Developer shall offer or shall have offered a purchase agreement (the “**Purchase Agreement**”) to owners of real property within the Redevelopment Area pursuant to the following minimum terms:

(a) Family Owned Residential Property Purchase Agreements.

(i) As of the effective date of this Agreement, the Developer has offered a Purchase Agreement to owners of “Family Owned Residential Property” (the “**Family Owned Purchase Agreement**”). For property to qualify as “Family Owned Residential Property”, the property must be:

- (A) occupied by the record owner of the property or an individual related to the record owner within the third degree of consanguinity or not currently occupied;
- (B) improved with a residence;
- (C) on a legally created and existing lot of at least 3,700 square feet;
- (D) not purchased by its current record owner after January 31, 2000 (such property shall not be deemed to have been purchased after January 31, 2000 merely because title to such property was changed after that date as the result of (1) the prior owner dying and the property passing by devise or intestacy to the owner's heirs or devisees, (2) a change in ownership as a result of a divorce decree or settlement, (3) the conveyance of the property from the prior owner to a trust where such owner is the beneficiary or the trustee, or (4) the execution of a beneficiary deed by the previous owner of such property); and
- (E) not a City-Controlled Parcel, as described in **Section 3.11(c)**.

(ii) The Family Owned Purchase Agreement shall contain a purchase price of at least the greatest of: (A) 200% of the "Appraised Value" of the property for 2006 according to records of the Assessor's Office of St. Louis County, Missouri, (B) \$30 per square foot of land owned by such owner, or (C) \$160,000. The purchase price may include an express waiver of relocation benefits.

(iii) With respect to Family Owned Residential Property that is improved with a residence that is actually occupied by the record owner of the property (or an individual who is related to the record owner within the third degree of consanguinity), such occupant shall be permitted to stay in the residence after the closing of the sale of such property to the Developer until the earlier of: (A) ten (10) days after such occupant closes on the purchase of and moves into a new home, moves into an apartment, or otherwise obtains alternative housing, or (B) one hundred twenty (120) days after the closing of the sale of the property to the Developer.

(b) Vacant Property Purchase Agreements.

(i) As of the effective date of this Agreement, the Developer has offered to owners of property that (i) is unimproved and/or unoccupied as of January 1, 2010, (ii) is not a City-Controlled Parcel, as described in **Section 3.11(c)** and (iii) was not purchased by its current record owners after January 31, 2000 (such property shall not be deemed to have been purchased after January 31, 2000 merely because title to such property was changed after that date as the result of: (A) the prior owner dying and the property passing by devise or intestacy to the owner's heirs or devisees, (B) a change in ownership as a result of a divorce decree or settlement, (C) the conveyance of the property from the prior owner to a trust where such owner is the beneficiary or the trustee, or (D) the execution of a beneficiary deed by the previous owner of such property), a Purchase Agreement (the "**Vacant Property Purchase Agreement**") to purchase such vacant property.

(ii) The Vacant Property Purchase Agreement shall contain a purchase price equal to at least 160% of the of the “Appraised Value” of the property for 2006 according to records of the Assessor’s Office of St. Louis County, Missouri.

(c) Other Parcels. As of the effective date of this Agreement, for any property not described in **Section 3.2(a)** or **Section 3.2(b)** above and which is not a City-Controlled Parcel, as described in **Section 3.11(c)**, the Developer has offered to owners of such parcels a Purchase Agreement (the “**Other Parcel Purchase Agreement**”) with a purchase price of: (A) \$36 per square foot of real property for land that is zoned as “C-2 General Business District” property by the City and being improved and used as an operating business as of January 31, 2000; or (B) for any other parcel of real property not described in subsections (a), (b) or (c)(A), 160% of the “Appraised Value” of the property for 2006 according to records of the Assessor’s Office of St. Louis County, Missouri.

(d) Pre-Existing Agreements.

(i) The Developer agrees that all Purchase Agreements executed before the date of this Agreement have incorporated substantially the terms set forth in this Section.

(ii) Notwithstanding anything in this Agreement to the contrary, the provisions of this Section shall not apply to any pre-existing contract, option agreement or other similar agreement entered into between an owner of real property in the Redevelopment Area and any third party, for the sale of the owner’s property to such third party (or the granting of an option to such third party to purchase the owner’s property) (a “**Pre-Existing Agreement**”), where the rights of the purchaser or option-holder under the Pre-Existing Agreement are being assigned to Developer by such third party. In cases where there is a Pre-existing Agreement that is being assigned to and assumed by the Developer, the Developer agrees to perform under such Pre-Existing Agreement in accordance with the provisions thereof.

(e) Earnest Money Deposit; Notice of Closing; Removal of Personal Property.

(i) Upon the execution of the Purchase Agreement, the Developer shall provide the property owner with a refundable earnest money deposit of \$500 (the “**Initial Deposit**”). The Initial Deposit shall be applied against the purchase price described in the Purchase Agreement.

(ii) No later than June 30, 2010, the Developer must provide the property owner with either: (A) at least thirty (30) days’ notice for closing on the property, or (B) notice that the time for closing has been extended to November 30, 2010, with notice to close being issued on or before October 31, 2010. If the Developer extends the date of closing to November 30, 2010, then (A) the Initial Deposit shall become nonrefundable but applicable to the purchase price, and (B) the Developer shall pay an extension fee of an additional \$500 that is nonrefundable but applicable to the purchase price. If the Developer fails to close on the Property by November 30, 2010, the City has the absolute right to terminate this Agreement, provided that the Developer shall not be deemed to have failed to close if the Developer is ready, willing and able to close on the day of closing and the closing fails to occur because (A) the owner is not ready, willing and able to close on the date of the scheduled closing, or (B) there

exists a condition of force majeure pursuant to **Section 6.3**, provided that regardless of force majeure, no closing may occur later than December 31, 2010, unless this Agreement is extended by mutual agreement of the parties hereto.

(iii) In its contracts with sellers of real property within the Redevelopment Area, Developer shall have the right to permit the reasonable removal by the sellers of certain fixtures and other items of personal property from the real property being conveyed to Developer, but only after the closing of the sale of such real property to Developer and otherwise in accordance with the agreements reached between Developer and such sellers.

(f) Relocation Benefits. With respect to all Property owners who have entered into Purchase Agreements, the Developer shall:

(i) Advise the owner in writing of the relocation benefits to which the owner would be entitled under this Agreement, or advise the owner in writing that the proposed purchase price includes an express waiver of such relocation benefits, which shall be approved in form and substance by the City prior to submission to the owner;

(ii) Advise the owner in writing of the time period for acceptance of the Purchase Agreement; and

(iii) Provide a copy of the Purchase Agreement to the City.

Section 3.3. Condemnation.

(a) With respect to any portion of the Property or any interest therein (including, without limitation, any tenant's or lessee's interest in the Property that the Developer deems necessary to acquire) that is not acquired in accordance with **Section 3.1** and **Section 3.2** hereof, the Developer shall notify the City, in writing, and strictly in accordance with the schedule provided in **Section 4.1** hereof, that the City should initiate condemnation proceedings to acquire such parcel or parcels of the Property or interest therein at the sole expense of the Developer; provided such expense shall be eligible for reimbursement under the terms of the Redevelopment Program. The City shall convey legal title to any real property acquired in its name by condemnation pursuant to this Agreement by special warranty deed. The parties agree that 1633 Laclede Station Road (Richmond Terrace) cannot be condemned pursuant to this Agreement.

(b) At least 15 days prior to requesting the initiation of condemnation proceedings with respect to any parcel of the Property, the Developer shall provide to the City, addressed to the City Manager, a Notice of Intent to File a Condemnation Petition and with respect to any parcel to be included in such a Petition, the following:

(i) A certification stating that (i) the Developer has obtained an appraisal from an independent third-party appraiser licensed in the State of Missouri who is reasonably acceptable to the City, with respect to such parcel (which appraisal shall be obtained and provided to the City at the Developer's sole cost and expense, subject to reimbursement as an eligible redevelopment project cost); (ii) with respect to the fee owners of parcels, a Purchase Agreement that complied with the requirements of **Section 3.2(a)**, **Section 3.2(b)** or **Section 3.2(c)**, as applicable, was submitted and rejected, not accepted or subsequently breached

by the owner; and (iii) the amount offered pursuant to Purchase Agreement, as applicable, was at least 100% (increased by the factors and/or percentages as required by Section 523.039 of the Revised Statutes of Missouri, as amended, if applicable) of the value of the parcel, as shown by the appraisal referenced in clause (i) of this subsection; and

(ii) Legal descriptions of the parcel(s) to be taken by such proceedings; and

(iii) If the parcel to be acquired includes tenants, information regarding the terms of each tenant's lease and the benefits that each tenant would receive under the Developer's most recent proposal to acquire the property; and

(iv) Evidence of the Developer's efforts to acquire such parcel(s) (including, but not limited to, evidence of communications or attempts at communications with the owners of such parcel(s), copies of proposed purchase contracts, offers and counter-offers, if any, tendered to the owners); provided the City shall retain all such documents submitted to the City in connection with the acquisition of any parcel through eminent domain, as closed records to the extent permitted by law, including, but not limited to, the provisions of Chapter 610 of the Revised Statutes of Missouri, as amended.

(v) Notwithstanding any other language in this Agreement to the contrary, if the City has initiated condemnation on any Property within the Redevelopment Area prior to the date of this Agreement but has not received a Commissioners' Award, the City shall continue its efforts to complete the condemnation process at its sole cost and expense, but the Developer will take over the pending condemnation actions from the City as of June 30, 2010.

Section 3.4. Covenant to Comply with Statutory Requirements. As a condition to its authorization hereunder to institute on behalf of the City and in its name, any condemnation proceedings against an owner of all or part of the Property, the Developer hereby covenants and agrees that it shall first satisfy all jurisdictional and statutory prerequisites necessary for the initiation of such condemnation proceedings, including the requirement to negotiate in the City's name in good faith. During the 15-day period referenced in **Section 3.3** above, the City, through the City Manager or his/her designee, shall have the right to inspect any documentation relating to the Developer's efforts to acquire the parcel or parcels of the Property which are to be part of the proceeding and to set reasonable requirements regarding further documentation during such 15-day period.

Section 3.5. Condemnation Procedures.

(a) The parties acknowledge that the City cannot delegate its power of eminent domain to the Developer. The City agrees, however, that upon compliance with the provisions of this Agreement, it will invoke applicable authority vested in the City for the exercise of eminent domain, including, but not limited to, the City's condemnation authority established by the TIF Act and Chapter 353.

(b) Subject to the foregoing, the City shall initiate condemnation proceedings within fifteen (15) days from the City's receipt of the Developer's request so long as the Developer has provided the City with all documents required by **Section 3.3** within the time periods required by this Section. Said request shall include legal descriptions of the property to be taken by such

proceedings, together with all other information reasonably required by the City to proceed. Except as otherwise provided in this Agreement or as may be provided by law, the Developer, as the City's agent, shall control all condemnation proceedings, including the selection of attorneys and other professionals and shall diligently prosecute all such proceedings. The City agrees to cooperate in such proceedings and to execute all pleadings and other documents that may be necessary and/or required during the prosecution of such proceedings. During the condemnation proceedings, the Developer agrees to consult with the City regarding recommendations by consultants to the Developer as to the fair settlement value of each such case. Advice and consultation with the City shall continue throughout such proceedings. The City shall, upon initiation of the condemnation proceedings, designate in writing to the Developer an individual who is authorized to represent the City in consultations with the Developer and its counsel. Upon the City's request, the Developer shall provide copies of all pleadings and other documents filed or prepared in conjunction with the prosecution of the condemnation proceedings for the City's inspection. The Developer shall pay all costs reasonably incurred by the City in connection with any condemnation action.

(c) Within 60 days after the filing of any report of Commissioners' Award, the Developer shall either (1) notify the City that it is terminating this Agreement, (2) settle the proceeding; or (3) pay the amount of any Commissioners' Award issued in conjunction with any such condemnation proceeding either directly to the Clerk of the Circuit Court or to the City for payment of such Commissioners' Award by the City to the Clerk of the Circuit Court, which payment the City agrees to immediately make to the Clerk. Notwithstanding the foregoing, if the Developer requests that the City terminate any condemnation proceeding to effect a settlement of any such proceeding, this Agreement shall continue and the City and the Developer shall continue to diligently prosecute any other condemnation proceedings pending at such time. Upon request of the Developer after payment of any Commissioners' Award, the City shall promptly, at a time and place designated by the Developer, convey to the Developer by special warranty deed all right, title and interest in and to any such parcel acquired in connection with or as a result of the condemnation proceeding.

Section 3.6. Due Diligence. The City hereby authorizes the Developer, prior to the appointment of condemnation commissioners, to obtain the consent of each defendant property owner, subject to reasonable terms and conditions, for the Developer to conduct such due diligence as the Developer deems necessary pursuant to this Agreement. In the alternative, the Developer may, on behalf of the City, file such actions or motions, including eminent domain actions, as are necessary in the Developer's reasonable judgment to provide for the inspection of any parcel by the Developer for purposes of testing or inspection of any kind or nature, provided the Developer indemnifies the City (to the City's reasonable satisfaction) against any and all liability regarding the environmental condition of the subject parcel in a form and content reasonably satisfactory to the City. The City hereby authorizes the Developer, on behalf of the City, to timely file exceptions to any commissioners' report if deemed unsatisfactory in the Developer's judgment, and thereafter the Developer shall have the same rights as the City to proceed with or abandon the condemnation proceeding in accordance with Missouri law. The Developer shall, upon request, provide the results of all environmental tests or inspections to the City Manager.

Section 3.7. Resolution of Condemnation Issues Following Termination of Agreement. If this Agreement is terminated in accordance with ARTICLE VIII hereof, the City may elect to terminate all pending condemnation proceedings or may elect to continue condemnation proceedings at the City’s sole expense, including any resulting Commissioners’ or jury awards. If the City elects to terminate all pending condemnation proceedings, the Developer shall take, on behalf of the City, all actions necessary to dismiss all pending condemnation actions. If the City elects to continue condemnation proceedings, the Developer shall provide to the City and the City shall have the right to receive and to utilize at no cost to the City all reports, surveys, appraisals and work product obtained by or on behalf of the Developer in the acquisition of such real property for which the City proceeds to acquire by condemnation or negotiated purchase.

Section 3.8. Security for Developer’s Condemnation Obligations.

(a) Upon the initiation of condemnation proceedings either by request of the Developer or by the Developer’s written notice of intent to intervene in any existing condemnation proceedings, the Developer will deposit \$1,500,000 into escrow in the name of the City to provide security for the payment of any fees, expenses and costs incurred during the condemnation process; provided, however, that if the Developer notifies the City of its intent to abandon the condemnation process and the City chooses to complete the condemnation process after receiving such notice, then the escrow funds will only be used to pay such costs incurred up to the date of such notice. The escrow described in this section will secure the Developer’s obligations under this Section as follows:

<u>Purpose</u>	<u>Amount</u>
(i) \$50,000 for each of the no more than ten residential properties that may be acquired through the condemnation process	\$500,000
(ii) \$100,000 for each of the no more than three commercial properties that may be acquired through the condemnation process	300,000
(iii) Payment of actual legal fees, costs and interest accruing during the term of this Agreement, for each of the ten City-Controlled Parcels (as defined in Section 3.11(c)) (excluding 1600 S. Hanley and 1408 S. Hanley, and any other properties listed below that are currently owned by the City) as detailed below:	250,000

<u>Property</u>	<u>Interest</u>	<u>Other Costs</u>	<u>Total</u>
8108 Dale & 8110 Dale	60,000	26,000	86,000
1612 Booker & 1614 Booker	30,000	21,000	51,000
1517 Banneker	15,000	13,000	28,000
1705 Berkley	15,000	13,000	28,000
1707 Banneker	10,000	9,000	19,000
7915 W. Bruno	10,000	9,000	19,000
1632 Stockard	10,000	9,000	19,000

(iv) Satisfaction of (a) any other extraordinary or unanticipated costs, or other legal judgments ordered by the courts, related to the completion of the condemnation process, if such condemnation was initiated or continued at the Developer’s request,	450,000
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and (b) other performance obligations of the Developer arising under this Agreement

Total **\$1,500,000**

Any amounts not used as described above will be released to the Developer upon the termination of this Agreement. As the Developer enters into purchase contracts for any of the properties described in this section, or if any of the properties described in this section become subject to **Section 3.8(b)**, that portion of the applicable escrow will be reduced pro rata, except for the escrow deposit identified as (iv) above, which shall remain in place for the entire term of this Agreement. The escrow deposits provided for in this section satisfy the covenants contained in **Section 7.2(b)**.

(b) From time to time following the initiation of any proceedings for the exercise of the City's power of eminent domain pursuant to **Section 3.3** and payment of such Commissioners' Awards by the Developer to the City, but before payment by the City on behalf of the Developer of any Commissioners' Awards and acquisition of legal title to any such parcel or parcels by the City on behalf of the Developer, the Developer shall provide the City with an irrevocable letter or letters of credit naming the City as beneficiary, or such other bond or collateral as the City may accept in its sole discretion, in an amount equal to 125% of the Commissioners' Award, for all parcels which have been taken by eminent domain but for which such Commissioners' Award is not yet final (a "**Pending Award**"); provided, however, that interest calculated in the Commissioners' Award shall only be calculated through December 31, 2010. The letter or letters of credit or other bond or security instrument shall be in form and substance reasonably acceptable to the City and, once issued for any such Pending Award, shall remain outstanding until such time as each such Pending Award has been liquidated, settled, compromised or otherwise resolved and paid or the Developer has abandoned the condemnation or terminated this Agreement in which event such security after the payment of all costs of the condemnation (including any interest award), shall be returned to the Developer. Notwithstanding anything to the contrary herein but subject to **Section 3.7** hereof, the Developer covenants that it will indemnify and hold harmless the City in the amount that the sum of all jury awards exceeds the sum of all Commissioners' Awards for all parcels, or interests therein, which have been taken by eminent domain, and the breach of this covenant shall, in addition to any other remedy that the City may have at law or in equity, give rise to the City's right of termination, and upon such termination, the City shall have no obligation to reimburse the Developer for any amounts advanced under this Agreement or for Reimbursable Redevelopment Project Costs incurred or paid by the Developer.

Section 3.9. Environmental Prerequisites to Acquisition of Title by Condemnation. Prior to requesting that the City acquire legal title to any parcels of real property within the Redevelopment Area on behalf of the Developer through condemnation hereunder, the Developer agrees to advise the City in writing if the Developer has received any information indicating that whether or not any such parcel is (or has been in the last 10 years) in material compliance with all applicable federal and state environmental laws and regulations. The Developer agrees to provide to the City, upon request, any information available to it regarding the environmental condition of such property. The Developer agrees to indemnify the City against any and all liability regarding the environmental condition of the subject parcel in a form and content reasonably satisfactory to the City Attorney. The Developer shall be deemed to

have terminated any and all rights to request condemnation with respect to such parcel or parcels of real property until such time as the Developer provides such indemnity. The Developer agrees to indemnify and hold the City, its employees, agents and independent contractors harmless from and against any and all suits, claims, costs and attorneys' fees and expenses resulting from, arising out of, or in any way connected with any environmental condition existing on, in or under any portion of the Property.

Section 3.10. Indemnification of City upon Abandonment. If the City initiates condemnation proceedings on behalf of the Developer under this Agreement on or after its effective date and the Developer subsequently requests that the City abandon such condemnation proceedings and the City in fact abandons such condemnation proceedings, then the Developer shall indemnify, defend and hold the City harmless of and from any claims, including statutory awards of interest that the City is compelled by the Court to pay.

Section 3.11. City Property.

(a) This Section – and not **Section 3.2** – shall apply to all Property owned or controlled by the City.

(b) City Parcels.

(i) The City currently owns the following parcels, which are collectively referred to herein as the “**City Parcels**”:

<u>Locator ID</u>	<u>Street Address</u>
20J131426	8008 Dale
20J132041	8024 Dale
20K620660	8131 Dale
20J122003	7925 Hicks
20J132030	7908 Elinor
20J130720	7951 Elinor
20J131691	8032 Elinor
20J111754	1626 Banneker
N/A	1625/1627 Banneker
20J410862	8001/8013/8015 Dale (only that portion extending westward from Hampton Creek)

(ii) No later than June 30, 2010, the Developer must provide the City with either: (A) at least thirty (30) days' notice for closing on the City Parcels, or (B) notice that the time for closing has been extended to November 30, 2010. If the Developer fails to close on the City Parcels by November 30, 2010, the City has the absolute right to terminate this Agreement, provided that the Developer shall not be deemed to have failed to close if the Developer is ready, willing and able to close on the day of closing and the closing fails to occur because (A) the City is not ready, willing and able to close on the date of the scheduled closing, or (B) there exists a condition of force majeure pursuant to **Section 6.3**, provided that regardless of force majeure, no

closing may occur later than December 31, 2010, unless this Agreement is extended by mutual agreement of the parties hereto.

(iii) The Developer shall acquire the City Parcels for a purchase price of \$7,200,000.

(c) City-Controlled Parcels.

(i) The City has also commenced condemnation on, acquired or is obligated to acquire real property pursuant to the condemnation process or has entered into option agreements for the purchase of certain real property identified below, collectively referred to as the “**City-Controlled Parcels**”:

<u>Locator ID</u>	<u>Street Address</u>
20J131392	8108 Dale
20K340582	8110 Dale
20K320272	1612 Booker
20K320250	1614 Booker
20J130849	1517 Banneker
20J111460	1705 Berkley
20J111383	1707 Banneker
20J111031	7915 W. Bruno
20J111819	1632 Stockard
20K340427	1600 S. Hanley
20K340674	1408 S. Hanley

(ii) The Developer shall acquire the City-Controlled Parcels from the City no later than June 30, 2010, unless the Developer has provided the City with notice that the time for closing has been extended to November 30, 2010 as described in Subsection (b)(ii) above, but only if: (A) the Developer has executed sufficient Purchase Agreements to carry out the Redevelopment Program, and (B) the City and the Developer have entered into the Redevelopment Agreement contemplated in ARTICLE V hereof.

(iii) The Developer shall acquire the City-Controlled Parcels for the purchase price that reflects the actual costs incurred by the City in acquiring such real property, as previously demonstrated to the Developer.

(d) Public Works Facility.

(i) The City currently manages its public works operations from the following locations, collectively referred to as the “**Public Works Facility**”:

<u>Locator ID</u>	<u>Street Address</u>
20K340748	8108 Elinor

(ii) To facilitate the implementation of the Redevelopment Program, by the later of (1) April 1, 2011 or (2) four (4) months from the date of closing described in Subsection (b)(ii), the City will vacate the Public Works Facility, provided the Developer shall pay or

promptly reimburse the City for the payment of costs reasonably incurred by the City for professional services (such as, but not limited to, costs of architectural services associated with the design or rehabilitation of potential replacement facilities) in connection with the relocation of the Public Works Facility, but not to exceed \$75,000 in the aggregate before the execution of the Redevelopment Agreement referred to in ARTICLE V hereof.

(iii) On or before June 30, 2010, the Developer and the City shall agree upon a purchase price for the Public Works Facility that reflects the City's aggregate cost of the relocation and the reestablishment of operations.

(e) Except as provided in subsections (a) through (d) of this Section, upon Developer's written notification to the City that it has acquired all property abutting both sides of any City Streets, the City shall vacate such City Streets and shall convey all its interests therein to the Developer at no cost, or if the City owns the City Streets in fee, for nominal consideration.

(f) Except as provided in subsections (a) through (d) of this Section, upon Developer's acquisition of the City Parcels, the City-Controlled Parcels and the Public Works Facility, the City shall vacate the Ancillary Properties and shall convey all its interests therein to the Developer for nominal consideration.

Section 3.12. Relocation. The Developer shall relocate those occupants or businesses displaced from any portion of the Property acquired by the Developer in accordance with and to the extent required by the Relocation Policy, except insofar as otherwise agreed in writing by such displaced occupant or business and approved in writing by the Developer; it being understood and agreed that any displaced occupant or business may waive his/her/their rights to statutory and other relocation benefits under the Relocation Policy or otherwise. The Developer agrees to engage such firm acceptable to the City to carry out its obligations under this Section. The Developer shall provide or shall cause such firm to provide monthly reports to the City regarding the status of relocation efforts under this Section.

Section 3.13. Termination of Condemnation for Settlement Purposes. If the Developer directs the City to terminate any condemnation proceeding in order to effect a settlement of any such proceeding, this Agreement shall continue and the City shall continue to diligently prosecute any other condemnation proceedings pending at such time.

Section 3.14. City Option to Acquire Property. In consideration for entering into this Agreement, if this Agreement is terminated but the City and the Developer have not entered into the Redevelopment Agreement, the City shall have the assignable option, but not the obligation, for a period of 24 months from the effective date of such termination, to acquire on the City's own behalf, or on behalf of another party, all of the real property owned by the Developer that lies within the Redevelopment Area (the "**Option Property**"). In conjunction with the execution of this Agreement, the Developer and the City have executed an option agreement of even date herewith (the "**Option Agreement**"), a copy of which is attached hereto and incorporated by this reference herein as Exhibit C, which the City shall have the right to record with the St. Louis County Recorder of Deeds at any time. The parties acknowledge that the Option Agreement provides that: (a) the City has the right to acquire the Option Property for an amount equal to the Developer's Acquisition Costs; (b) if during the 24 month period referenced above, the

Developer receives an offer to purchase all or any portion of the Option Property from a third party (the “**Third Party Offer**”), the Developer may give written notice of the Third Party Offer to the City and within thirty (30) days of such notice, the City will determine whether or not to waive its rights under the Option Agreement to the portion of the Option Property identified in the Third Party Offer (provided that the City’s waiver will only extend to the transaction contemplated by the Third Party Offer and any transaction involving different parties and/or materially different terms than the Third Party Offer will require an additional waiver by the City); (c) if the City desires to exercise its option, it shall make an earnest money deposit with a title company acceptable to the City and the Developer in an amount equal to 5% of the Third Party Offer; (d) if the City exercises its option, the City will have sixty (60) days to close on the Option Property, (e) if the City does not affirmatively exercise its option within said thirty (30) day period, the City will be deemed to have waived its option with respect to the Option Property, and (f) the City will forfeit the earnest money deposit under certain conditions as set forth in the Option Agreement.

Section 3.15. Abandonment of Condemnation. If the City initiates condemnation proceedings on behalf of the Developer under this Agreement on or after its effective date and the Developer subsequently requests that the City abandon such condemnation proceedings and the City in fact abandons such condemnation proceedings, then pursuant to Section 523.259 of the Revised Statutes of Missouri, as amended, then all owners of real property or other interests within the Redevelopment Area that is sought to be condemned shall be entitled to recover reasonable attorneys’ fees, expert expenses and court costs incurred during the pendency of the condemnation action. Further, as full payment of any actual damages recoverable by law, property owners shall be entitled to recover the following: (1) for property owners who lease all or a portion of the premises, the lesser of (a) an amount equal to the lease payments that would have been received during the then-existing lease term if such lease was not terminated due to the pendency of the condemnation, less any deposits, forfeitures or rebates received by such owners during the period of the pendency of such condemnation, or (b) the actual damages accruing as a direct and proximate result of the pendency of the condemnation if proven by such landowner; or (2) for all other property owners or owners of interest within the Redevelopment Area that is sought to be condemned, \$100.

ARTICLE IV PERFORMANCE, COMPLETION AND MAINTENANCE OF THE REDEVELOPMENT PROJECT

Section 4.1. Developer’s Performance of the Redevelopment Project.

- (a) The Redevelopment Project may take place in one or more phases.
- (b) The Redevelopment Project shall commence within thirty (30) days after the execution of this Agreement and shall terminate upon the earlier of: (i) the acquisition by the Developer of all real property, public or private easements, leasehold interests or other rights-of-way within the Redevelopment Area and the execution of the Redevelopment Agreement described in ARTICLE V hereof, (ii) the date on which this Agreement is terminated, or (iii) December 31, 2010, subject to extension by mutual agreement of the parties hereto.

(c) The Property is currently zoned in a manner appropriate for the activities and uses desirable for the Redevelopment Program; however, the Developer reserves the right to request rezoning as it determines, in its sole discretion, may be reasonably necessary to complete the Redevelopment Project. The performance schedule of the Developer set forth above is premised on the Developer either not needing rezoning or receiving timely approval by the City Council of such rezoning requests, if any, and the timely review and issuance by the City of all Governmental Approvals within its control and in accordance with the City's municipal code, upon complete and satisfactory application by the Developer.

(d) The performance schedule may be further modified by the City and the Developer as provided in the Force Majeure provisions of **Section 6.3**, or as otherwise deemed necessary and appropriate by the City and the Developer.

Section 4.2. Concept Site Plan. Within two business days after the Effective Date of this Agreement, the Developer shall provide the City with a concept plan that depicts the Developer's preliminary concept for the Redevelopment Program set forth in ARTICLE V, which may be updated from time to time after original submission. No later than August 13, 2010, the Developer shall provide the City with an updated concept site plan that the City Council will consider on or before September 15, 2010. The parties agree that the updated concept site plan approved by the City pursuant to its municipal code will be deemed to define the scope of the Redevelopment Program and will govern the final design and construction thereof.

Section 4.3. Governmental Approvals. The City agrees to cooperate with the Developer and to expeditiously process and timely consider all complete applications for Governmental Approvals as received, all in accordance with the applicable City ordinances and laws of the State of Missouri and this Agreement.

Section 4.4. Performance of the Redevelopment Project. The Developer may enter into one or more contracts to complete the Redevelopment Project including contracts with subsidiaries of or entities that are a Related Party to the Developer. All contracts shall provide that no contractor shall have any recourse against the City in connection with the terms of the contracts, the performance of the Redevelopment Project or otherwise.

Section 4.5. Project Management; Review and Inspections. Except as otherwise expressly provided herein, the Developer shall have discretion and control, free from interference, interruption or disturbance, in all matters relating to the management, development, redevelopment, and performance of the Redevelopment Project, provided that the same shall, in any event, conform to and comply with the terms and conditions of the Redevelopment Program and this Agreement, and all applicable state and local laws, ordinances and regulations (including, without limitation, applicable zoning, subdivision, building and fire codes), subject to any variances and other Governmental Approvals.

Section 4.6. Maintenance of the Property. The Developer shall remain in compliance with all provisions of the City's municipal code relating to maintenance and appearance of the Property during the performance of the Redevelopment Project or any portion thereof.

ARTICLE V
IMPLEMENTATION OF REDEVELOPMENT PROGRAM

Section 5.1. Redevelopment Program. The City and the Developer agree that the terms and obligations set forth in this Agreement are intended to facilitate the development of a large-scale development within the Redevelopment Area that is expected to include a quality mix of office, retail, residential, commercial, hotel and entertainment space that will not only service the residents of the City, but will attract visitors from St. Louis County, the City of St. Louis, other parts of the State and locations outside of the State. A general description of the Redevelopment Program is set forth in Exhibit B, attached hereto and incorporated herein by reference; provided, however, that the Developer may make changes to the description and subsequent project concepts without violating the terms of this Agreement as site conditions or other issues of feasibility may dictate or as may be required to meet the reasonable requests of prospective tenants or as may be necessary or desirable in the sole determination of the Developer to enhance the economic viability of the Redevelopment Program as may be in furtherance of the general objectives of Redevelopment Program; and provided, further, that nothing in this Section is intended to waive the City's right to review or any requirements of the Government Approvals.

Section 5.2. Redevelopment Agreement. To implement the Redevelopment Program and in support of the future redevelopment of the Redevelopment Area, the parties hereto agree to use best efforts to enter into a redevelopment agreement (the "**Redevelopment Agreement**") that includes, but is not limited to, the following:

(a) Chapter 353 Financing. The City acknowledges that the Developer has requested the approval of a development plan and redevelopment project pursuant to the applicable provisions of Chapter 353 (the "**Chapter 353 Program**"). The Chapter 353 Program will initially be authorized to facilitate the acquisition of the Property. No real property tax abatement will initially be requested under the Chapter 353 Program; however, the Developer reserves the right to amend the Chapter 353 Program to provide for real property tax abatement in the event that it acquires all of the real property, public or private easements, leasehold interests or other rights-of-way necessary to carry out the Chapter 353 Program. In case of such an amendment, the City agrees to timely consider extending real property tax abatement on each parcel of real property within the Redevelopment Area for a period of no less than twenty-five years from the date of acquisition thereof by an eligible urban redevelopment corporation in the manner and maximum amount prescribed by Chapter 353. The Developer acknowledges that it will be necessary to prepare additional documentation, including a written statement of fiscal impact, to amend the Chapter 353 Program to provide for real property tax abatement.

(b) Transportation Development District Financing. The City acknowledges that following acquisition of all of the Property, the Developer intends to petition the Circuit Court of St. Louis County, Missouri for the creation of the TDD within the Redevelopment Area pursuant to the TDD Act. The Developer shall cause the TDD to impose a sales tax in an amount not to exceed 1.0% of eligible retail sales within the boundaries of the TDD. The City consents to the use and establishment of the TDD and shall take such other actions and enter into such agreements as are reasonably acceptable to the City. The TDD may also impose such other real

property taxes, special assessments and other fees and charges as may be necessary or appropriate to finance the future redevelopment of the Redevelopment Area.

(c) Community Improvement District Financing. The City acknowledges that following acquisition of all of the Property, the Developer intends to petition the City for the creation of a CID pursuant to the CID Act. The Developer shall cause the CID to impose a sales tax in an amount not to exceed 1% of eligible retail sales within the boundaries of the CID. The City agrees to timely consider the approval and establishment of the CID and agrees to take such other actions and enter into such agreements as are reasonably acceptable to the City. The CID may also impose such other real property taxes, special assessments and other fees and charges as may be necessary or appropriate to finance the future redevelopment of the Redevelopment Area.

(d) Sales Tax Reimbursement. The City acknowledges that the future redevelopment of the Redevelopment Area and the construction of related public infrastructure within the City will help to improve the social and economic welfare of the City, and enhance the tax base of the City to the benefit of the City and other governmental entities. As such, the City is authorized pursuant to Section 70.220 of the Revised Statutes of Missouri, as amended, to contract for the planning, development and construction of any public improvement or facility, and to appropriate revenue for such improvements and facilities. To make it economically feasible for the Developer to construct the public improvements in conjunction with the Redevelopment Program, the City agrees to timely consider reimbursing the Developer for a portion of the costs of such public improvements from available sales tax revenues in an amount equal to no more than fifty percent (50%) of the sales tax revenues on eligible sales at retail of the City generated within the Redevelopment Area (the “**Sales Tax Reimbursement**”), and agrees to take such other actions and enter into such agreements as are reasonably acceptable to the City. The Sales Tax Reimbursement would be pledged for a period of not more than twenty-three (23) years after substantial completion of each phase of the Redevelopment Program.

(e) Other Approvals. The Developer acknowledges that the Redevelopment Agreement will include other terms, rights and obligations necessary to carry out the Redevelopment Program, including but not limited to the approval of a concept site plan.

(f) Costs of Implementation of Redevelopment Agreement. The Developer agrees to pay all of the City’s reasonable costs and expenses related to the adoption of the Redevelopment Agreement to the extent not already reimbursed under the Preliminary Funding Agreement described in **Section 2.2** above.

(g) Rate of Return Limitation. The Developer acknowledges that the City has a substantial duty to the public to ensure that the amount of development incentives provided in the Redevelopment Agreement is the minimum amount necessary for the implementation of the Redevelopment Program. Accordingly, the Redevelopment Agreement will include provisions that limit or reduce the net amount of development incentives to the amount necessary for the Developer to achieve a satisfactory rate of return on its investment (which satisfactory rate of return shall be set forth in the Redevelopment Agreement). Such provisions may include, but are not limited to, periodic rate of return calculations and the imposition of additional payments in lieu of taxes under the Chapter 353 Program if such periodic rate of return calculations infer that

the Developer is achieving a rate of return in excess of the satisfactory rate of return set forth in the Redevelopment Agreement.

Section 5.3. Further Agreement. The parties acknowledge that the approval of the Redevelopment Agreement, which will provide for the establishment of the TDD and/or the CID, the adoption of the Chapter 353 Program, the contribution by the City of the Sales Tax Reimbursement, and the issuance of obligations to support the future redevelopment will be subject to further agreement(s) among the City, the Developer, the TDD, the CID and other parties, as appropriate. If the Redevelopment Agreement is approved by the City, the City will carry out its obligations thereunder in accordance with the provisions thereof.

ARTICLE VI GENERAL PROVISIONS

Section 6.1. Successors and Assigns.

(a) This Agreement shall be binding on and shall inure to the benefit of the parties named herein and their respective successors and assigns.

(b) Without limiting the generality of the foregoing, all or any part of the Redevelopment Area or any interest therein may be sold, transferred, encumbered, leased, or otherwise disposed of at any time, and the rights of the Developer named herein or any successors in interest under this Agreement or any part hereof may be assigned at any time, before, during or after redevelopment of the Redevelopment Project, whereupon the party disposing of its interest in the Property and 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, except as otherwise provided in this subsection, until substantial completion of the Redevelopment Project, the Developer may not sell, transfer or otherwise dispose of its rights, duties and obligations under this Agreement in whole or in part until the City reasonably determines that the proposed transferee is experienced in major commercial redevelopment. Notwithstanding anything herein to the contrary, the City hereby approves, and no prior consent (or proof of experience in major commercial redevelopment) 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 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 assign the Developer's rights, duties and obligations under this Agreement to a Related Party or to a lender providing financing for the Redevelopment Project; or (c) the right of the Developer to sell or lease individual portions of the Property in the ordinary course of the development of the Redevelopment Project; provided that in each such event the Developer provides to the City fifteen (15) days' advance written notice of the proposed assignment or transfer. In any event, the Developer shall notify the City in writing of any anticipated sale, transfer, encumbrance, lease or other disposition of all or any part of the Redevelopment Area, or any interest therein, at least ten (10) days prior to the closing thereof if such closing is to occur prior to substantial

completion of the Redevelopment Project. Said notice shall specify the name and address of the person so acquiring an interest therein and shall identify the real property to be sold, transferred, encumbered, leased or otherwise disposed of. The Developer shall cause such notice requirement to be a covenant running with the land such that it shall be enforceable for and during the term hereof against any purchaser or other transferee or possessor as though originally a party to and bound by this Agreement. For purposes of this Section, the phrase “sold, transferred, encumbered, leased or otherwise disposed of” shall mean any transfer for a private purpose, as opposed to a public purpose such as the granting of rights of way, easements, common ground and other public dedications.

Section 6.2. Remedies. Except as otherwise provided in this Agreement, and subject to the Developer’s right of termination hereof, in the event of any default in or breach of any term or condition of this Agreement by any party, or any successor, the defaulting or breaching party (or successor) shall, upon written notice from the other party (or successor), proceed immediately to cure or remedy such default or breach, and, shall, in any event, within 60 days after receipt of notice, commence to cure or remedy such default. If such cure or remedy is not undertaken or not diligently pursued, or if the default or breach is not cured or remedied within a reasonable time, 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 but not limited to proceedings to compel specific performance by the defaulting or breaching party. In addition to any other remedy available to it, the City shall also have the right to terminate this Agreement. In the event that either party files suit against the other party to enforce this Agreement, the prevailing party in such proceeding shall be entitled to receive its reasonable attorney’s fees and costs from the non prevailing party.

Section 6.3. Force Majeure and Other Extensions of Time for Performance.

(a) 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 (except as otherwise provided herein), in the event of any delay caused by force majeure, including, without limitation, for purposes of this Agreement, unusually long condemnation or eminent domain proceedings, strikes, lockouts, riots, acts of God, fire or other casualties, explosions, unusually adverse weather conditions, unusually wet soil conditions, significant escalation of conflicts involving the United States armed forces, wrongful refusal or failure to issue any necessary permits and/or legal authorization by any governmental entity, shortage or delay in shipment of material or fuel, any court order or judgment disputing the validity of this Agreement, the 353 Ordinance, the designation of the Redevelopment Area, the Redevelopment Program, the Redevelopment Project, or any of the ordinances approving the same, or other causes beyond the responsible party’s reasonable control. The party claiming any extension caused by force majeure shall have the burden of proof in establishing such cause and demonstrating that such cause was not initiated by or unreasonably sustained by the actions or inactions of such party. In addition, to avail itself of this subsection, the party seeking to invoke force majeure must notify the other party in writing within thirty (30) days after the later of: (i) the commencement of any claimed event of force majeure; or (ii) the date upon which the party claiming the extension should have reasonably become aware of the delay-causing effect of the force majeure event.

(b) In addition to the foregoing and subject to the Developer providing a timely, complete and satisfactory application for any rezoning or other Governmental Approval, periods provided herein for commencement or completion of the Redevelopment Project shall be automatically extended for periods of delay in obtaining rezoning of the Property or Governmental Approvals, and may also be extended, for reasonable cause, from time to time, upon application of the Developer to the City and upon a finding by the City that the requested delay is reasonably justified and does not materially adversely affect the ultimate completion of the Redevelopment Project. To avail itself of this subsection, the Developer must (i) bear and satisfy the burden of proof of establishing that it incurred delays in obtaining required rezoning and/or other Governmental Approvals and (ii) notify the City in writing of the existence of any such delay within thirty (30) days after the commencement of the delay.

(c) Times for performance shall be extended only for the duration of the event of force majeure or other delay, unless otherwise agreed to by the parties hereto.

Section 6.4. Actions Contesting the Validity and Enforceability of the TIF Plan, the Redevelopment Program and Related Matters. If a third party brings an action against the City or its officials, agents, employees or representatives contesting the validity or legality of the Redevelopment Area, any portion thereof, the TIF Plan, Redevelopment Program, the Redevelopment Project, this Agreement, or any of the ordinances approving the same, the City shall promptly, and in any event prior to filing any responsive pleadings, notify the Developer in writing of such claim or action. The Developer may, at its option and expense, assume the defense of such claim or action (including, without limitation, effecting a settlement or compromise of any claim or action for which the Developer has assumed the defense) with counsel of the Developer's choosing and the parties expressly agree that so long as no conflicts of interest exist between them, the same attorney or attorneys may simultaneously represent the City and the Developer in any such proceeding. The Developer and its counsel shall copy the City Attorney on all correspondence relating to any such action, and shall consult with the City Attorney throughout the course of any such action.

Section 6.5. Insurance. The Developer shall obtain, or shall use reasonable efforts to ensure that the contractor(s) carrying out the Redevelopment Project obtain insurance in the coverages and amounts satisfactory to the City and customary in the industry for similar projects and of not less than the current absolute statutory waivers of sovereign immunity as set forth in Sections 537.600 and 537.610 of the Revised Statutes of Missouri, as amended, including, but not limited to, workers' compensation, comprehensive public liability, builder's risk and commercial general liability (which shall cover the Developer's contractual liabilities to the City under this Agreement). The policy of insurance above shall contain an agreement of the insurer to give not less than thirty (30) days advance written notice to the City in the event of cancellation of such policy or change affecting the coverage thereunder. The Developer shall deliver to the City evidence of all insurance to be maintained hereunder and shall name the City as an additional insured thereon.

Section 6.6. Competitive Bids; Prevailing Wage; Excessive Unemployment. The Developer shall comply with all applicable State and local laws relating to the performance of the Redevelopment Project, including, but not limited to, Section 107.170 of the Revised Statutes

of Missouri, as amended, and laws relating to the payment of prevailing wages, competitive bidding and the employment of Missouri residents during times of excessive unemployment.

Section 6.7. 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 (i) personally delivered, (ii) sent via national overnight courier (e.g. Federal Express); or (iii) mailed by certified United States first class mail, postage prepaid,

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

United Plaza, LLC
101 South Hanley Road, Suite 1150
St. Louis, Missouri 63105
Attn: William Ryan Woods

With a copy to:

Armstrong Teasdale LLP
211 N. Broadway, Suite 2600
St. Louis, Missouri 63102
Attn: James E. Mello

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

City of Richmond Heights
1330 Big Bend Boulevard
Richmond Heights, Missouri 63117
Attention: Amy Hamilton, City Manager

With copies to:

Curtis, Heinz, Garrett & O'Keefe, P.C.
130 S. Bemiston, Suite 200
St. Louis, Missouri 63105
Attn: Kenneth J. Heinz

And:

Gilmore & Bell, P.C.
211 N. Broadway, Suite 2350
St. Louis, Missouri 63102
Attn: Mark Grimm

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 paragraph.

Section 6.8. Environmental. The Developer agrees to comply with all environmental laws and regulations applicable to the Property, and further agrees not to knowingly place or dispose of, or knowingly cause to be placed or disposed of, any toxic or hazardous substances (as defined in 42 U.S.C. Section 9601 (14) and other applicable state and federal laws and regulations) (hereinafter referred to as “**Hazardous Substances**”) on the Property, and not to knowingly manufacture, store, use, treat or dispose of such substances, or permit any manufacturing, storage, use, treatment or disposal of any Hazardous Substances on the Property. Nothing in the foregoing shall be construed to restrict or preclude (i) the normal and lawful use of unrecycled fuel oil and natural gas as boiler fuel, (ii) lubricating, cleaning, coolant, water treatment and other compounds customarily used as janitorial supplies or for routine building maintenance, (iii) consumer products, (iv) materials, such as copier toner, routinely used in the day to day operations of an office or retail space, (v) chemicals, substances or materials reasonably necessary and customarily used for the rehabilitation, performance and operation of the Redevelopment Project, (vi) petroleum substances and other chemicals and substances reasonably necessary and customarily used in connection with the operation, parking, cleaning and routine maintenance of motor vehicles on the Property, and (vii) pesticides, fertilizers and herbicides for routine landscaping and horticultural purposes, but the Developer agrees to comply with all applicable federal, state and local laws and regulations in the use, storage, manufacture, transportation and disposal of any Hazardous Substances.

Section 6.9. Conflict of Interest. No member of the City Council or any branch of the City’s government who has any power of review or approval of any of 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 City Council the nature of such interest and seek a determination by the City Council with respect to such interest and, in the meantime, shall not participate in any actions or discussions relating to the activities herein proscribed.

Section 6.10. 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.

Section 6.11. Entire Agreement; Amendment. The parties agree that this Agreement and the Preliminary Funding Agreement constitute the entire agreement between the parties with respect to the matters herein and that no other agreements or representations other than those contained in this Agreement and the Preliminary Funding Agreement with respect to the matters herein have been made by the parties. This Agreement shall be amended only in writing, which shall be effective only when signed by the authorized representatives of both parties.

Section 6.12. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute one and the same instrument.

Section 6.13. Severability. If 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.

Section 6.14. Representatives Not Personally Liable. No official, agent, employee, or representative of the City shall be personally liable to the Developer, and no member, shareholder, director, officer, agent, employee, consultant or representative of the Developer shall be personally liable to the City, 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.

Section 6.15. Mutual Assistance. Subject to the terms and conditions of applicable law, the parties agree to take such actions, including the execution and delivery of such documents, instruments, petitions and certifications supplemental hereto, and the obtaining of grants of access to and easements over public property as may be necessary or appropriate to carry out the terms, provisions and intent of this Agreement and which do not impair the rights of the affected party as such rights exist under this Agreement, and to aid and assist each other in carrying out said terms, provisions and intent, and further agree that they will take no affirmative action that will limit or impair the rights of the affected party or the ability of such party to perform under this Agreement; provided that nothing herein shall be construed to obligate the City, acting as a party hereto, to grant municipal permits or other approvals it would not be obligated to grant, acting as a political subdivision, absent this Agreement, and nothing herein shall be construed to obligate the City, acting as a party hereto, to incur any expense over and above its normal administrative expenses.

Section 6.16. Survival. Notwithstanding the expiration, termination or breach of this Agreement by either party, the agreements contained in **Sections 2.2, 3.7, 3.8(b), 3.10, 3.13, 3.14, 4.6, 6.1, 6.2, 6.3, 6.4, 6.7, 6.9, 6.10, 6.11, 6.12, 6.13, 6.14, 6.15, 6.16, 6.17, 7.1, 9.1 and 9.2** shall survive such expiration, termination or breach in accordance with their tenor.

Section 6.17. Nondiscrimination. Developer shall comply with all applicable federal, state and local laws, ordinances and regulations regarding nondiscrimination and affirmative action.

ARTICLE VII RELEASE AND INDEMNIFICATION

Section 7.1. Indemnification. The Developer hereby agrees that, anything to the contrary herein notwithstanding, it will release from and hold harmless and defend the City, its governing body members, officers, employees and agents against any and all claims, loss, damage, injury and liability however caused and arising from, out of, or in any way connected with the matters set forth in this Agreement, performance of the Redevelopment Project or the ordinances of which this Agreement are a part, other than claims, loss, damage, injury and liability directly resulting from any willful misconduct or gross negligence on the part of any governing body member, officer, employee or agent of the City.

Section 7.2. Financial Covenant. No later than June 30, 2010, the Developer shall provide the City with the following evidence, in form and substance reasonably satisfactory to the City, of its financial capacity to carry out the obligations set forth in this Agreement:

(a) Evidence that \$1,500,000 has been deposited into escrow (or otherwise secured) to acquire the Property necessary to carry out the Redevelopment Program, which escrow deposit may be made: (i) in the name of the City and/or the name of any owner of real property who has entered into a Purchase Agreement with the Developer as set forth in **Section 3.2** or (ii) by the Developer's deposit of funds sufficient to satisfy this requirement, or any combination thereof; and

(b) Evidence that the Developer has obtained a commercial general liability policy or other insurance policy insuring the Developer's contractual obligations to the City under this Agreement, including, but not limited to, the indemnification provided in this Article, the manner of which shall be provided in the sole and absolute discretion of the Developer, it being agreed that the escrow established pursuant to **Section 3.8(a)** will satisfy the Developer's obligations to obtain an insurance policy under this paragraph.

With respect to paragraph (a) above, on or before the 15th day of each calendar month beginning July 15, 2010, and continuing through December 15, 2010, the Developer will provide the City and the title company with a schedule showing: (a) the address and owner name for all properties under contract, (b) the total escrow deposit (including additional deposits required to extend the option period) to which each owner is entitled under that contract, and (c) confirmation that the amounts on reserve with the title company are sufficient to pay those deposits. The obligation to provide the financial covenant described in paragraph (a) of this Section expires upon the Developer's closing on the Property as described in ARTICLE III.

ARTICLE VIII TERM

Section 8.1. Term of Agreement. Unless earlier terminated as otherwise provided herein, this Agreement shall, regardless of any extensions of time permitted by **Section 6.3**, terminate upon the earliest to occur of: (a) the acquisition by the Developer of all real property, public or private easements, leasehold interests or other rights-of-way necessary to carry out the Redevelopment Project, (b) the full execution of the Redevelopment Agreement contemplated in ARTICLE V hereof, or (c) December 31, 2010, unless otherwise extended by mutual consent of the parties.

ARTICLE IX REPRESENTATIONS OF THE PARTIES

Section 9.1. Representations of the City. The City hereby represents and warrants that (a) the City has full constitutional and lawful right, power and authority, under current applicable law, to execute and deliver this Agreement and, upon the passage of the Ordinance, will have full power and authority to perform all terms and obligations of this Agreement; and (b) this Agreement constitutes the legal, valid and binding obligation of the City, enforceable in accordance with its terms.

Section 9.2. Representations of the Developer. The Developer hereby represents and warrants that (a) the Developer has full corporate 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, (b) this Agreement constitutes the legal, valid and binding obligation of the Developer, enforceable in accordance with its terms.

[The remainder of this page has intentionally been left blank.]

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

(SEAL)

CITY OF RICHMOND HEIGHTS, MISSOURI

By: _____
James Beck, Mayor

Attest:

Patricia Villmer, City Clerk

Approved as to Form:

City Attorney

UNITED PLAZA, LLC

By: _____

STATE OF MISSOURI)
)
COUNTY OF ST. LOUIS)

On this ____ day of _____, 2010, before me appeared James Beck, who being by me duly sworn, did say that he is the Mayor of the City of Richmond Heights, Missouri, a home rule charter city and political subdivision of the State of Missouri, and did say that the seal affixed to the foregoing instrument is the seal of said City, and that said instrument was signed and sealed on behalf of the City by authority of its City Council; and he acknowledged said instrument to be the free act and deed of said City.

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

Notary Public

My term expires:

STATE OF MISSOURI)
)
COUNTY OF ST. LOUIS)

On this day of _____, 2010, before me appeared _____, to me personally known, who, being by me duly sworn, did say that he is the _____ of _____, a _____, and that said instrument was signed on behalf of said _____, by authority of its _____; and said _____ acknowledged said instrument to be the free act and deed of said _____.

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

Notary Public

My term expires:

Exhibit A
Legal Description of Redevelopment Area

A tract of land being part of Lots 45, 46, 55, 56, 57, 58, 67, 68, 69, 70, 84, 85 and 86 in Rannel's Subdivision of the Home Farm, a subdivision according to the plat thereof as recorded in Plat Book 9, Page 30 of the St. Louis County (formerly City) Records, located in U.S. Survey 2484 and Part of Fractional Section 22, Township 45 North, Range 6 East of the Fifth Principal Meridian, Richmond Heights, St. Louis County, Missouri, being more particularly described as follows:

Beginning at the intersection of the west right-of-way line of Laclede Station Road, 60 feet wide with the north right-of-way line of West Bruno Street, 60 feet wide; thence westerly along said north right-of-way line North 89 degrees 05 minutes 20 seconds West, 1156.49 feet to the east right-of-way line of Hanley Road, as widened; thence northerly along said east right-of-way line the following courses and distances: North 24 degrees 58 minutes 10 seconds West, 155.61 feet; North 24 degrees 09 minutes 52 seconds West, 89.53 feet to the beginning of curve to the left for which the radius point bears South 84 degrees 06 minutes 34 seconds West 371.00 feet; along said curve with a chord which bears North 15 degrees 28 minutes 46 seconds West, 123.60 feet, an arc length of 124.18 feet to a point of tangency; North 25 degrees 04 minutes 05 seconds West, 178.79 feet to a point of curvature to the right; thence along said curve having a radius of 289.00 feet, a chord which bears North 12 degrees 02 minutes 41 seconds West, 130.25 feet and an arc length of 131.38 feet to a point of tangency; North 00 degrees 58 minutes 40 seconds East, 530.11 feet; North 02 degrees 53 minutes 59 seconds East, 224.20 feet; North 02 degrees 54 minutes 07 seconds East, 50.03 feet; North 02 degrees 53 minutes 53 seconds East, 51.03 feet; South 89 degrees 05 minutes 20 seconds East, 3.50 feet; North 02 degrees 59 minutes 01 seconds East, 214.60 feet to a point of curvature to the right and along said curve having a radius of 40.00 feet, a chord which bears North 14 degrees 41 minutes 11 seconds East, 16.23 feet and an arc length of 16.34 feet to the south right-of-way line of Dale Avenue, 100 feet wide, said point also being located on the north line of above said Lot 69; thence continuing along the east right-of-way line of Hanley Road North 02 degrees 32 minutes 49 seconds East, 100.04 feet to the point of intersection with the north line of said Dale Avenue; thence continuing northerly along said east right-of-way line North 00 degrees 58 minutes 40 seconds East, 144.86 feet to the southwestern right-of-way line of U.S. Highway 40, variable width, said point also being the beginning of a non-tangent curve to the right for which the radius point bears South 80 degrees 16 minutes 17 seconds East 354.00 feet; thence northeasterly along said curve with a chord which bears North 21 degrees 42 minutes 15 seconds East, 146.90 feet, an arc length of 147.98 feet to the north line of Dumas Street, 50 feet wide; thence easterly along said north right-of-way line South 89 degrees 05 minutes 20 seconds East, 343.58 feet to the west line of Lincoln Avenue, 50 feet wide; thence northerly along said west line North 00 degrees 58 minutes 40 seconds East, 17.80 feet; thence departing said west line South 89 degrees 05 minutes 20 seconds East, 200.00 feet to the southwestern line of above said Storm Water Drainage Ditch; thence southeasterly along the southwestern and western lines of said Storm Water Drainage Ditch the following courses and distances: South 35 degrees 04 minutes 46 seconds East, 160.52 feet to a point of curvature to the right; along said curve having a radius of 162.58 feet, a chord which bears South 15 degrees 24 minutes 12 seconds East, 109.48 feet and an arc length of 111.66 feet to a point of tangency and South 03 degrees 58 minutes 37 seconds West, 65.14 feet the north line of the aforesaid Dale Avenue; thence South 00 degrees 54 minutes 40 seconds West, 100.00

feet to a point on the south line of the aforesaid Dale Avenue; thence easterly along said south line South 89 degrees 05 minutes 20 seconds East, 659.33 feet to the point of intersection with the west line of Laclede Station Road, 60 feet wide, said point also being the northeast corner of Lot 70 of the aforesaid Rannel's Subdivision of the Home Farm; thence along the west line of Laclede Station Road and the east line of Lots 70 and 67 South 00 degrees 58 minutes 40 seconds West, 641.68 feet to the southeast corner of above said Lot 67; thence continuing along the west line of Laclede Station Road South 00 degrees 58 minutes 40 seconds West, 1071.04 feet to the Point of beginning and containing 59.63 acres more or less as per calculations by Stock & Associates during the month of April, 2010.

NOTE: This description was prepared using available record information and therefore is subject to an actual survey.

Exhibit B Redevelopment Program

The Redevelopment Program is expected to be a large-scale, multi-phase landmark development for not only the City, but for the greater St. Louis region. The unique mix of quality office, retail, residential, commercial, hotel and entertainment space, which is expected to be implemented over six to ten years, will attract visitors and businesses from outside St. Louis County and will elevate the City to a premier destination for the greater St. Louis metropolitan area. While the ultimate scope of the Redevelopment Program will depend on market conditions, site conditions and other determinants of feasibility, the Developer expects the Redevelopment Program to contain the following key elements:

- *Office* – the quality new office complex is expected to cater to a variety of for-profit and non-profit businesses, servicing local, regional and national operations. The Developer expects to construct between 1 million and 4 million square feet of office space.
- *Commercial/Retail/Hotel* – the commercial pavilion is expected to offer between 200,000 and 500,000 square feet of specialty and nationally-recognized retailers, as well as an attractive mix of restaurants and other services. The Developer also anticipates constructing one or more hotels at varying service levels to meet the needs of the City’s personal and business visitors.
- *Residential* – the Developer proposes the construction of a mix of high-density and moderate-density housing within the Redevelopment Area that will be phased in over time to satisfy the expected increase in demand on housing that would accompany the build-out of the office and commercial components.
- *Entertainment* – this component is expected to include a unique mix of arts and entertainment activities that will be accessible and attractive to both City residents and to the St. Louis region.

While the recent improvements to Interstate 64/40 and the Hanley Road corridor make the redevelopment area easily accessible, the Developer anticipates making additional public infrastructure improvements to accommodate the size and scope of development.

The first phase of the Redevelopment Program is expected to begin during calendar year 2011. The final phase is expected to begin no later than ten (10) years after the approval of the redevelopment agreement described in ARTICLE V. All of the phases, which may be constructed concurrently, are expected to be completed by December 31, 2021. Due to the nature of the Redevelopment Program, the Developer expects to construct office, commercial, residential, retail and entertainment elements during each phase. The ultimate size and scale will be determined based on market demand.

Exhibit C
Option Agreement

OPTION AGREEMENT

This Option Agreement (this “Agreement”) is made and entered into as of the _____ day of _____, 2010, by and between the **CITY OF RICHMOND HEIGHTS, MISSOURI** (the “City”), an incorporated political subdivision of the State of Missouri, with an address of 1330 Big Bend Boulevard, Richmond Heights, Missouri 63117, Attention: City Manager, and **UNITED PLAZA, LLC** (the “Developer”), a Missouri limited liability company with an address of 101 South Hanley Road, Suite 1150, St. Louis, Missouri 63105.

RECITALS

A. The City and the Developer made and entered into a Master Development Agreement dated May 25, 2010 (as the same may have been or may be amended, restated or replaced from time to time, the “Development Agreement”), regarding the redevelopment of an area in the City commonly known as the United Plaza Redevelopment Area (the “Redevelopment Area”), as more particularly described on **Exhibit A** attached hereto and incorporated by this reference herein.

B. The Developer has as of this date, and shall, following the date of this Agreement, from time to time acquire title to various parcels of real property located within the Redevelopment Area.

C. Pursuant to the terms of the Development Agreement, the Developer has agreed to grant to the City an option to purchase certain real property from the Developer in the event that the Development Agreement is terminated, as more particularly set forth below.

AGREEMENT

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

1. Defined Terms. All capitalized terms used and not otherwise defined herein shall have the meanings given them in the Development Agreement.

2. The Option. If the Development Agreement is terminated but the City and the Developer have not entered into the Redevelopment Agreement referenced in ARTICLE V (the “Redevelopment Agreement”) of the Development Agreement, the Developer hereby grants to the City the option (the “Option”) to purchase all or any portion of the real property located within the Redevelopment Area owned by the Developer, including any real property acquired from and after the date of this Agreement (now and hereafter collectively, the “Option Property”) under the terms and conditions contained in this Agreement. The Option may be exercised at any time during the period (the “Option Period”) commencing on the date (the “Commencement Date”) on which (if such date occurs at all) the Development Agreement is terminated, but only

if the parties have not entered into the Redevelopment Agreement. The Option Period shall end 24 months after the Commencement Date (the “Termination Date”).

3. Method of Exercise of Option. The Option may be exercised by the City at any time during the Option Period with respect to all of the Option Property by giving written notice to the Developer that the Option is being exercised with respect to such Option Property. In addition, upon exercise of such option, the City shall make an earnest money deposit with a title company acceptable to the City and the Developer in an amount equal to 5% of the Developer’s Acquisition Costs for the Option Property, which earnest money shall be returned to the City if the City is ready, willing and able to close on the Option Property but fails to close on the Option Property (unless such failure is due to the Developer’s unwillingness or inability to deliver title to the Option Property as provided herein). If the City forfeits the earnest money and the Developer sells the Option Property within 180 days after such forfeiture, and the sale price is at or above the amount of the Third Party Offer (as defined in the Master Development Agreement), the Developer shall promptly pay to the City an amount equal to the forfeited earnest money.

4. Failure to Exercise Option. The Option shall automatically expire on the Termination Date with respect to any parcel(s) constituting the Option Property, unless the City has exercised such Option as of or prior to such date. Upon such expiration, the Developer shall have no further obligation to the City and the City shall have no further obligation to Developer under the terms of this Agreement; provided, however, that nothing contained herein shall be deemed to terminate or release the Developer from its obligations hereunder with respect to any Option Property for which the City timely exercised the Option prior to the Termination Date.

5. Terms and Conditions of Purchase. If the Option is exercised by the City with respect to the Option Property, all of the Developer’s right, title and interest in such Option Property shall be sold to the City on the following terms and conditions:

(a) Option Purchase Price. The total consideration to be paid by the City for such Option Property shall be equal to the Developer’s Acquisition Costs (as defined in the Development Agreement); provided, however, that if the Option Property is only a portion of a parcel or parcels of property originally acquired by Developer, the total consideration to be paid by the City for such Option Property shall be pro rated based on the number of square feet composing the portion of such parcel or parcels being acquired by the City in comparison to the original number of square feet composing such parcel or parcels originally acquired by Developer. The purchase price is payable in cash, by wire transfer or certified funds, or in such other form of payment mutually acceptable to the City and the Developer.

(b) Special Warranty Deed. On the Closing Date (as hereinafter defined), the Developer shall execute a special warranty deed, subject only to non-monetary easements and restrictions of record, in recordable form acceptable to the City, pursuant to which the Developer conveys to the City all of the Developer’s right, title and interest in and to such Option Property, free and clear of all liens, restrictions, covenants and other encumbrances, other than those matters reflected in the Developer’s title commitment or insurance policy covering the Option Property (a copy of which has been

furnished by the Developer to the City on or prior to the date hereof) (collectively, the “Permitted Liens”).

(c) **Certain Conditions to Closing.** If, after the date on which the City exercises the Option but on or before the Closing Date, any material adverse change occurs with respect to the Option Property, then the City shall not be obligated to close on such Option Property.

(d) **Closing.** Each of the transactions described in **Section 5** of this Agreement, and all other transactions incidental to the conveyance of such Option Property to the City pursuant to this Agreement shall be consummated on a date (the “Closing Date”) selected by the City, which date shall be no later than 60 days after the City provides notice to the Developer that it is exercising the Option.

6. No Obligation to Third Parties. Nothing contained in this Agreement shall be construed to impose any obligation on either Developer or the City to any Offeror or to benefit any Offeror or any other third party, the rights and obligations among the parties to this Agreement being intended to be exercisable and enforceable only by the City and the Developer.

7. Subordination of Option Interest. The City does for itself and on behalf of its successors and assigns unconditionally subordinate its interests under this Agreement (a) to any mortgage or deed of trust except to the Developer or any party related to the Developer by one of the relationships described in Section 267(b) of the Internal Revenue Code of 1986, as amended, which encumbers the Option Property and is granted by Developer after the date of the Development Agreement, and (b) to all advances made or hereafter made upon the security of such mortgage or deed of trust.

8. Notices. Any notice, demand or other communication required or permitted by this Agreement to be given by either party hereto shall be in writing and shall be given in the manner provided in the Development Agreement.

9. Amendments and Modifications. No amendment, modification, supplement, termination, consent or waiver of any provision of this Agreement will in any event be effective unless the same is in writing and is signed by each party to this Agreement

10. Assignments. Each party may assign or transfer all or any of its rights or obligations under this Agreement to any other person.

11. Captions. Captions contained in this Agreement have been inserted herein only as a matter of convenience and in no way define, limit, extend or describe the scope of this Agreement.

12. Counterparts. This Agreement may be executed by the parties in one or more counterparts, each of which shall constitute an original and all of which taken together shall constitute but one and the same document.

13. Governing Law. This Agreement and the rights and obligations of the parties hereunder are to be governed by and construed and interpreted in accordance with the laws of the State of Missouri applicable to contracts made and to be performed within Missouri without regard to choice of law, conflict or law of rules.

14. Specific Performance and Injunctive Relief. Each party recognizes that if it fails to perform, observe or discharge any of its obligations under this Agreement, no remedy at law will provide adequate relief to the other parties. Therefore, each party is hereby authorized to demand specific performance of this Agreement and is entitled temporary and permanent injunctive relief, in a court of competent jurisdiction at any time when any party fails to comply with any of the provisions of this Agreement applicable to such party.

15. Remedies Cumulative. Each and every right granted hereunder and the remedies are cumulative and are not exclusive of any remedies or rights that may be available to any party at law in equity or otherwise.

16. Successors and Assigns. All provisions of this Agreement are binding upon and are enforceable by or against the parties and their respective successors and assigns.

17. Agreements Binding on Property. The Option and the City's rights thereunder shall be binding upon and run with the land and the Property, and this Agreement shall be recorded to provide notice to others of these provisions with respect to the Option Property.

18. Further Assurances. The Parties will execute and deliver such further instrument, additional forms of this Agreement and do such further acts and things as may be required to carry out the intent and purpose of this Agreement.

IN WITNESS WHEREOF, the parties have executed this Agreement effective as of the day and year first above written.

**CITY OF RICHMOND HEIGHTS,
MISSOURI**

(SEAL)

Attest:

By: _____
JAMES J. BECK, MAYOR

PATRICIA S. VILLMER,
DEPUTY CITY CLERK

APPROVED AS TO FORM:

KENNETH J. HEINZ, CITY ATTORNEY

UNITED PLAZA, LLC

By: _____
Name: _____
Title: _____

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

On this ____ day of _____, 2010, before me appeared JAMES BECK, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the CITY OF RICHMOND HEIGHTS, MISSOURI, an incorporated 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 City Council, and said JAMES BECK acknowledged said instrument to be the free act and deed of said City.

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

Notary Public

(SEAL)

My Commission Expires:

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

On this ____ day of _____, 2010, before me appeared _____, to me personally known, who, being by me duly sworn, did say that he is the _____ of UNITED PLAZA, LLC, a Missouri limited liability company, and that he is authorized to sign the instrument on behalf of said company, and acknowledged to me that he executed the within instrument as said company's free act and deed.

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

Notary Public

(SEAL)

My Commission Expires:
