

PRAIRIEFIRE AT LIONSGATE DEVELOPMENT AGREEMENT

THIS PRAIRIEFIRE AT LIONSGATE DEVELOPMENT AGREEMENT (this "Agreement"), is made and entered into this ____ day of October, 2012 (the "Effective Date") by and between the **CITY OF OVERLAND PARK, KANSAS**, a municipal corporation duly organized under the laws of the State of Kansas (the "City") and **MC PRAIRIEFIRE I, LLC**, a Kansas limited liability company, which has as its sole member, MC Prairiefire Phase I, Inc., a Kansas corporation that will make an S corporation election for federal and state income tax purposes (the "MCP I"), and **MC PRAIRIEFIRE II, LLC**, a Kansas limited liability company, which is an Affiliate of MCP I and has as its sole member, MC Prairiefire Phase II, Inc., a Kansas corporation that will make an S corporation election for federal and state income tax purposes (the "MCP II").

RECITALS:

A. Reference is hereby made to that certain fifty-six (56) acres of real property which is located in the City and is generally located at 135th Street between Lamar Avenue and Nall Avenue and, along with approximately five and a half (5.5) acres of 137th Street right-of-way, is legally described on **Exhibit A-1** and generally depicted on **Exhibit A-2**, as attached hereto (the "Project Site"). The Project Site is owned and controlled by MC Prairiefire, LLC, a Kansas limited liability company (the "Owner"), which is an Affiliate of MCP I and MCP II. The Project Site shall be leased from Owner pursuant to the Ground Lease to MCP I, and MCP II as more particularly set forth in Section 3.01(k) and 3.02(f) hereof. For purposes hereof, it is understood and agreed that the term "Developer" as used herein shall be deemed to mean MCP I and MCP II, collectively, as their respective interests and obligations appear herein, it being understood and agreed that MCP I shall have all of the rights, duties and obligations set forth in this Agreement that pertain to Phase 1 of the Project (as defined in Section 2.03 below) and the design, construction, completion, operation and financing of said Phase 1, while MCP II shall have all of the rights, duties and obligations set forth in this Agreement that pertain to Phase 2 of the Project (as defined in Section 2.03 below) and the design, construction, completion, operation and financing of said Phase 2. In the event of any ambiguity or perceived conflict as to which "Developer" party shall have any of the particular rights, duties and obligations set forth herein, it is understood and agreed that MCP I shall be deemed to be the "Developer" party that has such rights, duties and obligations.

B. Developer proposes to design, develop, construct, complete and operate a unique destination experience on a portion of the Project Site consisting of approximately fifty-six (56) acres (the "Project Area"), which Project Area is legally described on **Exhibit B-1** and generally depicted on **Exhibit B-2**, as attached hereto. Such unique destination experience is to be comprised of an integrated urban village featuring a mix of retail, museum, office, hotel and residential uses which shall provide project components and amenities including, but not limited to, approximately 357,000 square feet of retail space, a 35,000 square foot natural history museum, approximately 290,000 square feet of office space, approximately 89,000 square feet of

hotel space and approximately 475 residential dwelling units, a native wetlands, a one (1) acre park for music and events, and a hiking/biking trail (the "Project"). The Project is designed to be constructed and completed in two (2) distinct phases as set forth in Section 2.03 hereof.

C. On December 1, 2008, pursuant to the STAR Bonds Financing Act, K.S.A. 12-17,160 *et seq.*, as amended (the "STAR Bond Act"), the City approved a STAR Bond Project District (the "STAR Bond District") by passage of Ordinance No. SB-2786, which STAR Bond District encompasses an area which is slightly larger than the Project Site, and also includes all of the Project Area, and is legally described on Exhibit B-3 and generally depicted on Exhibit B-4, as attached hereto.

D. On August 17, 2009, pursuant to the STAR Bond Act, the City held a public hearing to consider the Prairiefire STAR Bond Project Plan for the Project (the "Original Project Plan"), and following the hearing, the City approved and adopted the Original Project Plan by Ordinance No. SB-2830.

E. On October 15, 2012, the City commenced a public hearing to consider a new STAR Bond Project Plan for the Project (the "Project Plan"), the City concluded the public hearing on October 22, 2012, and following the hearing, on October 22, 2012, the City terminated the Original Project Plan and approved and adopted the new Project Plan by Ordinance No. 2976, a copy of which new Project Plan is attached hereto as Exhibit S.

F. On January 10, 2011, pursuant to K.S.A. 12-6a26 *et seq.*, as amended (the "CID Act"), the City created a community improvement district (the "Original CID") by Ordinance No. CID-2901, the boundaries of which Original CID generally comported with the boundaries of the Project Area and which Original CID was created for the purpose of financing certain economic development related projects.

G. Subsequently, Developer, by and through the Owner, notified the City of its desire to terminate the Original CID and have two separate CIDs created on the Project Site and certain adjacent right-of-way. On or about September 17, 2012, the Owner submitted a new CID petition (the "New CID Petition 1") to the City requesting the formation of a CID located on that portion of the Project Area described on Exhibit C-1 and attached hereto ("CID District 1"). Additionally, on or about August 30, 2012, the Owner submitted a new CID petition (the "New CID Petition 2") to the City requesting the formation of a CID located on that portion of the Project Area described on Exhibit C-2 and attached hereto ("CID District 2"). A map identifying CID District 1 and CID District 2 is attached hereto as Exhibit C and hereafter CID District 1 and CID District 2 may be referred to collectively herein as the "CID Districts." Aside from inclusion of the adjacent 135th Street right-of-way in CID District 1, the boundaries of the STAR Bond District and the CID Districts (collectively) are nearly identical, and thus the STAR Bond District and the CID Districts may be referred to herein as the "Districts."

H. On October 22, 2012, the City terminated the Original CID by passing Ordinance No. CID-2977 and approved the creation of the CID Districts by passing Ordinance No. CID-2972 and Ordinance No. CID-2973, respectively (collectively, the "CID Ordinance") pursuant to the CID Act.

I. As contemplated in CID Petition 1 and CID Petition 2, respectively, the CID Ordinance calls for the imposition of a CID sales tax of 1.5% (the "CID Sales Tax") within each of the CID Districts to be used to pay certain project costs (as defined in Section 4.01 below). The CID Ordinance specifies that the CID Sales Tax for CID District 1 is to commence on October 1, 2013, or any other effective date that the City may approve by ordinance if a change in the effective date is requested in writing by all owners of record in CID District 1. The CID Ordinance specifies that the CID Sales Tax for CID District 2 is to commence on January 1, 2016, or any other effective date that the City may approve by ordinance if a change in the effective date is requested in writing by all owners of record in CID District 2.

J. Additionally, in order to assist with the financing of the Project, the City has authorized the preparation and presentation to the governing body on November 5, 2012, of resolutions of intent to proceed with the issuance of economic development revenue bonds ("EDRBs") subject to the conditions set forth therein in order to pay certain project costs pursuant to the K.S.A. 12-1741 *et seq.*

K. The parties agree that the Project is not financially feasible without the public-private partnership as set forth in this Agreement, and therefore the parties wish to enter into this Agreement to provide the necessary financing for the Project.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

ARTICLE I. DEFINITIONS AND RULES OF CONSTRUCTION

Section 1.01. Incorporation of Recitals. The parties understand and agree that the Recitals set forth above are hereby incorporated as though more fully set forth herein.

Section 1.02. Definitions of Words and Terms. Capitalized words used in this Agreement which are not otherwise defined herein shall have the meanings set forth in the Annex of Definitions attached hereto.

Section 1.03. Rules of Construction. For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following rules of construction apply in construing the provisions of this Agreement:

(a) The terms defined in the attached Annex of Definitions include the plural as well as the singular.

(b) All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with generally accepted governmental accounting principles.

(c) All references herein to "generally accepted governmental accounting principles" refer to such principles in effect on the date of the determination, certification, computation or other action to be taken hereunder using or involving such terms.

(d) All references in this instrument to designated "Articles," "Sections" and other subdivisions are to be the designated Articles, Sections and other subdivisions of this instrument as originally executed.

(e) The words "herein," "hereof" and "hereunder" and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision.

(f) The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

Section 1.04. Legal Representation of the Parties. This Agreement was negotiated by the parties hereto with the benefit of legal representation and any rules of construction or interpretation otherwise requiring this Agreement to be construed or interpreted against any party shall not apply to the construction or interpretation of this Agreement.

ARTICLE II. DEVELOPMENT OF THE PROJECT AND USE RESTRICTIONS

Section 2.01. Undertaking of Developer. Developer hereby agrees, subject to the terms and conditions hereinafter provided to design, develop, construct, complete and operate the Project. The performance of all activities by Developer hereunder shall be as an independent contractor and not as an agent of the City, except as otherwise specifically provided herein. The parties also agree that portions of the Project may be designed, developed, constructed, completed and operated by transferees as set forth by the terms and conditions of Article VI hereof.

Section 2.02. Development of the Project Area. The City and Developer hereby agree that the Project shall be as described herein and as set forth in the Project Plan, which is attached hereto as **Exhibit S**. Developer hereby contemplates that all buildings, parking structures and other improvements constituting the Project, as specifically described in this Section 2.02 (the "Improvements"), shall be developed, constructed, completed, and operated on the Project Area in substantial accordance and compliance with the terms and conditions of this Section 2.02, the Project Plan and the Development Plan. On and subject to the terms and provisions set forth in this Agreement, Developer shall have the sole right to, and shall be responsible for, the design, development, construction, equipment and completion of the Improvements, and shall operate and use the Improvements in the manner described herein, all in accordance with the terms of this Section 2.02 and all other Applicable Laws and Requirements. The parties further agree that, subject to any changes imposed and/or agreed upon in the planning process, the "Project" shall include all of the following:

(a) The Project shall be developed, designed and constructed as an entertainment facility and unique destination experience and shall, at minimum, include the following improvements and attractions:

(i) an approximately 35,000 square foot natural history museum (the "Museum"), which shall be operated by the Museum of Prairiefire Foundation, a 501(c)(3) corporation (the "Museum Owner"). The Museum Owner shall have a contract with the American Museum of Natural History ("AMNH") of New York, pursuant to which the Museum shall offer permanent exhibits and approximately 7,000 square feet of traveling exhibits from the AMNH which shall be updated twice a year and provide a unique destination science and cultural experience for its patrons. The Museum shall also feature an interpretive walk, prairie gardens, a discovery room providing an interactive learning experience for children, event space and art installations. The Museum shall also be subject to the terms set forth in Section 7.02(b) below;

(ii) approximately 357,000 square feet of destination lifestyle and entertainment and retail shopping, including, among other concepts, stores and offerings, high-end specialty and boutique shops and fine dining restaurants ("Retail Space");

(iii) approximately 290,000 square feet of Class A office space ("Office Space");

(iv) approximately four hundred seventy-five (475) residential units, including condominium units and/or apartment units (collectively, the "Residential Units");

(v) a full-service, high-end boutique hotel comprised of between eighty (80) and one hundred twenty (120) rooms (the "Hotel");

(vi) a central park area called the "Arbor Plaza," which shall be an outdoor, interactive area for visitors of the Project to congregate and enjoy outdoor events, such as festivals, art exhibits, concerts and certain Museum-related events. The Arbor Plaza will also feature landscaping which includes trees, flowers and other horticulture which is native to Kansas and is both attractive and educational for the visitors of the Project;

(vii) a native wetlands area (the "Wetlands") which is a biologically-functional natural system within the Project and includes streams, rocks and vegetation which is developed in accordance with a wetlands mitigation plan (the "Wetlands Plan") and is a living educational experience for visitors of the Project. Additionally, the Wetlands shall be traversed by a "Timber Bridge" which features shall be constructed with natural and other materials which are in concert with the Wetlands it travels over and across;

(viii) a perimeter nature trail (the "Trail") which is designed to be a unique walking trail experience with various features, including an entertaining

narrative of Kansas prairie heritage and other educational components. The Wetlands and the Trail shall be subject to a conservation easement which is in the form attached hereto as **Exhibit D** (the "Conservation Easement"), which Conservation Easement shall be recorded against that portion of the Project Area upon which the Wetlands and Trail will be located;

(ix) a "Sunflower Garden" which will feature varieties of the Kansas state flower, or a similar amenity or attraction;

(x) a "Butterfly Garden" which contains specifically-selected plants and materials designed to attract various species of butterflies, or a similar amenity or attraction; and

(xi) art, sculptures and other amenities as more particularly set forth in the Project Plan.

(b) The Project shall include structured and surface parking improvements (the "Parking Improvements") containing the number of spaces required by the Applicable Laws and Requirements for the floor space of any of the Improvements. Developer hereby agrees that parking in the Parking Improvements shall generally be provided free of charge to the public, provided however that certain portions of the Parking Improvements may include a fee, including without limitation, for Hotel parking and valet parking;

(c) Developer recognizes, stipulates and agrees that its identification signs, directional and way-finding signs, building signs and other signage shall be subject to all Applicable Laws and Regulations, and any special use permits granted by the City's Planning and Zoning Board. Developer shall also develop a sign criteria for the entire Project Area.

(d) The Project shall include the design, development and construction and completion of certain infrastructure improvements, including without limitation, sewer, stormwater and water main improvements, irrigation systems, sidewalks, drives and other pedestrian and vehicular thoroughfares (the "Infrastructure Improvements").

(e) The Project described in this Section 2.02 shall not be materially amended or modified without (i) the prior written consent of the City, which consent shall not be unreasonably withheld and shall be granted so long as the proposed amendment is consistent with the general spirit and intent of this Section 2.02 and the balance of this Agreement, and (ii) full compliance with all Applicable Laws and Regulations.

Section 2.03. Phasing of Project. The parties agree that the Project may be constructed in two (2) phases (each a "Phase" or collectively "Phases"), as described below. The parties hereby agree that the Phases shall be as follows:

(a) Phase 1: Phase 1 of the Project ("Phase 1") shall consist of the following improvements:

- (i) the Museum;
 - (ii) approximately 200,000 square feet of Retail Space, which shall include, among other things, the following:
 - (A) an approximately 22,000 square foot sporting goods store;
 - (B) an approximately 24,000 square foot, fresh/healthy-food grocery concept;
 - (C) an approximately 75,000 square foot movie and dining experience facility;
 - (D) an approximately 30,000 square foot themed bowling/bocce and entertainment facility;
 - (E) an approximately 5,000 square foot rock and roll themed restaurant;
 - (iii) approximately three hundred (300) Residential Units;
 - (v) the Wetlands, except for the Timber Bridge (as shown on **Exhibit F** attached hereto);
 - (vi) a portion of the Trails (as shown on **Exhibit F** attached hereto); provided however, that Developer shall make certain that the Trails on the east side of Phase 1 and the west side of Phase 1 are complete loops (which may include a drive/sidewalk for a portion of the west side loop) that can be used by pedestrians and cyclists and that such pedestrians and cyclists shall have access to streets and sidewalks to appropriately connect the separate Trails components of Phase 1;
 - (vii) the Sunflower Garden, or a similar amenity or attraction;
 - (viii) the Butterfly Garden, or a similar amenity or attraction;
 - (ix) Parking Improvements required to service the Improvements for Phase 1; and
 - (x) other infrastructure applicable to Phase 1.
- (b) **Phase 2**: Phase 2 of the Project ("**Phase 2**") shall consist of the following improvements:
- (i) the Hotel;
 - (ii) approximately 157,000 square feet of Retail Space;
 - (iii) approximately 280,000 square feet of Office Space;

- (iv) approximately one hundred seventy five (175) Residential Units;
- (v) the Timber Bridge;
- (vi) the balance of the Trails (as shown on **Exhibit F** attached hereto);
- (vii) Parking Improvements required to service the Improvements for Phase 2; and
- (viii) other infrastructure applicable to Phase 2.

Section 2.04. Project Milestones - Completion of the Project. Developer shall complete the Project, including the Improvements, in conformance with the Project Plan, the Development Plan, zoning ordinances, related stipulations, City building codes, and all other Applicable Laws and Regulations. However, the parties hereby recognize and agree that portions of the Project may be constructed and completed by transferees as set forth by the terms and conditions of Article VI hereof. Before commencement of construction or development of any and all buildings, structures or other work or improvement, Developer shall obtain any and all permits, which may be required by the City and any other governmental agency having jurisdiction as to such construction, development or work. Further, Developer, agrees to construct the Project based upon and in accordance with the schedule set out and contained within **Exhibit G** -- the "Performance Milestones." In the event that Developer shall fail to meet any of the Performance Milestones set forth in **Exhibit G**, then the City may require Developer to appear before the City to show cause why the market conditions hindered the timely commencement and/or completion of a particular milestone or why Developer otherwise failed to comply with the Performance Milestones. If Developer cannot show cause for the delay which is reasonably satisfactory to the City, then the City may exercise its rights and remedies as set forth in Article VIII of this Agreement, subject to the terms of Section 8.04(e) hereof.

Section 2.05. Indemnification. Developer agrees to indemnify and hold the City, its employees, agents and independent contractors and consultants (each, a "City Indemnified Party" and collectively, the "City Indemnified Parties") harmless from and against any and all suits, claims, costs of defense, damages, injuries, liabilities, judgments, costs and/or expenses, including court costs and reasonable attorneys fees, resulting from, arising out of, or in any way connected with: (i) the acquisition of the Project by Developer; (ii) the management, design, construction, development and completion of the Project, including the Improvements, by the Developer; (iii) the use or occupation of the Project by Developer or anyone acting by, through or under the Developer; (iv) damage or injury, actual or claimed, of whatsoever kind or character to persons or property occurring or allegedly occurring in, on or about the Project or the Project Site; (v) any breach, default or failure to perform by the Developer under this Agreement; (vi) any act by an employee of the City at or on the Project which is within or under the control of the Developer or pursued for the benefit of or on behalf of the Developer; (vii) the Developer's actions and undertaking in implementation of the Project or this Agreement; and (viii) any delay or expense resulting from any litigation filed against the Developer by any member or shareholder of the Developer, any prospective investor, prospective partner or joint venture partner, lender, co-proposer, architect, contractor, consultant or other vendor. The parties further agree as follows:

(a) This section shall not apply to negligence or willful misconduct of the City or its officers, employees or agents.

(b) This section includes, but is not limited to, any repair, cleanup, remediation, detoxification, or preparation and implementation of any removal, remediation, response, closure or other plan (regardless of whether undertaken due to governmental action) concerning any hazardous substance or hazardous wastes including petroleum and its fractions as defined in (i) the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"; 42 U.S.C. Section 9601, *et seq.*), (ii) the Resource Conservation and Recovery Act ("RCRA"; 42 U.S.C. Section 6901 *et seq.*), (iii) Article 34, Chapter 65, K.S.A. and all amendments thereto, and any other Applicable Laws and Requirements at the Project Site or any other place where Developer owns or has control of real property pursuant to any of Developer's activities under this Agreement. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107 (e) of CERCLA to assure, protect, hold harmless and indemnify City from liability.

(c) In the event any suit, action, investigation, claim or proceeding (collectively, an "Action") is begun or made as a result of which the Developer may become obligated to one or more of the City Indemnified Parties hereunder, the City Indemnified Party shall give prompt notice to Developer of the occurrence of such event. The failure to notify the Developer shall not relieve Developer of any liability that it may have to a City Indemnified Party; provided however that the City hereby agrees that it shall not defend, settle or otherwise resolve any such Actions without prior notice to Developer. After receipt of such notice, Developer may elect to defend, contest or otherwise protect a City Indemnified Party against any such Action, at the cost and expense of Developer, utilizing counsel approved by a City Indemnified Party. The City Indemnified Party shall have the right, but not the obligation, to participate, at the City Indemnified Party's own cost and expense, in the defense thereof by counsel of the City Indemnified Party's choice. In the event that Developer shall fail timely to defend, contest or otherwise protect a City Indemnified Party against such Action, the City Indemnified Party shall have the right to do so, and (if such defense is undertaken by the City Indemnified Party after notice to Developer asserting Developer's failure to timely defend, contest or otherwise protect against such Action), the City Indemnified Party may submit any bills for fees and costs received from its counsel to Developer for payment for services that were rendered no sooner than thirty (30) days after such notice is provided to Developer and, within thirty (30) business days after such submission of such bills for fees and costs, Developer shall transfer to the City Indemnified Party sufficient funds to pay such bills. Developer acknowledges that such bills may be redacted to delete any information which would constitute attorney-client communication or attorney work product.

(d) A City Indemnified Party shall submit to Developer any settlement proposal that the City Indemnified Party shall receive. Developer shall be liable for the payment of any amounts paid in settlement of any Action to the extent that Developer consents to such settlement. Neither Developer nor the City Indemnified Party will unreasonably withhold its consent to a proposed settlement.

(e) Developer expressly confirms and agrees that it has provided this indemnification and assumes the obligations under this Agreement imposed upon Developer in order to induce the City to enter into this Agreement. To the fullest extent permitted by law, a City Indemnified Party shall have the right to maintain an action in any court of competent jurisdiction to enforce and/or to recover damages for breach of the rights to indemnification created by, or provided pursuant to, this Agreement, and the right to apply any deposit or other funds submitted by Developer to the City Indemnified Party in payment of the damages suffered by it, as is necessary to protect the City Indemnified Party from loss. If such court action is successful, the City Indemnified Party shall be reimbursed by Developer for all fees and expenses (including attorneys' fees) actually and reasonably incurred in connection with such action (including, without limitation, the investigation, defense, settlement or appeal of such action).

(f) The right to indemnification set forth in this Agreement with respect to events or circumstances that occurred or arose during the term of this Agreement shall survive the termination of this Agreement.

Section 2.06. Insurance.

(a) Not in derogation of the indemnification provisions set forth herein, the Developer shall, at its sole cost and expense, throughout the Term, maintain or cause to be maintained insurance with respect to the Project covering such risks that are of an insurable nature and of the character customarily insured against by organizations operating similar properties and engaged in similar operations, similar development projects (including but not limited to property and casualty, worker's compensation, general liability and employee dishonesty) and in such amounts as are adequate to protect the Developer and the Project, which amounts shall not be less than those set forth on **Exhibit H** attached hereto. Throughout the Term, the Developer agrees to provide the City upon request evidence of property insurance and a certificate of liability insurance ("Certificate") listing all coverages applicable to the Project.

(b) The Developer shall require of the contractor(s) hired to perform work on any public infrastructure to fully comply with the following insurance requirements:

(i) General: The contractor shall secure and maintain, throughout the Term of this Agreement, insurance (on an occurrence basis unless otherwise agreed by the City and Developer) of such types and in at least such amounts as required herein. Contractor shall provide certificates of insurance and renewals thereof on Acord forms or on forms acceptable to the City. The City shall be notified by receipt of written notice from the insurer or the contractor at least thirty (30) days prior to material modification or cancellation of any policy listed on the certificate of insurance.

(ii) Notice of Claim Reduction of Policy Limits: The contractor, upon receipt of notice of any claim in connection with the Agreement, shall promptly notify the City, providing full details thereof, including an estimate of the amount of loss or liability.

Developer shall also cause the contractor shall monitor and promptly notify the City of any reduction in limits of protection afforded under any policy listed in the certificate of insurance if the contractor's limits of protection shall have been impaired or reduced to such extent that the limits fall below the minimum amounts required herein. The Developer shall cause the contractor to promptly reinstate the original limits of liability required hereunder and shall furnish evidence thereof to the City.

(iii) General Liability:

Limits –

General Aggregate:	\$1,000,000
Products / Completed Operations Aggregate:	\$1,000,000
Personal & Advertising Injury:	\$1,000,000
Each Occurrence:	\$1,000,000

Policy MUST include the following conditions:

- (1) Commercial General Form
- (2) Broad Form Contractual / Contractually Assumed Liability
- (3) Independent Contractors
- (4) Broad Form Property Damage
- (5) **NAME CITY OF OVERLAND PARK AS "ADDITIONAL INSURED"**

(iv) Automobile Liability: Policy shall protect the contractor against claims for bodily injury and/or property damage arising from the ownership or use of any owned, hired and/or non-owned vehicle.

Limits (Same as General Liability)

Combined Single Limits, Bodily Injury and Property Damage -
Each Accident:

Policy MUST include the following condition:

NAME CITY OF OVERLAND PARK AS "ADDITIONAL INSURED"

(v) Umbrella Liability: The Umbrella / Excess Liability must be at least as broad as the underlying general liability and automobile liability policies.

Limits –

Each Occurrence	\$1,000,000
General Aggregate	\$1,000,000

(vi) Workers' Compensation: This insurance shall protect the contractor against all claims under applicable state workers' compensation laws. The Developer shall also be protected against claims for injury, disease or death of employees which, for any reason, may not fall within the provisions of workers' compensation law. The policy limits shall not be less than the following:

Workers' Compensation:	Statutory
Employer's Liability:	
Bodily Injury by Accident	\$100,000 each accident
Bodily Injury by Disease	\$500,000 policy limit
Bodily Injury by Disease	\$100,000 each employee

(vii) Industry Ratings: The City will only accept coverage from an insurance carrier who offers proof that it:

- (1) Is licensed to do business in the State of Kansas;
- (2) Carries a Best's policy holder rating of A- or better; and
- (3) Carries at least a Class VIII financial rating, **or**
- (4) Is a company mutually agreed upon by the City and Contractor.

(viii) Subcontractors' Insurance: If a part of the work is to be sublet, the Developer shall either:

- (1) Cover all subcontractors in its insurance policies,
- or**
- (2) Require each subcontractor not so covered to secure insurance which will protect subcontractor against all applicable hazards or risks of loss as and in the minimum amounts designated above.

Whichever option is chosen, Developer shall cause the contractor to indemnify and hold harmless the City as to any and all damages, claims or losses, including attorney's fees, arising out of the acts or omissions of its subcontractors.

Section 2.07. Non-Discrimination. The Developer agrees that throughout the Term:

- (a) The Developer shall observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 *et seq.*) and shall not discriminate against any person in the performance of work under the Agreement because of race, religion, color, sex, national origin, ancestry or age;

(b) In all solicitations or advertisements for employees, the Developer shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission ("Commission");

(c) If the Developer fails to comply with the manner in which the Developer reports to the Commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, the Developer shall be deemed to have breached the Agreement and it may be canceled, terminated or suspended, in whole or in part, by the City;

(d) If the Developer is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Commission which has become final, the Developer shall be deemed to have breached the Agreement and it may be canceled, terminated or suspended, in whole or in part, by the City; and

(e) The Developer shall include the provisions of Sections 2.07(a) through (d) above in every contract, subcontract or purchase order so that such provisions will be binding upon such contractor, subcontractor or vendor.

The Developer further agrees that throughout the Term the Developer shall abide by the Kansas Age Discrimination In Employment Act (K.S.A. 44-1111 *et seq.*) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 12101 *et seq.*) as well as all other federal, state and local laws, ordinances and regulations applicable to this Project and to furnish any certification required by any federal, state or local laws, ordinances and regulations applicable to this Project.

ARTICLE III. CONDITIONS

Section 3.01. Phase 1 Conditions. The parties hereby understand and agree that the payment or reimbursement to Developer of any Public Financing Proceeds (as defined below) contemplated under the terms of this Agreement for Phase 1 of the Project shall be subject to satisfaction of the following conditions precedent (the "Phase 1 Conditions"):

(a) the confidential review by the City's representatives and the City's reasonable satisfaction with the terms and conditions of Developer's private financing, including evidence that Developer has procured and will, upon the closing of the Obligations for Phase 1 (as set forth in Article IV below)(the "Closing"), close on financing transactions for Developer's Private Contribution for such Phase 1, the net proceeds of which, when added to the demonstrable equity commitments of Developer, are sufficient and available to fully fund the hard and soft costs for Phase 1 of the Project which will not be paid for with Public Financing Proceeds;

(b) Developer shall have fully executed, commercially reasonable leases for eighty percent (80%) of the Retail Space (including the Museum) in Phase 1 and shall have provided the City's representatives an opportunity to confidentially review such leases to confirm satisfaction of this condition;

(c) Developer shall obtain and deliver to the City (i) the payment and performance bonds described in Section 5.07 hereof, and (ii) a guaranteed maximum price design-build construction contract for Phase 1 of the Project with the General Contractor (as defined in Section 5.02) or another contractor with sufficient financial strength, reputation and experience to complete the Phase 1 of the Project in accordance with the agreed-upon construction and completion schedule and Project Plan for Phase 1 of the Project;

(d) Developer shall have obtained any required permits and any other required approvals (including, if applicable, final Development Plan and final plat approval) for the portions of Phase 1 of the Project for which the particular Public Financing Proceeds are being drawn, all as required by Applicable Laws and Requirements;

(e) Owner shall have recorded the Restrictive Covenants (as defined in Section 7.04 below) against the Project Area;

(f) Owner shall have recorded the Conservation Easement (the form of which is attached hereto as **Exhibit D**) and the Wetlands Maintenance Agreement (the form of which is attached hereto as **Exhibit O**) against the portion of the Project Area upon which the Wetlands and Trails will be constructed;

(g) Developer shall have provided the financials of the Guarantor (as defined in Section 9.01 hereof) to the City's representatives for a confidential review and the City shall be satisfied with the financial net worth of the Guarantor in the City's sole and absolute discretion; and Developer shall have caused the Guarantor to execute and deliver a guaranty for Phase 1 of the Project in the same form as **Exhibit I** attached hereto and incorporated herein by reference;

(h) the Kansas Department of Commerce shall have approved the Project Budget (as defined in Section 4.01 hereof), including the line items set forth therein.

(i) Developer has delivered to the City a fully-executed copy of the Museum Owner Agreement described in Section 7.02(b) hereof (the form of which is attached hereto as **Exhibit Q**);

(j) Developer has delivered to the City a fully-executed copy of the Residential Owner Agreement described in Section 7.02(d) hereof (the form of which is attached hereto as **Exhibit R**), and

(k) MCP I shall have entered into a ground lease with the Owner for the portion of the Project Site which will be used for Phase 1 (the "**Phase 1 Ground Lease**"), and a copy of the Phase 1 Ground Lease shall be provided to the City's representatives for a confidential review and the City shall be satisfied with the terms and conditions of the Phase 1 Ground Lease in the City's sole and absolute discretion.

Section 3.02. Phase 2 Conditions. The parties hereby understand and agree that the payment or reimbursement to Developer of any Public Financing Proceeds (as defined below)

contemplated under the terms of this Agreement for Phase 2 of the Project shall be subject to the following conditions precedent (the "Phase 2 Conditions"):

(a) the City's review and reasonable satisfaction with the terms and conditions of Developer's private financing, including evidence that Developer has procured and will, at Closing, close on financing transactions for Developer's Private Contribution for such Phase 2, the net proceeds of which, when added to the demonstrable equity commitments of Developer, are sufficient and available to fully fund the hard and soft costs for Phase 2 of the Project which will not be paid for with Public Financing Proceeds;

(b) Developer shall have fully executed, commercially reasonable leases for that percentage of the Retail Space in Phase 2 which the City deems to be reasonably satisfactory and shall have provided the City's representatives an opportunity to review such leases to confirm satisfaction of this condition;

(c) Developer shall obtain and deliver to the City (i) the payment and performance bonds described in Section 5.07 hereof, and (ii) a guaranteed maximum price design-build construction contract for Phase 2 of the Project with the General Contractor (as defined in Section 5.02) or another contractor with sufficient financial strength, reputation and experience to complete the Phase 2 of the Project in accordance with the agreed upon construction and completion schedule and Project Plan for Phase 2 of the Project;

(d) Developer shall have obtained final site plan approvals, building permits and any other required approvals for Phase 2 of the Project as required by all Applicable Laws and Requirements;

(e) Developer shall have provided the financials of the Guarantor to the City's representatives for a private review and the City shall be satisfied with the financial net worth of the Guarantor; and Developer shall have caused the Guarantor to execute and deliver a guaranty for Phase 2 of the Project in the same form as Exhibit I attached hereto and incorporated herein by reference; and

(f) MCP II shall have entered into a ground lease with the Owner (or an Affiliate of the Owner in the event of a transfer pursuant to Article VI) for the portion of the Project Site which will be used for Phase 2 (the "Phase 2 Ground Lease"), and a copy of the Phase 2 Ground Lease shall be provided to the City's representatives for a confidential review and the City shall be satisfied with the terms and conditions of the Phase 2 Ground Lease in the City's sole and absolute discretion. Collectively, the Phase 1 Ground Lease and the Phase 2 Ground Lease may be referred to herein as the "Ground Lease".

ARTICLE IV. FINANCING-SOURCE OF FUNDS

Section 4.01. Source of Funds. The Project shall be funded in part by public incentives, including STAR Bonds and the CID (collectively, the "Public Financing"), along with EDRBs

(as described in Section 4.08 below). Reference is hereby made to the estimated costs of the Project (the "Project Costs") and budget for the Project (the "Project Budget") attached hereto as **Exhibit J** and by this reference made a part hereof. The Project Costs shall be paid in accordance with the procedures and requirements set forth herein.

Section 4.02. STAR Bonds. It is contemplated by the parties that the Project shall be funded in part by STAR Bonds. In connection with the STAR Bonds, the parties hereby agree as follows:

(a) Amount of STAR Bonds. It is contemplated that for Phase 1, Qualified Third Parties (as defined in Section 4.06(g) below) will purchase the STAR Bonds described herein in a par amount equal to approximately \$58,000,000 which shall render approximately \$45,178,749 of net STAR Bond proceeds ("STAR Bond Proceeds") for use in funding Phase 1 STAR Bond Project Costs. Subsequently, for Phase 2, STAR Bonds in an estimated par amount of \$46,000,000, which shall render approximately \$35,821,251 of net STAR Bond Proceeds may be issued for use in funding Phase 2 STAR Bond Project costs. The parties hereby understand and agree that the approximated par and net proceeds amounts set forth for Phase 1 and Phase 2 above are estimates only and, as such, are not intended by the parties to operate as a limitation on the STAR Bond Proceeds that Developer may receive hereunder; however, the parties agree that in no event shall more STAR Bonds be issued in connection with the Project than the amount necessary to yield \$81,000,000 in net STAR Bond Proceeds, exclusive of financing costs and applicable reserve. All disbursements of net STAR Bond Proceeds shall be made only to pay Project Costs which are (i) eligible for payment or reimbursement pursuant to the STAR Bond Act, and (ii) agreed-upon by the parties and identified on Exhibit K attached hereto (the "Eligible STAR Bond Expenses").

(b) Multiple Series. It is anticipated that the STAR Bonds may be issued, sold and delivered in multiple series.

(c) Source of Payment; Incremental Taxes. The STAR Bonds shall be paid and amortized with incremental State and local sales and use taxes imposed pursuant to K.S.A. 12-187 *et seq.*, 79-3601 *et seq.* and 79-3701 *et seq.* and collected within the STAR Bond District (the "Incremental Taxes") each and every year for a period of twenty (20) years from the approval of the Project Plan. Such Incremental Taxes shall be measured against the State and local sales and use taxes from a base year which is twelve (12) months immediately prior to the month in which the STAR Bond District was established (the "Base Year Revenues"). For a period of twenty (20) years from the approval of the Project Plan, the City shall cooperate with the State of Kansas and the Bond Trustee to properly allocate Incremental Taxes collected within the STAR Bond District to pay and amortize STAR Bonds issued for the Project, unless such STAR Bonds shall be paid in full and retired prior to the end of such twenty (20) year period.

(d) STAR Bond Revenue Fund; Disbursements. The City shall collaborate with the State of Kansas (the "State") and the Bond Trustee to establish and maintain a separate fund and account which will be described and defined in the Bond Documents

and which, for purposes of this Agreement shall be referred to as the "STAR Bond Revenue Fund." All Incremental Taxes collected in the STAR Bond District shall be deposited into the STAR Bond Revenue Fund. Disbursements from the STAR Bond Revenue Fund shall be as set forth in the Bond Documents.

(e) Percentage Limitation on Public Financing Disbursements. The parties hereby agree that it is intended that the Project Costs shall be paid, in the aggregate, proportionately from the various funding sources set forth in the Project Budget throughout the construction cycle for each respective Phase; provided however, that nothing set forth herein shall require that any specific line item be paid proportionately from such funding sources. For purposes of illustrative example only, if the Project Budget for Phase 1 shows an estimated \$160,750,000 of Project Costs, \$48,500,000 of which are to be paid with STAR Bonds, \$12,500,000 of which are to be paid with CID Proceeds and \$99,750,000 of which are to be paid with Private Funds (as defined below), then the percentage allocations (the "Percentage Allocations") for purposes of this provision shall be (i) 38% from Public Financing Proceeds, and (ii) 62% from Private Funds. For purposes hereof, the term "Private Funds" shall be deemed to mean private debt, equity or other private sources for payment of Project Costs.

(i) The parties hereby agree that on or about July 15, 2013 and again on or about January 15, 2014 (each date, a "Percentage Limitation Date" and collectively the "Percentage Limitation Dates"), Developer shall provide a detailed breakdown of all Project Costs paid to date and an indication of the source of funds (i.e., Private Funds, STAR Bond Proceeds, or CID Proceeds) used to pay for all such costs. Developer shall also identify any such Project Costs paid for by Developer that were subsequently reimbursed with STAR Bond Proceeds or CID Proceeds. The parties hereby agree that two (2) different Percentage Limitation Dates shall be mutually agreed upon by the parties for Phase 2 on or before the Phase 2 Commencement Date.

(ii) If, as of either Percentage Limitation Date, the actual Percentage Allocation for the Private Funds at that time, when compared to the Percentage Allocations for the Public Financing sources is materially less than the Private Funds Percentage Allocation shown in the Project Budget, then the City may in its sole discretion may elect not to distribute any further Public Financing Proceeds (including STAR Bond Proceeds) to Developer unless and until Developer demonstrates to the City that it has spent enough Private Funds to fully compensate for the difference in the Percentage Allocation for Private Funds (the "Percentage Limitation"). For purposes hereof, the term "materially less" shall be deemed to mean a variance of 5% or more, and the term "compensate for the difference" shall mean to bring the Percentage Allocation for Private Funds back within the 5% range as set forth herein.

(iii) For example, if the Percentage Allocations for Phase 1 in the Project Budget are (i) 38% from Public Financing Proceeds, and (ii) 62% from Private Funds, and as of July 15, 2013, Developer has spent \$100,000,000 for Project Costs, of which \$55,000,000 were paid with Private Funds and \$45,000,000 were paid with Public Financing Proceeds, then Developer's

Percentage Allocation for Private Funds as of that Percentage Limitation Date would be deemed to be materially (more than 5%) less than the 62% Percentage Allocation shown in the Project Budget. Accordingly, in this example, the City shall not be obligated to disburse any further Public Financing Proceeds to Developer unless and until Developer has demonstrated to the City that it has compensated for the difference by spending enough Private Funds to constitute at least 57% of the Project Costs at the time of such demonstration.

(f) Shortfalls in STAR Bond Eligible Project Costs. In the event that the STAR Bonds Proceeds for the Project, or either Phase thereof, shall be insufficient in any respect to pay all the Eligible STAR Bond Expenses, then Developer hereby understands and agrees that it will, from time to time as necessary, pay any and all costs of said Eligible STAR Bond Expenses with private funds.

(g) Excess STAR Bond Proceeds. In the event that the STAR Bond Proceeds allocated by the Project Budget for payment of the STAR Bond Costs exceed the Eligible STAR Bond Expenses and the Improvements included therein have been certified as fully completed and paid for, free of mechanics liens, such excess shall be held and applied pursuant to the STAR Bond Indenture.

(h) Costs Required to be STAR Bond Eligible. Notwithstanding anything in this Agreement to the contrary, in all events when this Agreement shall provide for the payment or reimbursement of any cost with STAR Bond Proceeds, such payment or reimbursement shall be conditioned upon such costs being (i) Eligible STAR Bond Expenses, and (ii) legally permissible pursuant to the terms and conditions of the STAR Bond Act.

(i) Compliance with the STAR Bond Act. Developer and the City hereby agree that they will comply with all reasonable requirements including any statutory requirements, associated with the issuance, sale, purchase and delivery of the STAR Bonds and shall cooperate with one another to fully effectuate the terms, distributions, payments as detailed herein, incorporating the Project Budget. Developer further understands and agrees that there is a statutory cap on STAR Bond interest rates as set forth in K.S.A. 12-17,167(c), which shall apply to the STAR Bonds described by this Agreement and the Indenture.

(j) No Relocation Within a Certain Radius of Star Bond District. Without the prior consent of the City and the State, Developer hereby agrees that it shall not lease or sell any space in the STAR Bond District to any Person who is closing a retail store that is 10,000 square feet in floor area or larger which conducts its business within the same retail category at a location within a fifty (50) mile radius of the outside boundary of the Star Bond District and within the State of Kansas (the "STAR Bond Relocation Radius"). Nothing herein shall prevent such a retail store from opening an additional store within the STAR Bond District, as long as the original store(s) within the STAR Bond Relocation Radius remain open for business for at least one (1) year after the opening date of the new store within the STAR Bond District. If and to the extent that Developer violates this covenant and does relocate a store that is within the STAR Bond Relocation Radius to the STAR Bond District without the consent of the City,

then Developer hereby understands and agrees that the City shall have the remedies set forth in Article VIII of this Agreement in connection with any such violation. Notwithstanding the foregoing, the City understands and agrees that the restrictions set forth in this Section 4.02(j) shall no longer be enforceable at any time after five (5) years from the Effective Date.

Section 4.03. Community Improvement District. It is contemplated by the parties that the Project shall be funded in part by CID Bonds. Developer has identified certain Project Costs which may be paid with CID Bonds if and to the extent that such Project Costs are: (i) agreed-upon by the parties and identified on Exhibit L attached hereto for Phase 1 (the "Phase 1 CID Project Costs"), (ii) agreed-upon by the parties and identified on Exhibit M attached hereto for Phase 2 (the "Phase 2 CID Project Costs"), and (iii) eligible for payment or reimbursement pursuant to the CID Act. Collectively, the Phase 1 CID Project Costs and the Phase 2 CID Project Costs may be referred to herein as the "CID Project Costs." Further, in connection with the CID, the parties hereby agree as follows:

(a) Amount of CID Bonds. It is contemplated that for Phase 1, Unaffiliated Third Parties will purchase the CID Bonds described herein in a par amount of approximately \$16,000,000 which shall render an estimated \$12,462,400 of net CID Bond Proceeds for use in funding Phase 1 CID Project Costs which shall be deposited in the applicable CID Bond accounts. Subsequently, for Phase 2, CID Bonds may be issued in a par amount of approximately \$14,000,000 (which shall render an estimated \$10,904,600 of net CID net Bond Proceeds) for use in funding Phase 2 CID Project Costs which would then be deposited in the applicable CID Bond accounts. The parties hereby understand and agree that the approximated net proceeds amounts set forth for Phase 1 and Phase 2 above are not intended by the parties to operate as a limitation on the CID Proceeds that Developer may receive hereunder; however, that the parties agree that in no event shall more than a \$30,000,000 principal amount of CID Bonds be issued in connection with the Project.

(b) CID Sales Taxes. Subject to the terms and conditions of this Agreement, the City shall cause the collection of a CID sales tax of one and one-half percent (1.5%) on the sale of tangible personal property at retail or rendering furnishing services which are taxable pursuant to the Kansas Retailers' Sales Tax Act (K.S.A. 79-3601 *et seq.*) within the CID Districts (the "CID Sales Taxes"), such CID Sales Taxes shall be collected and applied to pay and/or reimburse Developer for CID Project Costs pursuant to the CID Act. The City shall, simultaneously with the approval and execution of this Agreement, authorize the levy of the CID Sales Taxes, and direct City Staff to take all actions necessary to impose such CID Sales Taxes upon CID District 1 as of October 1, 2013 (or any other effective date that the City may approve by ordinance if a change in the effective date is requested in writing by all owners of record in CID District 1), and to impose such CID Sales Taxes upon CID District 2 as of January 1, 2016, or any other effective date that the City may approve by ordinance if a change in the effective date is requested in writing by all owners of record in CID District 2.

(c) CID Bond Revenue Fund 1. When CID Bonds are issued by the City for CID District 1, the CID Sales Taxes from CID District 1 shall be deposited into

a fund which shall be created and administered by the City or its designee and which will be described and defined in the Bond Documents for Phase 1 and which, for purposes of this Agreement shall be referred to as the "CID Bond Revenue Fund 1". The CID Sales Taxes in CID Bond Revenue Fund 1 will be utilized to first pay principal and interest payments required under CID Bonds for CID District 1 at such times as such payments may be required under the Bond Documents for Phase 1. The specifics of the issuance and repayment of the CID Bonds for CID District 1 shall be in accordance with the Bond Documents for Phase 1, to be approved by ordinance of the City, in accordance with this Agreement. The net CID Bond Proceeds shall be disbursed by the Bond Trustee for the purpose of funding or reimbursing the Developer for Phase 1 CID Project Costs in accordance with the terms of this Agreement and the Bond Documents for Phase 1. Developer hereby understands and agrees that CID Proceeds from the CID Bonds for CID District 1 may not be spent for any Phase 2 CID Project Costs. Disbursements from CID Bond Revenue Fund 1 shall be as provided in the Bond Documents.

(d) CID Bond Revenue Fund 2. If and when CID Bonds are issued by the City for CID District 2, the CID Sales Taxes from CID District 2 shall be deposited into a fund which shall be created and administered by the City or its designee and which will be described and defined in the Bond Documents for Phase 2 and which, for purposes of this Agreement shall be referred to as the "CID Bond Revenue Fund 2". The CID Sales Taxes in the CID Bond Revenue Fund 2 will be utilized to first pay principal and interest payments required under CID Bonds for CID District 2 at such times as such payments may be required under the Bond Documents for Phase 2. The specifics of the issuance and repayment of the CID Bonds for CID District 2 shall be in accordance with the Bond Documents for Phase 2, to be approved by ordinance of the City, in accordance with this Agreement. The net CID Bond Proceeds shall be disbursed by the Bond Trustee for the purpose of funding or reimbursing the Developer for Phase 2 CID Project Costs in accordance with the terms of this Agreement and the Bond Documents for Phase 2. Developer hereby understands and agrees that CID Proceeds from the CID Bonds for CID District 2 may not be spent for any Phase 1 CID Project Costs. Disbursements from CID Bond Revenue Fund 2 shall be as provided in the Bond Documents.

(e) Pay-As-You-Go CID Financing. The parties hereby agree as follows:

(i) Prior to the time that CID Bonds are issued for CID District 2, if any, the parties hereby agree that the proceeds from the CID Sales Tax in CID District 2 may be disbursed by the City to Developer from a separate fund which shall be created and administered by the City or its designee (the "Pay/Go CID Fund") on a pay-as-you-go basis ("Pay-As-You-Go CID Financing"), but no more often than on a quarterly basis, to reimburse Developer for Phase 2 CID Project Costs, if and to the extent that (1) there are CID Sales Taxes in the Pay/Go CID Fund, (2) Developer has fully satisfied all of the conditions as set forth in Section 4.04 below, (3) the term of the CID for CID District 2 has not yet expired pursuant to Section 4.03(f) below, and (4) Developer is not in default under the terms and conditions of this Agreement.

(ii) Additionally, subject to all Applicable Laws and Requirements, if after the issuance of the CID Bonds for Phase 2, the aggregate principal amount of CID Bonds issued for Phase 1 and Phase 2 of the Project is less than \$30,000,000, then Developer may receive an amount equal to the difference between the principal amount of CID Bonds actually issued for the Project and \$30,000,000 (the "CID Gap Amount") as follows:

(x) if and to the extent that all of the CID Bonds issued for CID District 1 are paid in full, then thereafter Developer may receive reimbursements of CID Sales Tax as Pay-As-You-Go CID Financing for Phase 1 CID Project Costs, subject to the limitations set forth 4.03(f) and (g) below, and subject to a cap on CID Sales Tax proceeds paid to Developer for Phase 1 CID Project Costs equal to the CID Gap Amount minus any CID Sales Tax proceeds paid to Developer pursuant to subsection (y) below; and

(y) if and to the extent that all of the CID Bonds issued for CID District 2 are paid in full, then thereafter Developer may receive reimbursements of CID Sales Tax as Pay-As-You-Go CID Financing for Phase 2 CID Project Costs, subject to the limitations set forth 4.03(f) and (g) below, and subject to a cap on CID Sales Tax proceeds paid to Developer for Phase 2 CID Project Costs equal to the CID Gap Amount minus any CID Sales Tax proceeds paid to Developer pursuant to subsection (x) above.

(f) Percentage Limitation on CID Disbursements. The parties understand and agree that the CID Proceeds shall also be subject to the Percentage Limitation set forth in Section 4.02(e) hereof, if applicable; provided however, the parties hereby agree that any Pay-As-You-Go CID Financing pursuant to Section 4.03(e)(ii) above shall not be subject to the Percentage Limitation

(g) Termination of CID Sales Tax. Subject to all Applicable Laws and Requirements, (i) no CID Sales Taxes shall be collected in CID District 1 after that date which is the earlier of the date that the CID Bonds for Phase 1 have been paid in full or twenty two (22) years from the date of implementation of the CID Sales Tax for CID District 1, provided however that if Developer shall be entitled to Pay-As-You-Go CID Financing pursuant to Section 4.03(e)(ii) above, such Pay-As-You-Go CID Financing shall terminate on that date which is the earlier of the date that the CID Gap Amount is paid in full, or twenty two (22) years from the date of implementation of the CID Sales Tax for CID District 1; and (ii) no CID Sales Taxes shall be collected in CID District 2 after that date which is earlier of the date that the CID Bonds for Phase 2 have been paid in full or twenty two (22) years from the date of implementation of the CID Sales Tax for CID District 2, provided however that if Developer shall be entitled to Pay-As-You-Go CID Financing pursuant to Section 4.03(e)(ii) above, such Pay-As-You-Go CID Financing shall terminate on that date which is the earlier of the date that the CID

Gap Amount is paid in full, or twenty two (22) years from the date of implementation of the CID Sales Tax for CID District 2.

(h) No Relocation Within a Certain Radius of the CID Districts. Notwithstanding anything to the contrary found in the provisions of Section 4.02(j) or elsewhere in the Agreement, Developer hereby agrees that it shall not lease or sell any space in the CID Districts to any Person who is closing a retail store which conducts its business within the same retail category at a location that is within a six and a half (6.5) mile radius of the outside boundary of the CID Districts and within the City (the "CID Relocation Radius"). Nothing herein shall prevent such a retail store from opening an additional store within the CID Districts, as long as the original store(s) within the CID Relocation Radius remain open for business for at least one (1) year after the opening date of the new store within the CID Districts. If and to the extent that Developer violates this covenant and does relocate a store that is within the CID Relocation Radius to the CID Districts without the consent of the City, then Developer hereby understands and agrees that the City shall have the remedies set forth in Article VIII of this Agreement in connection with any such violation.

Section 4.04. Conditions Precedent to Payment or Reimbursement from STAR Bonds or CID. Developer hereby understands and agrees that it shall not receive any reimbursements for Project Costs from STAR Bonds, CID Bonds or Pay-As-You-Go CID Financing, unless and until the conditions precedent set forth below have been fully satisfied as determined by City in its sole reasonable discretion:

(a) In accordance with Section 4.05 hereof, City has approved Certificates of Expenditure for all such Project Costs; and

(b) Developer shall be in full compliance with the terms and conditions of this Agreement and shall not be in default hereunder, nor shall there be conditions, actions or omissions of Developer which will, with the passage of time, become occurrences of default hereunder.

Section 4.05. Certificates of Expenditure.

(a) Certificate of Expenditure. In order to receive reimbursement for Project Costs from the Public Financing Proceeds, Developer shall submit a Certificate of Expenditure in the form attached hereto as **Exhibit N** attesting to the expenditure of Project Costs in accordance with the procedure set forth below. Developer shall submit a separate Certificate of Expenditure each month, but no more than one time per month, for each of the STAR Bond Revenue Fund, CID Bond Revenue Fund 1, CID Bond Revenue Fund 2, and (if applicable) the Pay/Go CID Fund. Additionally, Developer shall require that no transferee, purchaser, or lessee of any portion of the Districts otherwise provide Certificates of Expenditures to the City, except through Developer or except as otherwise approved by the City.

(b) Procedures for Certification of Expenditures. The City or a representative of the City shall review Certificates of Expenditures to be made in connection with the Project Costs for approval or denial of the same as follows:

(i) The Developer shall submit to the City a Certificate of Expenditure setting forth the amount for which certification is sought and identification of the relevant Project Costs and the appropriate source of Public Financing Proceeds for payment of such Project Costs. Developer shall certify to the City that it shall only use the Public Financing Proceeds for the designated Project Costs described in the Certificate of Expenditure and that such proceeds shall not be commingled with other sources or uses. For instance, Developer shall certify and be responsible for ensuring that CID Bond Proceeds from CID District 1 are not in any way commingled or improperly used for Project Costs incurred in CID District 2.

(ii) The Certificate of Expenditure shall be accompanied by such bills, contracts, invoices, lien waivers and such other evidence as the City shall reasonably require documenting appropriate payment.

(iii) The City reserves the right to have its engineer or other agents, consultants or employees inspect all the items set forth in subsection (ii) above as reasonably necessary to determine that the expenses therein are valid, eligible and properly incurred and constitute as Eligible STAR Bond Expenses and/or CID Project Costs.

(c) Modification to Procedures and Requirements. The parties hereby understand and agree that the process to approve Certificates of Expenditure and properly disburse the Public Financing proceeds is important to the State, the City and the Developer for various reasons. Accordingly, the parties hereby understand and agree that (i) the City may retain outside third party representatives to manage and/or provide oversight to this process and Developer hereby agrees to fully cooperate with any such third party representatives in this process and to pay the City's costs for retaining such third parties pursuant to Section 9.02 hereof, and (ii) the City may modify the requirements and procedures set forth herein as it deems reasonably necessary from time to time in order to make certain that the Public Financing proceeds are properly accounted for and disbursed to the Developer in accordance with Applicable Laws and Requirements and the highest standards of fiscal responsibility and accountability.

Section 4.06. Issuance of Obligations. It is anticipated that the STAR Bonds and CID Bonds (collectively, "Obligations") for Phase 1 may be issued around the time that this Agreement is executed and that the City, in its sole discretion, may authorize the issuance of Obligations as provided for under Applicable Laws and Requirements, including without limitation the STAR Bond Act and/or CID Act and the City's Economic Development Policy. Additionally, if and to the extent that market conditions shall in the future exist which allow for the issuance of additional Obligations for Phase 2 of the Project, the terms and conditions of this Section 4.06 (including the conditions set forth in Section 4.06(d) below) shall govern and control the issuance of such Obligations.

(a) Terms and Interest Rate. Any such Obligations shall be issued in an amount, on terms and at an interest rate or rates determined by market conditions at the

time of issuance and under terms and conditions deemed acceptable by the City in its sole discretion.

(b) Underwriters. The underwriter(s) for any Obligations shall be selected by the City. The City shall solicit input from Developer as it relates to all components of the issuance of Obligations in an effort to maximize the size of the issuance, but the City shall have sole right, power and authority to determine the amount, terms, interest rate or rates and other terms and conditions of the Obligations

(c) No City Guaranty or Credit Enhancement. The City shall not in any way guaranty or lend its credit to secure the Obligations.

(d) Conditions. Additionally, issuance of any Obligations for Phase 2 shall be conditioned upon Developer complying with the terms of this Agreement and the following conditions:

(i) Developer shall provide such documentation to the City as is required by the underwriter to demonstrate that the development of the Districts will generate, through Public Financing Proceeds, revenue sufficient to pay debt service on the Obligations amortized through the Term of this Agreement with a coverage factor that the underwriter determines is necessary and that is agreed to by Developer and the City

(ii) the terms of the Obligations, including but not limited to limitations on sales and transfers to sophisticated investors only, shall be acceptable to the City in its sole discretion.

(iii) the underwriter shall hold the Obligations in its own account or be responsible for marketing and selling the Obligations, and the City shall be under no obligation to issue Obligations if such Obligations are not marketable after reasonable effort by the underwriter.

(iv) the Kansas Attorney General approves the transcript of proceedings relating to the Obligations as required by Applicable Laws and Requirements.

(v) Bond counsel selected by the City provides to the City an opinion to the effect that the Obligations have been validly issued under Kansas law and, if applicable, the interest on the Obligations is exempt from Kansas and federal income taxation, subject to the standard exceptions.

(e) Statutory Bond Requirements. Developer and the City agree that they will comply with all reasonable requirements, including any statutory requirements, associated with the issuance, sale, purchase and delivery of any Obligations. Without limiting the generality of the foregoing, the parties hereby recognize and agree that K.S.A. 12-17,176 of the STAR Bond Act requires an annual audit by a certified public accountant of the use of the STAR Bond Proceeds by the City. Developer hereby

agrees that it shall cooperate with each such audit and reimburse the City for all of the costs and expenses associated with such audits.

(f) Discretion of the City Council. Further, Developer understands and agrees that the City cannot bind governing bodies of the City regarding the authorization, issuance, sale or delivery of Obligations and that nothing contained herein shall in any way bind the City Council of the City to accept or reject any proposal to authorize, issue, sell or deliver Obligations, which decision shall unconditionally remain within the sole discretion of such City Council.

(g) Privately Placed Obligations. The parties agree that, subject to the approval of the City, the Obligations may be privately placed and sold only to (i) institutional investors including, without limitation, insurance companies, funds and state or federally chartered financial institutions, or (ii) "accredited investors" as such term is defined by the Securities Exchange Commission ("Qualified Third Parties").

(h) Public Financing Cap. Any Obligations shall be in amounts which are less than or equal to the limitations set forth in Sections 4.02(a) and 4.03(a), respectively.

Section 4.07. Payment of Private Project Costs.

(a) Developer's private debt and equity funding of approximately \$322,000,000 or such other amount necessary to construct the Project ("Developer's Private Contribution") shall be the responsibility of the Developer and not the City. Developer shall be solely responsible for securing Developer's Private Contribution.

(b) In the event that the Public Financing Proceeds contemplated by the Project Budget for payment of the Project Costs which are to be paid with Public Financing Proceeds as set forth herein are in any way insufficient in any respect to pay all such Project Costs (a "Public Financing Proceeds Shortfall"), then Developer agrees that it will, from time to time as necessary, pay any and all of said Public Financing Proceeds Shortfall and will complete such Improvements, lien free.

Section 4.08. Economic Development Revenue Bonds. Subject to all Applicable Laws and Requirements and subject further to compliance by Developer with all City requirements for the issuance of EDRBs, the parties hereby agree that Developer may use EDRB financing to obtain an exemption on sales taxes for construction materials, equipment and furnishing for the Project. However, the parties hereby understand and agree that EDRB financing shall not be used for abatement of ad valorem taxes for the Project or the Project Site. Further, Developer hereby understands and agrees that: the EDRBs for Phase 1 shall be redeemed and paid in full upon the earlier of (a) twelve (12) months from the date of completion of the Improvements for Phase 1, or (b) December 31, 2015; and the EDRBs for Phase 2 shall be shall be redeemed and paid in full upon the earlier of (x) twelve (12) months from the date of completion of the Improvements for Phase 2, or (y) December 31, 2021.

ARTICLE V. CONSTRUCTION OF IMPROVEMENTS

Section 5.01. Architect. Developer shall select such architects, engineers and other design professionals and consultants, in Developer's sole discretion, as are necessary to provide construction documents and construction oversight services for the construction of the Project. All agreements respecting architectural and engineering services shall be between Developer and such Persons, and a representative of the City shall have a right to have its representatives privately review a copy of each such agreements upon request of the City.

Section 5.02. General Contractor and Construction Documents. Developer has selected McCown Gordon Construction (the "General Contractor") as general contractor for the Improvements. Developer represents that its construction documents relative to the Improvements (the "Construction Documents") require and provide for (a) the design, development, construction, equipping and completion of the Improvements in Phase 1 in accordance with the Project Plan, the Development Plan and all Applicable Laws and Requirements, (b) guaranteed Substantial Completion of Phase 1 not later than the Phase 1 Completion Date as set forth in the Performance Milestones attached hereto as **Exhibit G**, and (c) surety of performance and labor and material payment bonds as set forth in Section 5.07 below. Developer shall, as soon as practicable, provide the City with an opportunity for its representatives to privately review the Construction Documents.

Section 5.03. Construction of Improvements. Developer agrees that it shall cause the Improvements to be constructed and completed substantially in accordance with this Agreement. In addition, the Construction Documents, and any other contracts for the design, development, acquisition, construction and completion of the Improvements, as well as all other contracts or agreements respecting the Improvements, shall comply and conform to all Applicable Laws and Requirements.

Section 5.04. Commencement of Construction: Developer hereby agrees that Developer shall commence construction of (a) Phase 1 of the Project on or before that date which is thirty (30) days after Closing (the "Phase 1 Commencement Date") as set forth in the Performance Milestones attached hereto as **Exhibit G**, and (b) Phase 2 of the Project on or before the Phase 2 Commencement Date set forth in the Performance Milestones attached hereto as **Exhibit G**, or at such other time as may be agreed upon by the Developer and the City in writing.

Section 5.05. Completion Dates. Developer hereby agrees that, subject only to Force Majeure and Section 2.04 hereof, Developer shall Substantially Complete construction of (a) Phase 1 of the Project on or before December 31, 2014 (the "Phase 1 Completion Date") as set forth in the Performance Milestones attached hereto as **Exhibit G**, and (b) the balance of Phase 2 of the Project on or before the Phase 2 Completion Date set forth in the Performance Milestones attached hereto as **Exhibit G**. In addition to the completion dates for Phase 2 set forth in subsections (b) above, Developer understands and agrees that it will maintain and keep the portions of the Project Area upon which Phase 2 will be constructed in an good and commercially marketable condition until Phase 2 is Substantially Complete.

Section 5.06. Permitted Modifications. Notwithstanding any provisions of this Agreement to the contrary, Developer shall have the right, in its sole discretion, to modify the

scope and physical parameters of the Project (each, a "Permitted Modification") if, and to the extent, that:

(a) Modifications are approved via the Planning Commission and/or Governing Body via the planning and zoning process or as required by Applicable Laws and Requirements; or

(b) Modifications are required to include within the Improvements new technologies or amenities which may become available during the time that the Project is being developed; or

(c) Modifications shall be allowed to the interior portions of the various buildings that constitute the Improvements.

Developer agrees that any such Permitted Modification shall be consistent, and comply, with Applicable Laws and Requirements. Developer shall give to the City reasonable prior notice of any Permitted Modifications. A Permitted Modification shall not require the consent of the City.

Section 5.07. Payment and Performance Bonds. The General Contractor shall be required under the Construction Documents to furnish and maintain in full force and effect performance and labor and material payment bonds in the full amount of the project cost, as set forth in the Construction Documents. Said bonds shall be in form and substance and issued by a corporate surety reasonably satisfactory to Developer and the City. Said bonds shall be in favor of Developer and the City.

Section 5.08. Periodic Meetings with the City. From the Effective Date until Substantial Completion of the Improvements, Developer hereby agrees to meet with the City and/or its agents or consultants at such intervals as Developer, the City and any such designee shall mutually agree or reasonably request, and not more frequently than monthly, to review and discuss the design, development and construction of the Improvements and the Project.

ARTICLE VI. ASSIGNMENT AND TRANSFER

Section 6.01. Assignments by Developer. The rights, duties and obligations hereunder of the Developer may not be assigned, in whole or in part, to another entity, without the prior approval of the City's governing body, which approval may be granted or withheld in its sole discretion based upon the governing body's findings about whether or not the proposed assignee shall have the commercially reasonable qualifications, experience and financial responsibility which are necessary and adequate to fulfill the obligations of the Developer with respect to the portion of the Project and/or this Agreement being transferred. The City hereby understands and agrees that any approval of the City's governing body pursuant to the prior sentence shall release Developer from the obligations set forth in this Agreement. Any proposed assignee shall, by instrument in writing, for itself and its successors and assigns, and expressly for the benefit of the City, assume all of the obligations of the Developer under this Agreement and agree to be subject to all the conditions and restrictions to which the Developer is subject (or, in the event the transfer is of or relates to a portion of the Project, such obligations, conditions and restrictions to

the extent that they relate to such portion). The Developer agrees, at Developer's cost, to promptly record all assignments in the office of the Department of Records and Tax Administration of Johnson County, Kansas, in a timely manner following the execution of such agreements.

Section 6.02. Successors and Assigns. The Parties' obligations pursuant to this Agreement, unless earlier satisfied, shall inure to and be binding upon the heirs, executors, administrators, successors and assigns of the respective parties as if they were in every case specifically named and shall be construed as a covenant running with the land, enforceable against the purchasers or other transferees as if such purchaser or transferee were originally a party and bound by this Agreement. Notwithstanding the foregoing, no tenant of any part of the Project shall be bound by any obligation of the Developer solely by virtue of being a tenant; provided, however, that no transferee or owner of property within the Project except the Developer shall be entitled to any rights whatsoever or claim upon the reimbursements from the Public Financing Proceeds except as specifically authorized in writing by the Developer and the City.

Section 6.03. Excluded Encumbrances and Transfers. The foregoing restrictions on assignment, transfer and conveyance and the restriction in this Article VI shall not apply to (a) the transfer of that portion of the Project Area that will be owned and operated by the Museum Owner, (b) the transfer of that portion of the Project Area that will be owned and operated by the Residential Owner (for the Phase 1 Residential Units) and the transfer of that portion of the Project Area that will be owned and operated by a Person with similar qualifications, experience and financial responsibility to that of the Residential Owner (for the Phase 2 Residential Units); (c) any security interest granted to secure indebtedness to any construction or permanent lender, (d) rental and leasing of portions of the Project Area in the normal course of Developer's business to Store Operators for the uses permitted under the terms of this Agreement, (e) the sale, conveyance or other transfer of title of portions of the Project Area in the normal course of Developer's business to Store Operators for the uses permitted under the terms of this Agreement, provided however that any such sales, transfers or conveyances shall not exceed fifty percent (50%) of the land area in the Project Area in the aggregate without approval of the City as set forth in Section 6.01 hereof; or (f) any transfer of the Property and/or some or all of the rights and/or obligations under this Agreement to a person or entity that is controlled by Developer, which Developer controls, or that is under common control with Developer (an "Affiliate"), provided that any such Affiliate shall have a net worth which is equal to or greater than that of the Developer immediately prior to such transfer. Developer hereby agrees to provide the City with written notice of any transfer permitted by this Section 6.03 within ten (10) days after such transfer.

ARTICLE VII. USE AND MAINTENANCE OF THE PROJECT

Section 7.01. Term. The Term of this Agreement (the "Term") shall commence on the Effective Date and shall expire upon that date on which both of the following shall have occurred:

- (a) the earlier of (i) twenty (20) years from the date that the Project Plan is approved by the City; or (ii) amortization and payment in full of all STAR Bonds;

and

(b) the earlier of: (i) twenty two (22) years from the date that the CID Sales Tax is first collected in CID District 1, or twenty two (22) years from the date that the CID Sales Tax is first collected in CID District 2, whichever occurs last; and (ii) subject to the limitations set forth in Section 4.03(g), the amortization and payment in full of all CID Bonds and termination of any Pay-As-You-Go CID Financing.

Section 7.02. Use and Operation. Developer covenants that at all times during the Term it will, at its expense:

(a) Conduct its business at all times in a dignified quality manner and in conformity with the first class industry standards and maximize sales and/or rentals and to help establish and maintain a high reputation for the Project.

(b) Developer shall design, construct and complete the Museum, but shall thereafter transfer the same to the Museum Owner pursuant to Section 6.03(a) hereof. Thereafter, the Museum Owner shall own and operate the Museum. It is further contemplated that the Museum Owner shall have an agreement the AMNH for the exhibits of the Museum, which provides, among other things (i) an exclusive radius of three hundred (300) mile in which the Museum shall be the only venue for exhibition of AMNH exhibits, (ii) maintenance of permanent exhibits and at least 7,000 square feet of traveling exhibits which shall rotate at least twice per year, and (iii) AMNH Science Bulletins or other similar educational correspondence and amenities for the patrons of the Museum. Developer hereby understands and agrees that as a condition of Closing, Developer shall deliver to the City an agreement with the Museum Owner which shall require the Museum Owner to comply with the terms and conditions of this Agreement which apply to the Museum (the "Museum Owner Agreement"), the form of which is hereby attached as **Exhibit Q**.

(c) Developer shall at all times maintain the Wetlands and Trails pursuant to the terms and conditions of that certain maintenance agreement between the City and Developer, a copy of which is attached hereto as **Exhibit O** (the "Wetlands Maintenance Agreement").

(d) Owner plans to transfer the portion of the Project Area upon which Phase 1 Residential Units shall be built to PrairieFire Apartments, LLC, an Indiana limited liability company, or an owner/operator with similar qualifications, experience and financial responsibility (the "Residential Owner"), and the Residential Owner will design, construct and operate the Residential Units thereafter. Developer hereby understands and agrees that as a condition of Closing, Developer shall deliver to the City an agreement with the Residential Owner which shall require the Residential Owner to comply with the terms and conditions of this Agreement which apply to the Phase 1 Residential Units (the "Residential Owner Agreement"), the form of which is hereby attached as **Exhibit R**.

(e) Developer will use commercially reasonable efforts to secure a binding agreement from each tenant, owner, user or operator (a "Store Operator") of a store in

the Retail Space (individually, a "Store Operator Agreement" and collectively, the "Store Operator Agreements") as follows:

(i) Subject to market demand and the ability to lease the Improvements, Developer shall use commercially reasonable efforts to include in the Store Operator Agreements a covenant to: occupy as soon as possible and thereafter continuously operate and conduct business in one hundred percent (100%) of such Store Operator's portion of the Retail Space, and without interruption, use, occupy and operate all of the same, other than minor portions thereof as are reasonably required for maintenance, storage and office purposes; furnish and install all trade fixtures and permitted signs; and operate in accordance with first-class industry standards and in such manner as to maximize sales and to help establish and maintain a high reputation for the Project.

(ii) Developer shall use commercially reasonable efforts to provide in the Store Operator Agreements provisions as to the restrictions set forth in Section 7.04 (Use Restrictions) and 7.05(a) (Sales and Use tax Reporting) hereof.

(f) Developer recognizes that its covenants in this Section 7.02 are a material consideration to the City, in order that Developer might maximize potential sales possible from the Districts during the Term.

(g) Developer acknowledges that damages for the breach of the covenants contained in this Section 7.02 may be difficult to ascertain. Accordingly, in the event of a breach of the covenants contained in this Section 7.02, then:

(i) The City shall be entitled to pursue such damages for any breach of the covenants contained in this Section 7.02 as it elects; however, the City shall not be entitled only to damages, but also to injunctive relief to enforce the covenants contained in this Section 7.02 to compel performance of the terms hereof, and to restrain and enjoin any breach or threatened breach thereof; and

(ii) Without limiting the generality of Section 8.04 of this Agreement, the City shall be entitled to all reasonable costs and charges, including attorneys' fees, lawfully and reasonably incurred by or on behalf of the City in connection with the enforcement of the covenants contained in this Section 7.02.

Section 7.03. The Owner. The parties hereby agree as follows:

(a) Developer hereby understands and agrees that it shall cause the Owner to fully comply with and be subject to the terms and conditions of this Agreement and that any breach of the covenants, terms and conditions set forth herein by or through the Owner shall be deemed to be a default of Developer herein and subject to the terms and conditions of Article VIII hereof.

(b) The Owner hereby agrees that the Owner and the Project Site shall be subject to all of the terms and conditions of this Agreement and the Owner shall not

take any action or engage in other conduct which would result in a breach of the covenants, terms and conditions set forth herein.

(c) Without limiting the generality of the foregoing, the Developer and the Owner hereby agree as follows:

(i) The City shall have a right to review the Ground Lease, and any amendments or letter agreements regarding the Ground Lease or the terms thereof upon request from the City, provided that the review of the Ground Lease shall be confidential in nature and take place at the offices of the Developer, the Owner or their representatives.

(ii) The Developer and the Owner will not assign, alter, amend, or modify the Ground Leases nor terminate the Ground Leases without the prior written consent of the City;

(iii) In the event of any default or alleged default under the Ground Lease, the Developer and/or the Owner, respectively, shall, before exercising any remedy at law, equity or under the Ground Lease, give written notice to the City specifying the default and the steps necessary to cure same and the City shall have thirty (30) days after delivery of such notice to cure such default or cause it to be cured if (and only if) the City elects to do so in its sole and absolute discretion.

(iv) In the event that the Owner shall at any time terminate the Ground Lease, the Owner hereby understands and agrees that it shall be subject to and assume all of the rights, duties and obligations of the Developer hereunder.

Section 7.04. Use Restrictions. Developer hereby understands and agrees that the nature of the Project to be developed pursuant to this Agreement was critical to the approval of the Public Financing offered by the City in connection with this Agreement. Accordingly, Developer and City hereby agree that the following uses shall be prohibited on the Project Area, and the Owner shall include such restrictions in a restrictive covenants document (the "Restrictive Covenants") which shall be recorded against the Project Area on or before Closing:

(a) Any use which is offensive by reason of odor, fumes, dust, smoke, noise, or pollution, or which constitutes a nuisance or is hazardous by reason of fire or explosion, or injurious to the reputation of the Project. No oil, gasoline or flammable liquid shall be stored within the Project Area.

(b) A gas station or car wash.

(c) A facility primarily used as a storage warehouse operation, mini-warehouse, or freight terminal.

(d) A facility for the assembling, manufacturing, refining, or smelting. Drilling, mining, exploring or the producing of oil, gases or other minerals.

(e) Any use which involves the raising, breeding, or keeping of any animals or poultry except on a temporary basis, in which case such areas are to be cleaned and

maintained by the owner of such portion of the Project Area so that it is not a nuisance to any other adjacent property owner.

(f) Any pawn shop, flea market or "second hand" store (but this provision shall not restrict the sale of high quality antiques or of high quality, but previously owned art, rugs, jewelry or similar wares, all of which are specifically permitted).

(g) Salvage or reclamation yards for the storage of inoperative vehicles.

(h) Any automobile, truck, trailer or recreational vehicle with outside sales, leasing, or display unless approved by the City or in conjunction with promotions, displays and other similar marketing activities, subject, however, to compliance with all Applicable Laws and Requirements.

(i) Any store selling discounted tobacco products or tobacco-smoking paraphernalia; provided however that the following is not intended to prohibit a first-class cigar shop or first-class, private clubs which allow the sale and consumption of tobacco products.

(j) Any dumping, disposing, incineration or reduction of garbage; provided, however, this prohibition shall not be applicable to garbage compactors located near the rear of any building within the Project Area.

(k) Pay-day or title loan facilities.

(l) Any fire sale, bankruptcy sale (unless pursuant to a court order) or auction house operation (but this provision shall not restrict the absolute freedom of an owner of any portion within the Project Area to determine its own selling prices nor shall it preclude second-hand sales or the conduct of periodic seasonal sales, promotional or clearance sales, all of which are specifically permitted).

(m) Any central laundry, or laundromat; provided, however, this prohibition shall not be applicable to a drop-off and pickup facility, or a central laundry or laundromat that complies with CERCLA, RCRA and other Applicable Laws and Requirements (as defined herein).

(n) Any automobile, truck, trailer or recreational vehicle with outside sales, leasing, or display unless approved by the City or in conjunction with promotions, displays and other similar marketing activities, subject, however, to compliance with all Applicable Laws and Requirements.

(o) Any body shop repair operation, engine repair or vehicle repair facility for all vehicles, including motorcycles.

(p) Any establishment selling or exhibiting sexually-oriented materials or which sells drug-related paraphernalia or which exhibits either live or by other means to any degree, nude or partially clothed dancers or wait staff; except that this provision shall not be deemed to preclude the operation within the Project Area of either a nationally or regionally recognized book store, or a drug store or pharmacy, or a

department within a retail store offering for sale its usual or customary inventory of books, magazines and/or related pharmaceutical materials.

(q) Any seasonal tax preparation facilities.

(r) Any precious metals facilities.

Within ten (10) days of the Effective Date, Developer, the Owner and the City shall execute a document which shall memorialize the restrictions set forth in this Section 6.02(d) and record the same against the real property within the District, which restrictions shall be effective and run with the land for the Term of this Agreement.

Section 7.05. Continuing Disclosures; Sales and Use Tax Reporting.

(a) Reporting Sales and Use Taxes.

(i) Developer hereby agrees that the Restrictive Covenants shall require that, during the Term of this Agreement, each owner and tenant of any parcel located within the Project Area shall provide the City and/or State, or their designee(s), with documentation of sales tax receipts for each such business within the Project, indicating the type and amount of the sales taxes and/or use taxes paid by such business for the particular location within the Project Area (and not in the aggregate). During the Term of this Agreement, the Restrictive Covenants shall additionally cause owners and new tenants of any parcels located within the Project Area to provide to the City and/or State, or their designee(s), true and correct copies of all sales tax and/or use tax returns filed with the State with respect to sales in, on or from such business, the same to be provided simultaneously with, or within ten (10) days after such filing.

(ii) Developer shall use commercially reasonable efforts to cause any and all Store Operator Agreements entered into by Developer and any tenant within the Project to contain a provision requiring such tenant to comply with the provisions of the Restrictive Covenants. Developer will not be responsible for enforcement of such provision nor subject to any remedy hereunder for non-compliance with these provisions. If applicable and upon request, Developer shall, to the extent allowed by Applicable Laws and Requirements, provide to the Kansas Department of Revenue and the trustee for any Obligations issued pursuant to Article IV hereof, the names of all vendors operating in, on or from the Project, their Kansas sales tax identification number and their dates of operation.

(iii) Developer shall not take any actions or adopt any practices or procedures which are designed to eliminate, reduce, or divert in any way any sales taxes and/or use taxes payable to the City and/or State in connection with sales made or services from, in or on and about the Districts.

(iv) Pursuant to K.S.A. 12-17,174(a), the City shall request that the all of the sales, use and transient guest tax returns filed with the DOR in connection

with the STAR Bond District be provided to the Bond Trustee or its agents, and the Bond Trustee is required to keep all such information confidential pursuant to the terms and conditions of K.S.A. 12-17,174(a). Developer hereby understands and agrees that the City shall have a right to interact with DOR and/or the Bond Trustee about such information, but the City otherwise agrees to keep information provided to the City confidential, except to the extent of Applicable Law and Requirements and except as compelled by a court order.

(b) Continuing Disclosures.

(i) The City understands and agrees that the City will be required to execute and deliver Continuing Disclosure Agreements with the Dissemination Agent named therein in connection with the STAR Bonds and the CID Bonds, in which the City will agree to provide information during the Term of this Agreement about the sales and use tax receipts, the application of such receipts to the payment of debt service on the applicable bonds and comparable matters.

(ii) The Developer understands and agrees that the Developer will be required to execute and deliver Continuing Disclosure Agreements with the Dissemination Agent named therein in connection with the STAR Bonds and the CID Bonds, in which the Developer will agree to provide information during the Term of this Agreement about the construction and development of each phase of the Project, leases of retail space including such information as identity and nature of business of tenants, lease terms and square footage of leased space, sales of retail space, retailers operating in the Project Area and comparable matters.

Section 7.06. Maintenance and Use. During the Term, Developer shall cause the Improvements, the Project and all other of its property used or useful in the conduct of its business and operations within the Project Area, to be maintained, preserved and kept in good repair and working order and in a safe condition, consistent at all times with other similarly situated retail, office, hotel and other mixed-use space in the greater metropolitan Kansas City area, and will make all repairs, renewals, replacements and improvements necessary for the safe, efficient, and professional conduct of its business and operations within the Project Area. Nothing in this Section 7.06 shall preclude Developer from removing or demolishing any building or buildings, if in its reasonable judgment, such removal or demolition is desirable in the conduct of its business, and as long as the same does not materially adversely affect the value of the Project or Developer's ability to (i) perform its obligations under this Agreement, or (ii) generate Incremental Taxes within the Districts. Developer may make additions, alterations and changes to the Project so long as such additions, alterations and changes are made in compliance with all Applicable Laws and Requirements, this Agreement, the Project Plan, the Development Plan, and as long as the same do not materially adversely affect the value of the Project or Developer's ability to perform its obligations under this Agreement, or generate Incremental Taxes within the Districts. Developer agrees to set aside on its books such commercially reasonable reserves for future maintenance and capital expenditures. Without limiting the generality of the foregoing, Developer hereby understands and agrees that it shall execute, deliver and fully comply with the terms and conditions of that certain Covenant to Maintain Private Parking Facilities, the form of which is attached hereto as **Exhibit P**.

Section 7.07. Compliance. Developer shall conduct its affairs and carry on its business and operations in such a manner as to comply with all Applicable Laws and Requirements, and to observe and conform to all valid orders, regulations or requirements (including, but not limited to, those relating to safety and health) of any Government Authorities applicable to the conduct of their business and operations and the ownership of the Project. Developer agrees to promptly pay any and all fees and expenses associated with any safety, health or other inspections required under this Agreement or imposed by Applicable Law and Requirements. Provided, however, that nothing contained in this Agreement shall require Developer to comply with, observe and conform to any such law, order, regulation or requirement of any Government Authorities so long as the validity thereof shall be contested by Developer in good faith by appropriate proceedings, and provided that Developer shall have set aside on its books adequate reserves in accordance with GAAP or secured adequate bonding with respect to such contest and such contest shall not materially impair the ability of Developer to meet its obligations under this Agreement.

Section 7.08. Payment of Taxes and Liens. The Parties hereby agree as follows:

(a) **Payment of Property Taxes.** During the Term of this Agreement, Developer, Owner and Guarantor and their respective Affiliates shall pay when due all real estate taxes and assessments on the property it owns within the City. In the event that the Developer, Owner, Guarantor or their Affiliates shall fail to pay all such applicable real estate taxes and assessments after any notice and cure periods set forth in Section 8.03 hereof, the parties understand and agree that, among other things, the City may (i) terminate the EDRB financing, and/or (ii) suspend all reimbursements of Project Costs through Pay-As-You-Go CID Financing during any time that such real estate taxes and assessments on the property owned by Developer, Owner, Guarantor or their respective Affiliates within the City remain unpaid. Notwithstanding the foregoing, nothing contained in this Agreement shall prohibit the Developer, Owner, Guarantor or their Affiliates from contesting the assessed value of the properties, improvements or the taxes thereon in good faith by appropriate proceedings; provided however that (i) each such party shall pay any and all amounts that are contested under protest while any such proceedings are pending, and (ii) the City shall suspend all reimbursements of Project Cost through Pay-As-You-Go CID Financing during any time that such proceedings are pending final resolution. The Developer, Owner and any other owners of real property within the Districts shall promptly notify the City in writing of a protest of real estate taxes or valuation of the Developer's or such other owners' property within the Project Area.

(b) **Liens.** Developer and Owner further agree that no mechanics' or other liens shall be established or remain against the Project or the property within the Project Area, or the funds in connection with any of the Project, for labor or materials furnished in connection with any acquisition, construction, additions, modifications, improvements, repairs, renewals or replacements so made. However, neither Developer nor Owner shall be in default if mechanics' or other liens are filed or established and the Developer or the Owner contests in good faith said mechanics' liens and in such event may permit the items so contested to remain undischarged and unsatisfied during the period of such contest and any appeal therefrom.

Section 7.09. Payment of Obligations. During the Term, Developer shall promptly pay or otherwise satisfy and discharge all of its obligations and all demands and claims against it as and when the same become due and payable, unless the validity, amount or collectability thereof is being contested in good faith or unless the failure to comply or contest would not materially impair its ability to perform its obligations under this Agreement nor subject any material part of the Project Area to loss or forfeiture.

Section 7.10. Licenses and Permits. During the Term, Developer shall procure and maintain all licenses and permits, and conduct or cause to be conducted, all inspections and/or investigations required by Applicable Laws and Requirements or otherwise necessary in the operation of its business and affairs in, on or about the Project and the Project Area; provided, however, that Developer shall not be required to procure or maintain in effect any right, license or accreditation that Developer and the City shall have determined in good faith and subject to Applicable Laws and Requirements, is not in the best interests of Developer and is no longer necessary in the conduct of its business and that lack of such compliance will not materially impair the ability of Developer to pay or perform its obligations under this Agreement.

Section 7.11. Damage, Destruction or Condemnation.

(a) In the event of damage to or destruction of any portion of the Project resulting from fire or other casualty during the Term, or in the event any portion of the Project Area is condemned or taken for any public or quasi-public use or title thereto is found to be deficient during the Term, the net proceeds of any insurance relating to such damage or destruction, the net proceeds of such condemnation or taking or the net proceeds of any realization on title insurance shall be paid into, and used in accordance with a construction escrow agreement reasonably satisfactory to the City and Developer ("Casualty Escrow").

(b) If, at any time during the Term, the Project or any part thereof shall be damaged or destroyed by a Casualty (the "Damaged Facilities"), Developer, at its sole cost and expense, shall commence and thereafter proceed as promptly as possible to repair, restore and replace the Damaged Facilities as nearly as possible to their condition immediately prior to the Casualty and shall be entitled to draw upon the Casualty Escrow for payment of said costs.

(c) If at any time during the Term, title to the whole or substantially all of the Project Area shall be taken in condemnation proceedings or by right of eminent domain, Developer, at its sole discretion, may terminate this Agreement as of the date of such taking. For purposes of this Section 7.11(c), "substantially all of the Project Area" shall be deemed to have been taken if the City and Developer, each acting reasonably and in good faith, determine that the untaken portion of the Project Area, including the Parking Improvements, cannot be practically and economically used by Developer for the purposes and at the times contemplated by this Agreement.

(d) In the event of condemnation of less than the whole or substantially all of the Project Area during the Term, Developer, at its sole cost and expense, shall commence and thereafter proceed as promptly as possible to repair, restore and replace

the remaining part of the Improvements, as nearly as possible, to their former condition, and shall be entitled to draw upon the Casualty Escrow for payment of said costs.

(e) Nothing in this section will require the Developer to expend funds in excess of the Casualty Escrow.

Section 7.12. Access. During the Term, Developer hereby recognizes, acknowledges and agrees that the City, and its duly authorized representatives and agents, shall have the right to enter the portions of the Project Area at reasonable times and upon reasonable notice, to substantiate compliance with this Agreement or, to the extent Developer has failed to cure any breach within applicable notice and cure periods, to cure any defaults under this Agreement. In exercising its rights hereunder, the City shall use reasonable efforts to avoid unreasonable interference with the operation of the Project. Except as otherwise provided in this Agreement, the City shall pay all costs it incurs under this provision. Nothing contained in this Section 7.12 shall restrict or impede the right of the City to enter the Project Area pursuant to any Applicable Laws and Requirements.

Section 7.13. Power of the City. Notwithstanding anything set forth herein to the contrary, no provision contained herein shall in any manner diminish or usurp the inherent rights and powers of the City to act in its capacity as a public body. Further, nothing herein shall relieve Developer from complying with all Applicable Laws and Requirements

ARTICLE VIII. DEFAULT AND REMEDIES

Section 8.01. Default by the City. The City shall be in default under this Agreement if the City fails to keep or perform any covenant or obligation herein contained on the City's part to be kept or performed, and the City fails to remedy the same within thirty (30) days after Developer has given the City written notice specifying such failure and requesting that it be remedied; provided, however, that if any event of default shall be such that it cannot be corrected within such period, it shall not constitute an event of default if corrective action is instituted by the City within such period and diligently pursued until the default is corrected.

Section 8.02. Developer's Remedies Upon Default by the City. If a default by the City occurs under this Agreement and is continuing, Developer may take whatever action at law or in equity as may appear necessary or desirable to enforce performance and observance by the City of any provision of this Agreement, however, the City's liability for monetary amounts shall be limited to the actual amount, if any, in question, and under no circumstances shall the City be liable for any remote, punitive or consequential damages. The City's liability hereunder shall also be limited by Applicable Laws and Requirements.

Section 8.03. Default by Developer. Developer shall be in default under this Agreement if:

(a) Developer fails to make any of the payments of money required by the terms of this Agreement, and Developer fails to cure or remedy the same within ten (10) days after the City has given Developer written notice specifying such default; or

(b) Developer fails to keep or perform any covenant or obligation herein contained on Developer's part to be kept or performed, and Developer fails to remedy the same within thirty (30) days after the City has given Developer written notice specifying such failure and requesting that it be remedied; provided, however, that if any event of default shall be such that it cannot be corrected within such period, it shall not constitute an event of default if corrective action is instituted by Developer within such period and diligently pursued until the default is corrected; or

(c) Without limiting the generality of the foregoing, Developer shall assign or transfer the Project and/or this Agreement in violation of the terms and conditions set forth in Article VI; or

(d) Developer or Guarantor shall file a voluntary petition under any bankruptcy law or an involuntary petition under any bankruptcy law is filed against any such party in a court having jurisdiction and said petition is not dismissed within thirty (30) days or Developer, makes an assignment for the benefit of its creditors; or a custodian, trustee or receiver is appointed or retained to take charge of and manage any substantial part of the assets of Developer and such appointment is not dismissed within sixty (60) days; or any execution or attachment shall issue against Developer whereupon the Districts, or any part thereof, or any interest therein of Developer under this Agreement shall be taken and the same is not released prior to judicial sale thereunder (each of the events described in this subsection being deemed a default under the provisions of this Agreement); or

(e) Developer defaults on any of the terms and conditions set forth in the Bond Documents beyond any applicable notice and cure periods set forth therein; or

(f) Developer breaches the representations and warranties set forth in this Agreement and fails to cure or correct same within thirty (30) days of notice from the City.

For purposes hereof, the parties understand and agree that the term "Developer" as used in this Section 8.03 shall be deemed to include the Owner (or any Affiliates that own any portion of the Project Site).

Section 8.04. City's Remedies Upon Default by Developer. Upon the occurrence and continuance of a Developer default, the City shall have the following rights and remedies, in addition to any other rights and remedies provided under this Agreement or by law:

(a) Whenever any default by Developer shall have occurred and be continuing, subject to applicable cure periods as set forth above, the City may (i) refuse to approve any further Certificates of Expenditures and make any further disbursements of Public Financing Proceeds unless and until such default is cured by the Developer, and/or (ii) if the default occurs prior to Phase 2, elect not to allow any of Public Financing or EDRBs for Phase 2, and/or (iii) terminate this Agreement, and/or (iv) any remedies provided to the City under the Bond Documents. The rights and remedies reserved by the City hereunder and those provided by law shall be construed as

cumulative and continuing rights, no one of which shall be exhausted by the exercise of any one or more of such rights or remedies on any one or more occasions.

(b) The City may pursue any available remedy at law or in equity by suit, action, mandamus or other proceeding to enforce and compel the specific performance of the duties and obligations of the Developer as set forth in this Agreement, to enforce or preserve any other rights or interests of the City under this Agreement or otherwise existing at law or in equity and to recover any damages incurred by the City resulting from such Developer default.

(c) In the event of such default by Developer, the City may take such actions, or pursue such remedies, as exist hereunder or at law or in equity and Developer covenants to pay and to indemnify the City against all reasonable costs and charges, including attorneys' fees, lawfully and reasonably incurred by or on behalf of the City in connection with the enforcement of such actions or remedies.

(d) Notwithstanding anything set forth herein which is seemingly to the contrary, in the event of a default by a transferee which owns a portion of the Project Area pursuant to Section 6.01 or 6.03(a), (b), (d) or (e) hereof, the City shall not have the above-referenced remedies against the Developer or Guarantor, but rather, it is hereby understood and agreed that the City's recourse shall be solely against such transferee as the owner of such property and as the successor to Developer's obligations under this Agreement for that particular property.

(e) The parties hereby agree that if and to the extent that any default hereunder is limited to Developer's failure to perform or pay with respect to that particular Phase of the Project, and does not pertain to or affect the other Phase of the Project (and if and to the extent that such other Phase has already been Substantially Completed), then the City shall only be entitled to legal or equitable relief as to that particular Phase in which the default occurs. However, Developer hereby expressly understands and agrees that in the event of an uncured default in connection with Phase 1 of the Project which occurs prior to the Substantial Completion of Phase 2, the City's rights and remedies hereunder shall not be limited to Phase 1.

Section 8.05. Legal Actions.

(a) Institution of Legal Actions. Any legal actions related to or arising out of this Agreement must be instituted in the District Court of Johnson County, Kansas or, if federal jurisdiction exists, in the Federal District Court in the District of Kansas.

(b) Applicable Law. The laws of the State of Kansas shall govern the interpretation and enforcement of this Agreement.

(c) Acceptance of Service of Process.

(i) In the event that any legal action is commenced by the Developer against the City, service of process on the City shall be made by personal service upon the City Clerk or in such other manner as may be provided by law.

(ii) In the event that any legal action is commenced by the City against the Developer, service of process on the Developer or Agent shall be made by personal service upon an officer or agent of the Developer or Agent and shall be valid whether made within or without the State of Kansas or in such other manner as may be provided by law.

Section 8.06. Inaction Not a Waiver of Default. Any failures or delays by a party in asserting any of its rights and remedies as to any default shall not operate as a waiver of any default or of any such rights or remedies, or deprive such party of its right to institute and maintain any action or proceedings which it may deem necessary to protect, assert or enforce any such rights or remedies.

Section 8.07. Excusable Delays; Extension of Times of Performance.

(a) In addition to specific provisions of this Agreement, performance by a party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended, where the party seeking the extension has acted diligently and delays or defaults are due to events beyond the reasonable control of the party such as but not limited to: default of other party; war; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; Acts of God; acts of the public enemy; epidemics; quarantine restrictions; freight embargoes; lack of transportation; unusually severe weather; or any other causes beyond the control or without the fault of the party claiming an extension of time to perform ("Excusable Delays").

(b) The time of performance hereunder shall be extended for the period of any delay or delays caused or resulting from any Excusable Delay of the foregoing causes. Developer shall provide notice to the City if and when any such Excusable Delays occur and Developer may be granted such extensions upon presentation of reasonable evidence and/or documentation of the periods of such Excusable Delays. In the case of any extension sought by Developer for any other reason which will cause a failure to timely complete a portion of the Project as set forth on Exhibit G hereto, such extension shall only be granted with the approval of City, which approval shall not be arbitrarily or unreasonably withheld. Nothing herein shall excuse Developer from any obligation to pay money hereunder, nor shall this Section excuse Developer from performance of its obligations because of a lack of funds or inability to obtain financing.

**ARTICLE IX.
GENERAL PROVISIONS**

Section 9.01. Guaranty Requirements. Developer recognizes, stipulates and agrees that it is a condition to the duties and obligations of the City herein, and is a covenant and agreement of Developer herein, that Merrill Companies, LLC, a Kansas limited liability company, or such other guarantor as the City may approve in its sole discretion ("Guarantor") shall execute and deliver, concurrently with the commencement of this Agreement for Phase 1 and prior to the commencement of Phase 2 of the Project (and payment or reimbursement of any Public Financing Proceeds for Phase 2), the guaranty instrument or instrument attached hereto as

Exhibit I (collectively, the "Guaranty"). Without limiting any of the terms and provisions herein, in the event of any breach, default or failure to perform by Guarantor under the Guaranty, the same shall be deemed to be, and shall constitute, a default under this Agreement. The parties further agree as follows:

(a) Guarantor's duties and obligations under the Guaranty for Phase 1 shall expire, and the Guaranty shall terminate, upon the earlier to occur of (i) that date which is three (3) years after (1) the completion of all Improvements that constitute Phase 1 of the Project, and (2) occupation of at least 80% of such Improvements by tenants who are open for business (including, without limitation, the Museum), and (ii) expiration of the Term of this Agreement pursuant to Section 7.01 hereof.

(b) Guarantor's duties and obligations under the Guaranty for Phase 2 shall expire, and the Guaranty shall terminate, upon the earlier to occur of (i) that date which is three (3) years after (1) the completion of all Improvements that constitute Phase 2 of the Project, and (2) occupation of at least 80% of such Improvements by tenants who are open for business, and (ii) expiration of the Term of this Agreement pursuant to Section 7.01 hereof.

(c) For purposes of confirming the satisfaction of the conditions set forth in Sections 9.01(a) and (b) above, the parties hereby agree that the Developer may, upon completion of the Improvements for the respective Phase and 80% leases for such Phase, provide written notice to the City along with reasonable evidence of satisfaction of such conditions. Within forty five (45) days of such notice, the City shall determine whether or not such conditions have been satisfied in the City's sole but reasonable discretion, and upon satisfaction of the conditions set forth above, the City shall deliver to the Developer a Certificate of Completion/Operation which confirms such satisfaction. If, after the issuance of a Certificate of Completion/Operation by the City as set forth in Section 9.01(c) above, certain tenants shall thereafter close and a Phase of the Project shall become less than 80% occupied and open, the parties agree that the three (3) year period set forth herein shall nonetheless run from the date of the Certificate of Completion/Operation and shall be unaffected by any such change in circumstances.

(d) Notwithstanding any terms or provisions in this Agreement to the contrary, the parties agree that, upon the sale by Developer of any pad site or other single parcel to a Store Operator or other third party for purposes of construction of a store or other similar Improvements pursuant to Section 6.03(e) hereof, the City hereby agrees to release such pad site or single parcel from the terms and conditions of the Guaranty applicable to such property, provided that the documents which govern such sale or other transfer to a Store Operator or third party require such party to construct a store, if applicable, or other similar Improvements within eighteen (18) months of closing of such sale or transfer. The City will provide any such release to Developer in recordable form upon the City's reasonable satisfaction that such transaction fully complies with the terms and conditions of this paragraph.

(e) Notwithstanding anything herein (or in Section 2.1 or 2.2 of the Guaranty) to the contrary, the parties hereby agree that the Guaranty shall not include the

completion of construction of the Residential Units of the Project or the operational covenants in 2.1(b) of the Guaranty as they would otherwise pertain to such Residential Units.

Section 9.02. Expenses and Administrative Fee. The parties hereby agree as follows:

(a) The Developer shall be responsible for and pay, within thirty (30) days of the invoice, the reasonable legal fees of the City's attorneys' fees incurred in connection with the creation, amendment and implementation of the Public Financing and this Agreement (including the negotiation of this Agreement) and related agreements and in connection with the review of certified expenditures for Project Costs and the reimbursement of such Project Costs, pursuant to the terms of Section 4.05. Developer shall also pay or reimburse the City for all expenses incurred by the City in compliance with the provisions of the CID Act and the STAR Bond Act, including without limitation, the requirements described in Section 4.06(e) hereof. Attorneys' fees incurred with the issuance of the Obligations, will be paid from proceeds of the Obligations and if such Obligations are not issued for any reason, such fees shall be paid by the Developer. The Developer shall pay the City's financial advisor, where such services performed by the financial advisor are reasonably related and necessary to the City's analysis and review of the Public Financing including any issuance of the Obligations. Such financial advisor fees will be paid from proceeds of Obligations and if such Obligations are not issued shall be paid by the Developer.

(b) In addition to the amounts described in Section 9.02(a) above, the Developer hereby agrees to pay the City an administrative fee (collectively, the "Administrative Fee") as follows:

(i) Upon the issuance of the CID Bonds for Phase 1, the City shall be paid from net proceeds of CID Bonds an amount equal one percent (1%) of the par amount of such Obligations on the date that such Obligations are issued; and

(ii) On or before September 15th of each and every year of the Term, Developer shall pay to the City an amount equal to \$20,000 in arrears for the administration of Phase 1; and

(iii) Upon the issuance of any CID Bonds for Phase 2, the City shall be paid be paid from net proceeds of CID Bonds an amount equal one percent (1%) of the par amount of any such Obligations on the date that such Obligations are issued; and

(iv) If and when Developer begins to receive Public Financing for Phase 2 of the Project, then Developer shall pay an additional \$20,000 to the City on or before September 15th of each and every remaining year of the Term for the administration of Phase 2 of the Project.

In the event of any partial year at the termination or expiration of the Agreement, Developer shall pay a prorated amount of the Administrative Fee described in Sections 9.02(ii) and (iv) to the City within thirty (30) days after such termination or expiration. Developer understands and agrees that this obligation shall expressly survive termination or expiration of the Agreement. Additionally, it is understood and agreed that Developer may pay up to fifty percent (50%) of the Administrative Fee described in Sections 9.01(b)(ii) and (b)(iv) above with ongoing revenues or proceeds from the CID to the extent the same are available at the time such payments are due to the City, and the balance of the Administrative Fee in Sections 9.01(b)(ii) and (b)(iv) shall be paid with Private Funds.

Section 9.03. Time of Essence. Time is of the essence of this Agreement. The City and Developer will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation.

Section 9.04. Amendment. This Agreement, and any exhibits attached hereto, may be amended only by the mutual consent of the Parties, upon official action of the City's governing body approving said amendment, and by the execution of said amendment by the Parties or their successors in interest.

Section 9.05. Immunity of Officers, Employees and Members of the City. No personal recourse shall be had for the payment of the Public Financing Proceeds or for any claim based thereon or upon any representation, obligation, covenant or agreement in this Agreement against any past, present or future officer, member, employee or agent of the City, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and any liability of any such officers, members, directors, employees or agents is hereby expressly waived and released as a condition of and consideration for the execution of this Agreement. Furthermore, no past, present or future officer, member, employee or agent of the City shall be personally liable to the Developer, or any successor in interest, for any default or breach by the City.

Section 9.06. Right to Inspect. The Developer agrees that the City, with reasonable advance notice and during normal business hours, shall have the right and authority to review, inspect, audit, and copy, from time to time, all of the Developer's books and records relating to the Project as pertinent to the purposes of this Agreement.

Section 9.07. No Other Agreement. Except as otherwise expressly provided herein, this Agreement and all documents incorporated herein by reference supersedes all prior agreements, negotiations and discussions, both written and oral, relative to the subject matter of this Agreement and is a full integration of the agreement of the parties.

Section 9.08. Severability. If any provision, covenant, agreement or portion of this Agreement, or its application to any person, entity or property, is held invalid or unenforceable in whole or in part, this Agreement shall be deemed amended to delete or modify, in whole or in part, if necessary, the invalid or unenforceable provision or provisions, or portions thereof, and to alter the balance of this Agreement in order to render the same valid and enforceable. In no such event shall the validity or enforceability of the remaining valid portions hereof be affected.

Section 9.09. Kansas Law. This Agreement shall be construed in accordance with the laws of the State of Kansas.

Section 9.10. Notice. All notices and requests required pursuant to this Agreement shall be in writing and shall be sent as follows:

(a) To the Developer:

MC Prairiefire I, LLC
6240 West 135th Street
Overland Park, KS 66223
Attn: Fred L. Merrill Jr.

and

MC Prairiefire II, LLC
6240 West 135th Street
Overland Park, KS 66223
Attn: Fred L. Merrill Jr.

With copies to:

John Petersen, Esq.
Curt Petersen, Esq.
Polsinelli Shughart PC
6201 College Blvd., Suite 500
Overland Park, KS 66211

(b) To the City:

William Ebel, Jr., City Manager
City of Overland Park
8500 Santa Fe Drive
Overland Park, KS 66212

With copies to:

Kristy Stallings, Deputy City Manager
City of Overland Park
8500 Santa Fe Drive
Overland Park, KS 66212

Tammy M. Owens, Deputy City Attorney
City of Overland Park
8500 Santa Fe Drive
Overland Park, KS 66212

or at such other addresses as the parties may indicate in writing to the other either by personal delivery, courier, or by registered mail, return receipt requested, with proof of delivery thereof. Mailed notices shall be deemed effective on the third day after mailing; all other notices shall be effective when delivered.

Section 9.11. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

Section 9.12. Agreement Runs With the Land; Recording. The Parties understand and agree that this Agreement runs with the land. Additionally, the Developer, the Owner and the City shall execute and deliver a Memorandum of this Agreement and any amendments or supplements hereto, in proper form for recording and/or indexing in the appropriate land or governmental records, including, but not limited to, recording in the real estate records of Johnson County, Kansas. Such Memorandum of Agreement shall be promptly recorded against the Project Area by the Developer at Developer's cost after execution, and proof of recording shall be provided to the City and shall state that a copy of this Agreement shall be on file with the City Clerk.

Section 9.13. Survivorship. Notwithstanding the termination of this Agreement, Developer's obligations of insurance and indemnification set out in Article VII shall survive the termination of this Agreement to the extent that any incident giving rise to a claim, suit, judgment or demand occurred during Term.

Section 9.14. Incorporation of Exhibits. The Exhibits attached hereto and incorporated herein by reference are a part of this Agreement to the same extent as if fully set forth herein.

Section 9.15. Tax Implications. The Developer acknowledges and represents that (a) neither the City nor any of its officials, employees, consultants, attorneys or other agents has provided to the Developer any advice regarding the federal or state income tax implications or consequences of this Agreement and the transactions contemplated hereby, and (b) the Developer is relying solely upon its own tax advisors in this regard.

Section 9.16. Required Disclosures. The Developer shall immediately notify the City of the occurrence of any material event which would cause any of the information furnished to the City by the Developer in connection with the matters covered in this Agreement to contain any untrue statement of any material fact or to omit to state any material fact required to be stated therein or necessary to make any statement made therein, in the light of the circumstances under which it was made, not misleading.

Section 9.17. Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

Section 9.18. Amendment to Carry Out Intent. If any provision, covenant, agreement or portion of this Agreement, or its application to any person, entity or property, is held invalid, the Parties shall take such reasonable measures including but not limited to reasonable amendment of this Agreement, to cure such invalidity where the invalidity contradicts the clear intent of the

parties in entering into this Agreement; provided, however, nothing herein is intended to bind a future governing body of the City in a manner prohibited by the laws of the State of Kansas.

Section 9.19. Cash Basis and Budget Laws. The right of the City to enter into this Agreement is subject to the provisions of the Cash Basis Law (K.S.A. §§10-1100 *et seq.*), the Budget Law (K.S.A. § 79-2935 *et seq.*), and other laws of the State of Kansas. This Agreement shall be construed and interpreted in such a manner as to ensure the City shall at all times remain in conformity with such laws.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

IN WITNESS WHEREOF, the City and the Developer have duly executed this Agreement pursuant to all requisite authorizations as of the date first above written.

CITY OF OVERLAND PARK, KANSAS

ATTEST:

Carl Gerlach, Mayor

Marian Cook, City Clerk

APPROVED AS TO FORM:

Tammy M. Owens
Deputy City Attorney

APPROVED AS TO FORM:

Todd A. LaSala, Esq.
Stinson Morrison Hecker LLP

MC PRAIRIEFIRE I, LLC, a Kansas limited liability company

By: _____

Printed Name: _____

Date: _____

STATE OF _____)
) ss.
COUNTY OF _____)

On this _____ day of _____, 2012, before me personally appeared _____, to me personally known, who being by me duly sworn did say that she is the _____ of MC Prairiefire I, LLC, a Kansas limited liability company, and that said instrument was signed and delivered on behalf of said limited liability company and acknowledged to me that he/she executed the same as the free act and deed of said limited liability company.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public
Printed Name: _____

My Commission Expires:

MC PRAIRIEFIRE II, LLC, a Kansas limited liability company

By: _____

Printed Name: _____

Date: _____

STATE OF _____)
) ss.
COUNTY OF _____)

On this _____ day of _____, 2012, before me personally appeared _____, to me personally known, who being by me duly sworn did say that she is the _____ of MC Prairiefire II, LLC, a Kansas limited liability company, and that said instrument was signed and delivered on behalf of said limited liability company and acknowledged to me that he/she executed the same as the free act and deed of said limited liability company.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public
Printed Name: _____

My Commission Expires:

JOINDER OF THE OWNER

The undersigned, the "Owner" of the Project Site as set forth in this Agreement hereby executes and joins in this Agreement for purposes of evidencing the Owner's consent and agreement to the terms and conditions set forth herein for all purposes and without limiting the generality of the foregoing, to covenant and agree to perform and comply with the following provisions set forth in the Agreement: Sections 3.01(e), 3.01(f), 3.01(k), 3.02(f), 7.02(d), 7.03, 7.04, 7.08, 8.03 and 9.12, along with any other provisions which require the Owner's performance and compliance.

IN WITNESS WHEREOF, the Owner has duly executed and joined in this Agreement pursuant to all requisite authorizations as of the date first above written.

MC PRAIRIEFIRE , LLC,

a Kansas limited liability company

By: _____

Printed Name: _____

Date: _____

STATE OF _____)
) ss.

COUNTY OF)

On this _____ day of _____, 2012, before me personally appeared _____, to me personally known, who being by me duly sworn did say that she is the _____ of MC Prairiefire, LLC, a Kansas limited liability company, and that said instrument was signed and delivered on behalf of said limited liability company and acknowledged to me that he/she executed the same as the free act and deed of said limited liability company.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public

Printed Name: _____

My Commission Expires:

ANNEX OF DEFINITIONS

The following terms shall have the following meanings in the Prairiefire at Lionsgate Development Agreement:

"Action" means any suit, action, investigation, claim or proceeding in which the Developer may become obligated to one or more of the City Indemnified Parties as set forth in Section 2.05(c) hereof.

"Administrative Fee" shall have the meaning set forth in Section 9.02 hereof.

"Agreement" means this Prairiefire at LionsGate Development Agreement, as the same may be amended from time to time in accordance with the terms and conditions hereof.

"AMNH" means the American Museum of Natural History as referred to in Section 2.05(a)(i) hereof.

"Applicable Laws and Requirements" shall mean any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, directive, requirement or decision of or agreement with or by government authorities, and all requirements of any insurers. Applicable Law and Requirements shall include, without limitation, the Project Plan, the Development Plan, the STAR Bond Act, the Kansas Cash Basis Law (K.S.A. § 10-1100, *et seq.*) and Budget Law (K.S.A. § 75-2935 *et seq.*).

"Arbor Plaza" means the central park area more particularly described in Section 2.02(a)(vi).

"Base Year Revenues" means the State and local sales and/or use taxes from a base year which is twelve (12) months immediately prior to the month in which the STAR Bond District was established as set forth in Section 4.02(c) hereof.

"Bond Documents" means the bond trust indentures, bond purchase agreements, tax compliance agreements, financing agreements, preliminary and final offering statements, continuing disclosure agreements, and other similar documents executed and delivered by the parties in connection with the STAR Bonds and/or CID Bonds.

"Bond Trustee" means that institution serving as trustee for the CID Bonds and STAR Bonds.

"Butterfly Garden" means the garden which contains plants and materials designed to attract various species of butterflies which is more particularly described in Section 2.02(a)(x).

"Casualty Escrow" means that certain escrow agreement for the net proceeds of any insurance relating to damage or destruction of the Project, the net proceeds of condemnation or taking or the net proceeds of any realization on title insurance for the Project as set forth in Section 7.11(a) hereof.

"Certificate" means a certificate of liability insurance listing all coverages applicable to the Project.

"Certificate of Expenditures" means those certain certificates submitted by Developer in accordance with Section 4.05 and more fully set forth in **Exhibit N** hereof.

"CERCLA" means the Comprehensive Environmental Response, Compensation and Liability Act, 42 U.S.C. Section 9601, *et seq.* as referred to in 2.05(b) hereof.

"CID Act" means K.S.A. 12-6a26 through 12-6a36 and all additions and amendments thereto.

"CID Bonds" means any CID bonds issued and sold pursuant to Section 4.03 hereof.

"CID Bond Revenue Fund 1" means the account created and administered by the City for the deposit of CID Sales Tax from CID District 1.

"CID Bond Revenue Fund 2" means the account created and administered by the City for the deposit of CID Sales Tax from CID District 2.

"CID District 1" means the community improvement district generally described in Recital G, which is described as "Prairiefire Community Improvement District No. 1" in the CID Ordinance, and the legal description of which is more particularly set out in **Exhibit C-1** attached hereto.

"CID District 2" means the community improvement district generally described in Recital G, which is described as "Prairiefire Community Improvement District No. 2" in the CID Ordinance, and the legal description of which is more particularly set out in **Exhibit C-2** attached hereto.

"CID Districts" means, collectively, CID District 1 and CID District 2.

"CID Gap Amount" means the difference between the principal amount of CID Bonds actually issued for the Project and \$30,000,000 as set forth in Section 4.03(e)(ii) hereof.

"CID Ordinance" means, collectively, Ordinance No. CID-2977, Ordinance No. CID-2972, Ordinance No. CID-2973, adopted by the City on October 22, 2012, as referenced in Recital H hereof.

"CID Proceeds" means, collectively, the proceeds from CID Bonds for CID District 1 and/or CID District 2, along with the Pay-As-You-Go CID Financing, if any.

"CID Project Costs" means the Phase 1 CID Project Costs and Phase 2 CID Project Costs, collectively.

"CID Relocation Radius" shall mean the radius restriction set forth in Section 4.03(h) hereof.

"CID Sales Tax" means the tax authorized by K.S.A. 12-6a31 and amendments thereto, and as more particularly described in Section 4.03(b) hereof.

"City" means the City of Overland Park, Kansas.

"City's Economic Development Policy" means the economic development policy of the City of Overland Park.

"City Indemnified Parties" means the City, its employees, agents, independent contractors and consultants, collectively for purposes of the indemnification provisions set forth in Section 2.05 hereof.

"Closing" means a date as defined by Section 3.01(a) of this Agreement.

"Commission" means the Kansas Human Rights Commission as referred to in Section 2.07(b).

"Conservation Easement" means the conservation easement for the Wetlands and the Trails as described in Section 2.02(a)(viii) and in the form attached hereto as **Exhibit D**.

"Construction Documents" means those documents respecting the construction, equipping and completion of the Improvements pursuant to the terms of Section 5.02 hereof.

"Damaged Facilities" means the Project or any part thereof being damaged or destroyed by a casualty.

"Developer" means MCP I and/or MCP II, as their respective interests and obligations appear in this Agreement as set forth in Recital A hereto.

"Developer's Private Contribution" means those funds paid by Developer as and when needed for Project Costs as described and set forth in the Project Budget and Section 4.07(a) hereof.

"Development Plan" means the preliminary development plan and the final development plan for the Project approved by the City, as such plans may be modified or revised in accordance with the Unified Development Ordinance of the City of Overland Park and approved by the City from time to time.

"Districts" means the STAR Bond District, CID District 1 and CID District 2, collectively.

"EDRBs" means the economic development bonds to pay certain project costs pursuant to K.S.A. 12-1741 *et seq.*

"Effective Date" means **October __, 2012**.

"Eligible STAR Bond Expenses" means those expenses which are eligible for payment or reimbursement pursuant to the STAR Bond Act and set forth in **Exhibit K** attached hereto.

"Environmental Regulation" means any and all present and future laws, statutes, ordinances, rules, regulations and orders of any governmental authority having jurisdiction over the parties hereto or any portion of the Project Area and pertaining to the protection of human health, hazardous substances, pollution or the environment, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, and as the same may be further amended from time to time (hereinafter collectively called "CERCLA").

"Excusable Delays" means the delays for performance set forth in Section 8.07(a).

"GAAP" means generally accepted accounting principles.

"General Contractor" means the contractor selected pursuant to 5.02.

"Ground Lease" means the Phase 1 Ground Lease and the Phase 2 Ground Lease, collectively.

"Guarantor" means those persons approved by the City pursuant to Section 9.01 hereof.

"Guaranty" means that agreement between Developer and the City as referenced in 9.01

"Hotel" means a full-service, high-end boutique hotel comprised of between eighty (80) and one hundred twenty (120) rooms.

"Improvements" means those buildings, parking structures and other improvements constituting the Project as set forth in Section 2.02 hereof.

"Incremental Taxes" mean incremental State and local sales and use taxes imposed pursuant to K.S.A. 12-187 *et seq.*, 79-3601 *et seq.* and 79-3701 *et seq.* and collected within the STAR Bond District.

"Infrastructure Improvements" means those improvements set forth in Section 2.02(d) hereof.

"New CID Petition 1" means that certain petition submitted by the Developer on or about September 17, 2012, a copy of which is attached hereto as **Exhibit C-1**.

"New CID Petition 2" means that certain petition submitted by the Developer on or about August 30, 2012, a copy of which is attached hereto as **Exhibit C-2**.

"MCP I" means MC Prairiefire I, LLC, a Kansas limited liability company, which is an Affiliate of the Owner and MCP II has as its sole member, MC Prairiefire Phase I, Inc., a Kansas corporation that will make an S corporation election for federal and state income tax purposes.

"MCP II" means MC Prairiefire II, LLC, a Kansas limited liability company, which is an Affiliate of the Owner and MCP I and has as its sole member, MC Prairiefire Phase II, Inc., a Kansas corporation that will make an S corporation election for federal and state income tax purposes.

"Museum" means a 35,000 square foot natural history museum, which shall be operated by the Museum Owner and affiliated with the American Museum of Natural History of New York.

"Museum Owner" means the Museum of Prairiefire Foundation, a 501(c)(3) corporation as set forth in Section 2.02(a)(i).

"Museum Owner Agreement" means that certain agreement between the City and the Museum Owner which requires the Museum Owner to comply with the terms and conditions of this Agreement which apply to the Museum, the form of which is hereby attached as **Exhibit Q**.

"Obligations" means any STAR Bonds and/or CID Bonds issued and sold in connection with the STAR Bond District and the CID Districts, respectively.

"Original CID" means the community improvement district described in Recital F hereto.

"Original Project Plan" means the Prairiefire STAR Bond Project plan described in Recital D. hereof.

"Owner" means MC Prairefire, LLC, a Kansas limited liability company, which is an Affiliate of MCP I and MCP II as set forth in Recital A.

"Pay-As-You-Go CID Financing" means a method of financing pursuant to K.S.A. 12-6a34, in which the proceeds from the CID Sales Tax may be disbursed by the City to the Developer from the Pay/Go CID Fund as set forth in Section 4.03(e) hereof.

"Pay/Go CID Fund" the separate fund established by the City for deposit of the CID Sales Tax received from the State collected within the CID District 2, as set forth in Section 4.03(e)hereof

"Parking Improvements" means those structured and surface parking improvements referred in Section 2.02(b) hereof.

"Percentage Allocation(s)" means the allocation of funding sources for Project Costs referred to in Section 4.02(e) hereof.

"Percentage Limitation Date(s)" means July 1, 2013 and January 15, 2014, and such dates as may be set forth Phase 2 as set forth in Section 4.02(e)(i).

"Percentage Limitation" means the limitation on reimbursement of Project Costs from Public Financing Proceeds set forth in 4.02(e) hereof.

"Performance Milestones" means Developer's anticipated development milestones for the Project which are set forth on **Exhibit G** attached hereto.

"Permitted Modification" means any modification to the scope and physical parameters of the Improvements permitted pursuant to the terms and conditions of Section 5.06 hereof.

"Person" shall mean any natural person, firm, partnership, association, corporation, limited liability company, trust, entity, public body or government or other entity.

"Phase and Phases" generally mean the two (2) phases of the Project described in Section 2.03 hereof.

"Phase 1" means the improvements described in 2.03(a) hereof.

"Phase 1 Commencement Date" means December 31, 2012 as set forth in Section 5.04 and **Exhibit G** hereof.

"Phase 1 Completion Date" means December 31, 2014 as set forth in Section 5.04 and **Exhibit G** hereof.

"Phase 1 CID Conditions" mean the conditions precedent set forth in Section 3.01.

"Phase 1 CID Project Costs" means the costs of designing, developing, constructing and completing the Phase 1 Project, as more fully set forth in **Exhibit L**.

"Phase 1 Ground Lease" means that certain ground lease between MCP I (as "Tenant" thereunder) and the Owner (as "Landlord") for the portion of the Project Site which will be used for Phase 1 as set forth in Section 3.01(k).

"Phase 2" means the improvements described in Section 2.03(b) hereof.

"Phase 2 Commencement Date" means that date described in Section 5.04 and **Exhibit G** hereof.

"Phase 2 Completion Date" means that date described in Section 5.04 and **Exhibit G** hereof.

"Phase 2 Conditions" mean the conditions precedent set forth in Section 3.02 hereof.

"Phase 2 CID Project Costs" means the costs of designing, developing, constructing and completing the Phase 2 Project, as more fully set forth in **Exhibit M**.

"Phase 2 Ground Lease" means that certain ground lease between MCP II (as "Tenant" thereunder) and the Owner (or an Affiliate of Owner)(as "Landlord" thereunder) for the portion of the Project Site which will be used for Phase 2 as set forth in Section 3.02(f).

"Private Funds" means Developer's private debt, equity or other private funding sources as described in Section 4.02(e).

"Project" means the Improvements to the Project Area to be designed, developed, constructed and completed by Developer as described in Section 2.01 hereof and on **Exhibit F**.

"Project Area" means the portion of the Project Site described in Recital B and legally described on **Exhibit B-1** and generally depicted on **Exhibit B-2**.

"Project Budget" means the estimated budget for the Project, as set forth on **Exhibit J** attached hereto.

"Project Costs" means the estimated costs of the Project as referred to in Section 4.01 hereof.

"Project Plan" means the new project plan approved and adopted by the City by Ordinance No. 2976, as such plans may be modified or revised in accordance with the Unified Development Ordinance of the City of Overland Park and approved by the City from time to time.

"Project Site" means that certain real property which is located in the City and is generally located on 135th Street between Lamar Avenue and Nall Avenue and as legally described on **Exhibit A-1** and generally depicted on **Exhibit A-2** attached hereto.

"Public Financing" means the STAR Bonds and the CID as set forth in Section 4.01 below; provided however that the EDRBs shall not be included in the "Public Financing" as defined herein.

"Public Financing Cap" means an amount which is less than or equal to the limitations set forth in Sections 4.02(a) and 4.03(a), respectively.

"Public Financing Proceeds" means, collectively, the proceeds from the STAR Bonds, CID Bonds and Pay-As-You-Go CID Financing, if any.

"Public Financing Proceeds Shortfall" means a shortfall in Public Financing Proceeds as set forth in Section 4.07(b) hereof.

"Qualified Third Party" mean institutional investors including, without limitation, insurance companies, funds and state or federally chartered financial institutions, or "accredited investors" as such term is defined by the Securities Exchange Commission.

"Residential Owner" means PrairieFire Apartments, LLC, or an owner/operator with similar qualifications, experience and financial responsibility, Developer's agent for the design, construction and operation of the Residential Units as set forth in Section 7.02(d) hereof.

"Residential Owner Agreement" means that certain agreement between the City and the Residential Owner which requires the Residential Owner to comply with the terms and conditions of this Agreement which apply to the Phase 1 Residential Units, the form of which is hereby attached as **Exhibit R**.

"Residential Units" means approximately four hundred seventy five (475) residential units, including condominium units and/or apartment units.

"RCRA" means the Resource Conservation and Recovery Act, 42 U.S.C. Section 6901 *et seq.*, as referred to in Section 2.05 hereof.

"Restrictive Covenants" mean the restrictions set forth in Section 7.04 hereof.

"Retail Space" means approximately 357,000 square feet of destination lifestyle and entertainment and retail shopping, including high-end specialty and boutique shops and fine dining restaurants.

"STAR Bond Act" means K.S.A. 12-17,160 *et seq.* and all additions and amendments thereto.

"STAR Bonds" mean the Sales Tax Special Obligation Revenue Bonds to be issued in connection with the Project.

"STAR Bond Costs" means those costs described on the Project Budget to be paid with STAR Bond Proceeds.

"STAR Bond District" means the STAR Bond Project District approved by the City by passage of Ordinance No. SB-2786.

"STAR Bond Relocation Radius" shall mean the radius restriction set forth in Section 4.02(j) hereof.

"STAR Bond Revenue Fund" means the account created and administered by the City for the deposit of Incremental Taxes collected in the STAR Bond District.

"STAR Bond Proceeds" means the proceeds from the STAR Bonds referred to in Section 4.02(a) hereof.

"State" means the State of Kansas.

"Store Operator" means that tenant, owner, user or operator as defined in Section 7.02(e) hereof.

"Store Operator Agreement" means those agreements defined in Section 7.02(e) hereof.

"Substantially Complete" means the stage in the progress of the construction of improvements, or as to any particular portion thereof, when said construction is sufficiently complete so that the improvements or such particular portion can be occupied or utilized for its intended use; provided however, that for spec Office Space or Retail Space in the Project, or for space in which the tenant shall complete its own tenant improvements, it is agreed that finished shell space which is suitable for future tenant improvements shall be considered substantially complete.

"Sunflower Garden" means the garden which features a variety of the Kansas state flower.

"Term" means that certain period from the Effective Date through that date on which this Agreement expires as set forth in Section 7.01 hereof.

"Timber Bridge" means a bridge which traverses the Wetlands, as described in Section 2.02(a)(vii) hereof.

"Trail" means a perimeter nature trail which is designed to be a unique walking trail experience with various features, including an entertaining narrative of Kansas prairie heritage and other educational components.

"Wetlands" means a native wetlands area, as more particularly described in Section 2.02(a)(vii).

"Wetlands Maintenance Agreement" means the maintenance agreement between the City and Developer attached hereto as **Exhibit O**.

"Wetlands Plan" means the wetlands mitigation plan referenced in Section 2.02(a)(vii).

EXHIBITS

Exhibit A-1:	Project Site - Legal Description
Exhibit A-2:	Project Site -Map
Exhibit B-1:	Project Area – Legal Description
Exhibit B-2:	Project Area – Map
Exhibit B-3	STAR Bond District – Legal Description
Exhibit B-4	STAR Bond District - Map
Exhibit C:	CID Districts - Map
Exhibit C-1:	CID District 1 - Legal
Exhibit C-2:	CID District 2 – Legal
Exhibit D:	Conservation Easement
Exhibit E:	Intentionally Omitted
Exhibit F:	Site Plan
Exhibit G:	Performance Milestones
Exhibit H:	Insurance Specifications
Exhibit I:	Form of Guaranty
Exhibit J:	Project Costs & Project Budget
Exhibit K:	Eligible STAR Bond Expenses
Exhibit L:	Phase 1 CID Project Costs
Exhibit M:	Phase 2 CID Project Costs
Exhibit N:	Form of Certificate of Expenditure
Exhibit O:	Wetlands Maintenance Agreement
Exhibit P:	Covenant to Maintain Private Parking Facilities
Exhibit Q:	Museum Owner Agreement

Exhibit R: Residential Owner Agreement

Exhibit S: Project Plan

EXHIBIT A-1

PROJECT SITE - LEGAL DESCRIPTION

File No. 2007-0004

PrairieFire

October 09, 2009

Revised September 27, 2012

Project Site

All of Tract A, and all that part of 137th Street right of way within the final plat of Prairiefire, First Plat, together with an unplatted portion of land, all lying in the North half of Section 32, Township 13 South, Range 25 East, in the City of Overland Park, Johnson County, Kansas, described as follows:

COMMENCING at the Northwest corner of the Northeast Quarter of Section 32, Township 13 South, Range 25 East; thence North 87 degrees 50 minutes 31 seconds East along the North line of the Northeast Quarter of said Section 32 a distance of 47.63 feet to a point; thence South 2 degrees 09 minutes 29 seconds East a distance of 100.00 feet to the Northwest corner of Tract A, Prairiefire, First Plat, a subdivision in the City of Overland Park, Johnson County, Kansas, the POINT OF BEGINNING; thence North 87 degrees 50 minutes 31 seconds East along the North line of said Tract A and the South right of way line of 135th Street a distance of 2535.97 feet to a point on the West right of way line of Nall Avenue; thence South 2 degrees 05 minutes 12 seconds East along the West right of way line of Nall Avenue a distance of 1308.78 feet to a point on the South right of way line of 137th Street as established by the final plat of said Prairiefire, First Plat; thence South 87 degrees 54 minutes 43 seconds West along the South right of way line of said 137th Street a distance of 118.86 feet to a point of curvature; thence in a Northwesterly direction along the South right of way line of said 137th Street and along a curve to the right, having a radius of 513.00 feet, through a central angle of 25 degrees 21 minutes 59 seconds, an arc distance of 227.12 feet to a point; thence North 66 degrees 43 minutes 18 seconds West along the South right of way line of said 137th Street and the North line of Lot 4, Nicklaus Golf Club at Lionsgate Second Plat, a subdivision in the City of Overland Park, Johnson County, Kansas, a distance of 238.09 feet to a point; thence North 47 degrees 09 minutes 27 seconds West along the Southerly right of way line of 137th Street a distance of 119.45 feet to a point; thence North 66 degrees 43 minutes 18 seconds West a distance of 40.00 feet to a point; thence South 23 degrees 16 minutes 42 seconds West a distance of 40.00 feet to a point on the North line of said Lot 4; thence North 66 degrees 43 minutes 18 seconds West along the North line of said Lot 4 a distance of 314.52 feet to a point; thence in a Northwesterly direction along the North line of said Lot 4 and along a curve to the left, having a radius of 1160.00 feet, through a central angle of 55 degrees 15 minutes 27 seconds, an arc distance of 1118.73 feet to a point; thence South 58 degrees 01 minutes 15 seconds West along the North line of said Lot 4 a distance of 204.94 feet to a point; thence North 31 degrees 58 minutes 45 seconds West a distance of 40.00 feet to a point; thence South 58 degrees 01 minutes 15 seconds West a distance of 40.00 feet to a point on the Southerly right of way line of said 137th Street; thence in a Southwesterly direction along the Southerly right of way line of said 137th Street and

along a curve to the right whose initial tangent bears South 37 degrees 39 minutes 24 seconds West, having a radius of 640.00 feet, through a central angle of 20 degrees 22 minutes 02 seconds, an arc distance of 227.50 feet to a point on the East right of way line of Lamar Avenue; thence North 31 degrees 58 minutes 45 seconds West along the East right of way line of Lamar Avenue a distance of 80.00 feet to a point of curvature; thence in a Southwesterly, Westerly and Northwesterly direction along the East right of way line of Lamar Avenue and along a curve to the right whose initial tangent bears South 58 degrees 01 minutes 15 seconds West, having a radius of 20.00 feet, through a central angle of 93 degrees 33 minutes 38 seconds, an arc distance of 32.66 feet to a point of compound curvature; thence in a Northeasterly direction along the East right of way line of Lamar Avenue and along a curve to the right, having a radius of 810.00 feet, through a central angle of 34 degrees 21 minutes 55 seconds, an arc distance of 485.83 feet to a point; thence North 5 degrees 56 minutes 48 seconds East along the East right of way line of Lamar Avenue a distance of 215.17 feet to a point of curvature; thence in a Northeasterly direction along the East right of way line of Lamar Avenue and along a curve to the left, having a radius of 2640.00 feet, through a central angle of 5 degrees 04 minutes 22 seconds, an arc distance of 233.74 feet to a point; thence North 5 degrees 27 minutes 38 seconds East along the East right of way line of Lamar Avenue a distance of 37.20 feet to a point; thence North 3 degrees 52 minutes 30 seconds East along the East right of way line of Lamar Avenue a distance of 63.11 feet to a point; thence North 1 degree 56 minutes 41 seconds West along the East right of way line of Lamar Avenue and the West line of said Tract A, a distance of 134.06 feet to the POINT OF BEGINNING and containing 2,675,895 Square Feet or 61.430 Acres, more or less.

EXHIBIT A-1 - 2

EXHIBIT B-1

PROJECT AREA – LEGAL DESCRIPTION

File No. 2007-0004
PrairieFire
September 27th, 2012

STAR Bond Project Area

All of Tract A and all that part of 137th Street right of way, Prairiefire, First Plat, together with an unplatted portion of land, all lying in the North half of Section 32, Township 13 South, Range 25 East, in the City of Overland Park, Johnson County, Kansas, described as follows:

COMMENCING at the Northwest corner of the Northeast Quarter of Section 32, Township 13 South, Range 25 East; thence North 87 degrees 50 minutes 31 seconds East along the North line of the Northeast Quarter of said Section 32 a distance of 47.63 feet to a point; thence South 2 degrees 09 minutes 29 seconds East a distance of 100.00 feet to the Northwest corner of Tract A, Prairiefire, First Plat, a subdivision in the City of Overland Park, Johnson County, Kansas, the POINT OF BEGINNING; thence North 87 degrees 50 minutes 31 seconds East along the North line of said Tract A and the South right of way line of 135th Street a distance of 2535.97 feet to a point on the West right of way line of Nall Avenue; thence South 2 degrees 05 minutes 12 seconds East along the West right of way line of Nall Avenue a distance of 1308.78 feet to a point on the South right of way line of 137th Street as established by the final plat of said Prairiefire, First Plat; thence South 87 degrees 54 minutes 43 seconds West along the South right of way line of said 137th Street a distance of 118.86 feet to a point of curvature; thence in a Northwesterly direction along the South right of way line of said 137th Street and along a curve to the right, having a radius of 513.00 feet, through a central angle of 25 degrees 21 minutes 59 seconds, an arc distance of 227.12 feet to a point; thence North 66 degrees 43 minutes 18 seconds West along the South right of way line of said 137th Street a distance of 238.09 feet to a point; thence North 47 degrees 09 minutes 27 seconds West along the South right of way line of said 137th Street a distance of 119.45 feet to a point; thence North 66 degrees 43 minutes 18 seconds West a distance of 40.00 feet to a point; thence South 23 degrees 16 minutes 42 seconds West a distance of 40.00 feet to a point; thence North 66 degrees 43 minutes 18 seconds West a distance of 314.52 feet to a point of curvature; thence in a Northwesterly direction along a curve to the left, having a radius of 1160.00 feet, through a central angle of 2 degrees 01 minutes 19 seconds, an arc distance of 40.93 feet to a point; thence North 19 degrees 16 minutes 43 seconds East a distance of 177.80 feet to a point of curvature on the South right of way line of said 137th Street; thence in a Northwesterly direction along the South right of way line of said 137th Street and along a curve to the left whose initial tangent bears North 56 degrees 44 minutes 38 seconds West, having a radius of 560.00 feet, through a central angle of 35 degrees 24 minutes 49 seconds, an arc distance of 346.13 feet to a point; thence South 87 degrees 50 minutes 33 seconds West along the South right of way line of said 137th Street a distance of 432.94 feet to a point of curvature; thence in a Southwesterly direction along the South right of way line of said 137th Street and along a curve to the left, having a radius of 560.00 feet, through a central angle of 57 degrees 19 minutes 04 seconds, an arc distance of 560.22 feet to a point; thence South 30 degrees 31 minutes 29 seconds West along the

South right of way line of said 137th Street a distance of 109.88 feet to a point of curvature; thence in a Southwesterly direction along the South right of way line of said 137th Street and along a curve to the right, having a radius of 640.00 feet, through a central angle of 27 degrees 29 minutes 57 seconds, an arc distance of 307.17 feet to a point on the East right of way line of Lamar Avenue; thence North 31 degrees 58 minutes 45 seconds West along the East right of way line of Lamar Avenue a distance of 80.00 feet to a point of curvature; thence in a Southwesterly, Westerly and Northwesterly direction along the East right of way line of Lamar Avenue and along a curve to the right whose initial tangent bears South 58 degrees 01 minutes 15 seconds West, having a radius of 20.00 feet, through a central angle of 93 degrees 33 minutes 38 seconds, an arc distance of 32.66 feet to a point of compound curvature; thence in a Northeasterly direction along the East right of way line of Lamar Avenue and along a curve to the right, having a radius of 810.00 feet, through a central angle of 34 degrees 21 minutes 55 seconds, an arc distance of 485.83 feet to a point; thence North 5 degrees 56 minutes 48 seconds East along the East right of way line of Lamar Avenue a distance of 215.17 feet to a point of curvature; thence in a Northeasterly direction along the East right of way line of Lamar Avenue and along a curve to the left, having a radius of 2640.00 feet, through a central angle of 5 degrees 04 minutes 22 seconds, an arc distance of 233.74 feet to a point; thence North 5 degrees 27 minutes 38 seconds East along the East right of way line of Lamar Avenue a distance of 37.20 feet to a point; thence North 3 degrees 52 minutes 30 seconds East along the East right of way line of Lamar Avenue a distance of 63.11 feet to a point; thence North 1 degree 56 minutes 41 seconds West along the East right of way line of Lamar Avenue and the West line of said Tract A, a distance of 134.06 feet to the POINT OF BEGINNING and containing 2,433,708 Square Feet or 55.8702 Acres, more or less.

EXHIBIT B-1 - 2

EXHIBIT B-2

PROJECT AREA – MAP

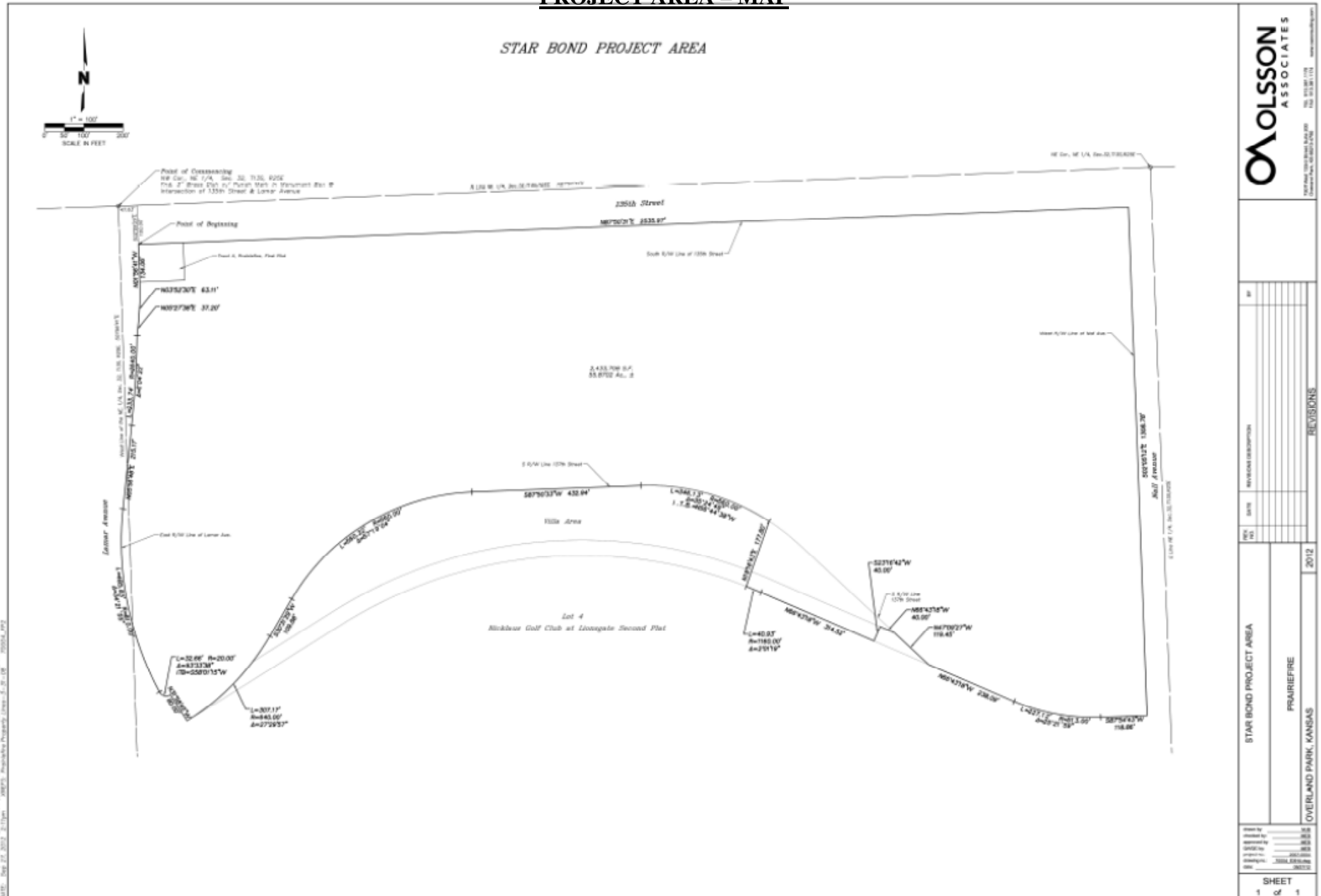


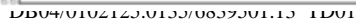
EXHIBIT B-3

STAR BOND DISTRICT – LEGAL DESCRIPTION

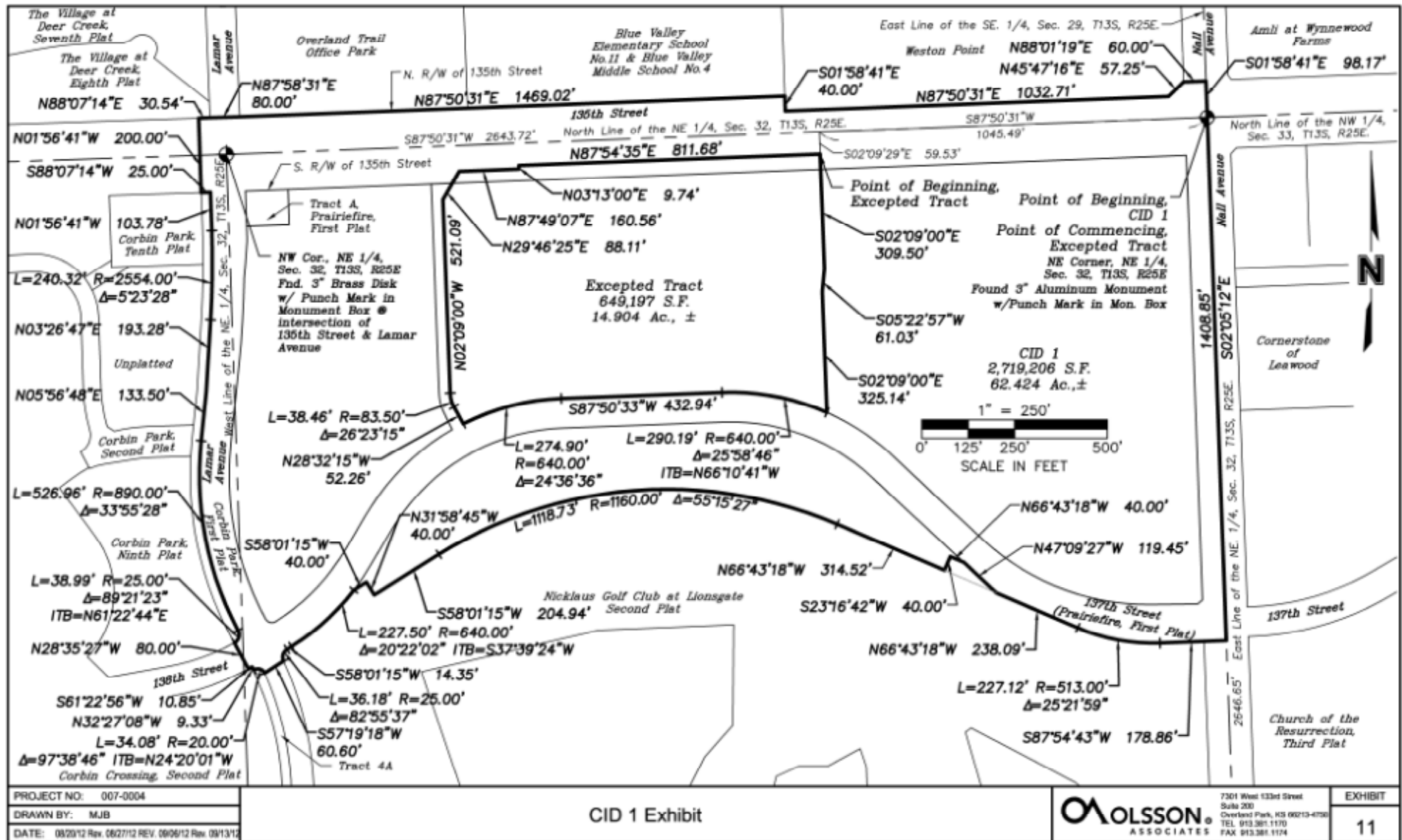
All that part of Lot 4, Nicklaus Golf Club at Lionsgate Second Plat, and an unplatted portion of land, all lying in the Northeast Quarter of Section 32, Township 13 South, Range 25 East, in the City of Overland Park, Johnson County, Kansas, described as follows:

COMMENCING at the Northwest corner of the Northeast Quarter of Section 32, Township 13 South, Range 25 East; thence North 87 degrees 50 minutes 31 seconds East along the North line of the Northeast Quarter of said Section 32 a distance of 47.63 feet to a point; thence South 2 degrees 09 minutes 29 seconds East a distance of 100.00 feet to the point of intersection of the East right of way line of Lamar Avenue and the South right of way line of 135th Street, the POINT OF BEGINNING; thence North 87 degrees 50 minutes 31 seconds East along the South right of way line of 135th Street a distance of 2535.97 feet to a point on the West right of way line of Nall Avenue; thence South 2 degrees 05 minutes 12 seconds East along the West right of way line of Nall Avenue a distance of 1308.78 feet to a point; thence South 87 degrees 54 minutes 43 seconds West a distance of 118.86 feet to a point; thence in a Northwesterly direction along a curve to the right, having a radius of 513.00 feet, through a central angle of 25 degrees 21 minutes 59 seconds, an arc distance of 227.12 feet to a point; thence North 66 degrees 43 minutes 18 seconds West along the South right of way line of 137th Street as established by in Book 6474 at Page 292 a distance of 705.17 feet to a point; thence in a Northwesterly, Westerly and Southwesterly direction along the Southerly right of way line of said 137th Street and along a curve to the left, having a radius of 1160.00 feet, through a central angle of 55 degrees 15 minutes 27 seconds, an arc distance of 1118.73 feet to a point; thence South 58 degrees 01 minutes 15 seconds West along the Southerly right of way line of said 137th Street a distance of 467.69 feet to a point on the East right of way line of Lamar Avenue; thence North 31 degrees 58 minutes 45 seconds West along the East right of way line of Lamar Avenue a distance of 80.00 feet to a point; thence in a Southwesterly, Westerly and Northwesterly direction along the East right of way line of Lamar Avenue and along a curve to the right whose initial tangent bears South 58 degrees 01 minutes 15 seconds West, having a radius of 20.00 feet, through a central angle of 93 degrees 33 minutes 38 seconds, an arc distance of 32.66 feet to a point on compound curvature; thence in a Northeasterly direction along the East right of way line of Lamar Avenue and along a curve to the right, having a radius of 810.00 feet, through a central angle of 34 degrees 21 minutes 55 seconds, an arc distance of 485.83 feet to a point; thence North 5 degrees 56 minutes 48 seconds East along the East right of way line of Lamar Avenue a distance of 215.17 feet to a point; thence in a Northeasterly direction along the East right of way line of Lamar Avenue and along a curve to the left, having a radius of 2640.00 feet, through a central angle of 5 degrees 04 minutes 22 seconds, an arc distance of 233.74 feet to a point; thence North 5 degrees 27 minutes 38 seconds East along the East right of way line of Lamar Avenue a distance of 37.20 feet to a point; thence North 3 degrees 52 minutes 30 seconds East along the East right of way line of Lamar Avenue a distance of 63.11 feet to a point; thence North 1 degree 56 minutes 41 seconds West along the East right of way line of Lamar Avenue a distance of 134.06 feet to the POINT OF BEGINNING and containing 2,864,277 Square Feet or 61.623 Acres, more or less.

STAR BOND DISTRICT - MAP



CID DISTRICTS – MAP



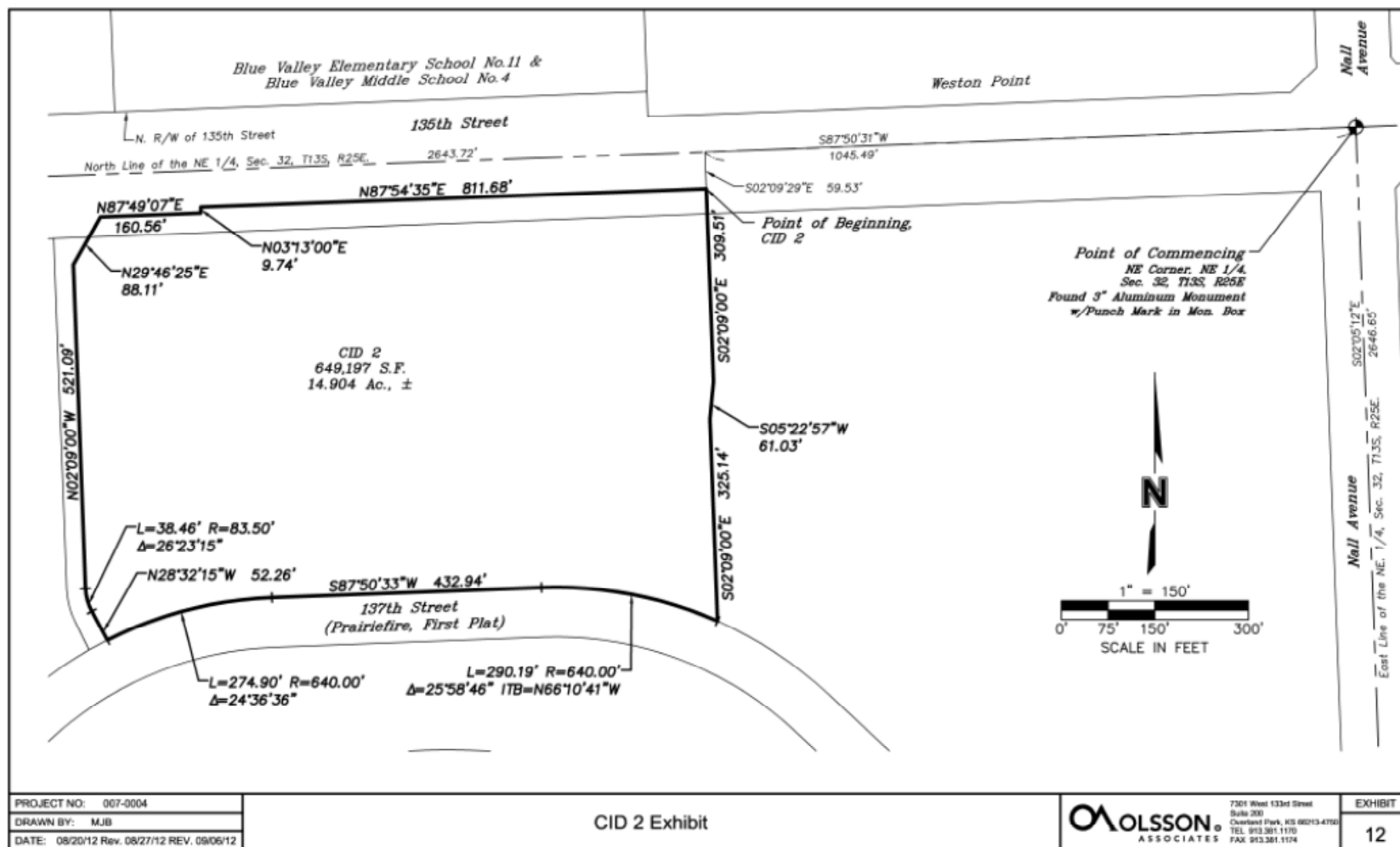


EXHIBIT C - 2

EXHIBIT C-1

CID DISTRICT 1 - LEGAL

File No. 2007-0004

PrairieFire CID

August 20, 2012

Revised August 27, 2012

Revised September 6, 2012

Revised September 13, 2012

EXH11

Property Description CID1

All of Tract A and all of 137th Street right of way as established in Prairiefire, First Plat, all that part of Nicklaus Golf Club at Lionsgate Second Plat, together with an unplatted portion of land, subdivisions and land all lying in the South half of Section 29, and the North half of Section 32, all lying in Township 13 South, Range 25 East, in the City of Overland Park, Johnson County, Kansas, described as follows:

BEGINNING at the Northeast corner of the Northeast Quarter of Section 32, Township 13 South, Range 25 East; thence South 2 degrees 05 minutes 12 seconds East along the East line of the Northeast Quarter of said Section 32 a distance of 1408.85 feet to a point on the Easterly prolongation of the South right of way line of 137th Street as established by the final plat of Prairiefire, First Plat; thence South 87 degrees 54 minutes 43 seconds West along the South right of way line of said 137th Street and its prolongation a distance of 178.86 feet to a point; thence in a Northwesterly direction along the South right of way line of said 137th Street and along a curve to the right, having a radius of 513.00 feet, through a central angle of 25 degrees 21 minutes 59 seconds, an arc distance of 227.12 feet to a point; thence North 66 degrees 43 minutes 18 seconds West along the Southerly right of way line of said 137th Street a distance of 238.09 feet to a point; thence North 47 degrees 09 minutes 27 seconds West along the Southerly right of way line of said 137th Street a distance of 119.45 feet to a point; thence North 66 degrees 43 minutes 18 seconds West a distance of 40.00 feet to a point; thence South 23 degrees 16 minutes 42 seconds West a distance of 40.00 feet to a point; thence North 66 degrees 43 minutes 18 seconds West a distance of 314.52 feet to a point of curvature; thence in a Northwesterly direction along a curve to the left, having a radius of 1160.00 feet, through a central angle of 55 degrees 15 minutes 27 seconds, an arc distance of 1118.73 feet to a point; thence South 58 degrees 01 minutes 15 seconds West a distance of 204.94 feet to a point; thence North 31 degrees 58 minutes 45 seconds West a distance of 40.00 feet to a point; thence South 58 degrees 01 minutes 15 seconds West a distance of 40.00 feet to a point on the South right of way line of said 137th Street; thence in a Southwesterly direction along the Southerly right of way line of said 137th Street and along a curve to the right whose initial tangent bears South 37 degrees 39 minutes 24 seconds West, having a radius of 640.00 feet, through a central angle of 20 degrees 22 minutes 02 seconds, an arc distance of 227.50 feet to a point; thence South 58 degrees 01 minutes 15 seconds West along the Southerly right of way line of said 137th Street a distance of 14.35 feet to a point on the East right of way line of Lamar Avenue; thence in a Southeasterly direction along

the East right of way line of Lamar Avenue and along a curve to the left, having a radius of 25.00 feet, through a central angle of 82 degrees 55 minutes 37 seconds, an arc distance of 36.18 feet to a point; thence South 57 degrees 19 minutes 18 seconds West a distance of 60.60 feet to a point on the West right of way line of Lamar Avenue as established by the final plat of Corbin Park, First Plat, a subdivision in the City of Overland Park, Johnson County, Kansas; thence in a Northwesterly direction along the West right of way of said Lamar Avenue and along a curve to the left whose initial tangent bears North 24 degrees 20 minutes 01 seconds West, having a radius of 20.00 feet, through a central angle of 97 degrees 38 minutes 46 seconds, an arc distance of 34.08 feet to a point; thence North 32 degrees 27 minutes 08 seconds West along the West right of way line of Lamar Avenue a distance of 9.33 feet to a point on the South right of way line of 138th Street; thence South 61 degrees 22 minutes 56 seconds West along the South right of way line of 138th Street a distance of 10.85 feet to a point; thence North 28 degrees 35 minutes 27 seconds West a distance of 80.00 feet to a point on the North right of way line of 138th Street; thence in a Northeasterly, Northerly and Northwesterly direction along the North right of way line of 138th Street and along a curve to the left whose initial tangent bears North 61 degrees 22 minutes 44 seconds East, having a radius of 25.00 feet, through a central angle of 89 degrees 21 minutes 23 seconds, an arc distance of 38.99 feet to a point of reverse curvature; thence in a Northwesterly direction along the West right of way line of Lamar Avenue and along a curve to the right, having a radius of 890.00 feet, through a central angle of 33 degrees 55 minutes 28 seconds, an arc distance of 526.96 feet to a point; thence North 5 degrees 56 minutes 48 seconds East along the West right of way line of Lamar Avenue a distance of 133.50 feet to a point; thence North 3 degrees 26 minutes 47 seconds East along the West right of way line of Lamar Avenue a distance of 193.28 feet to a point; thence in a Northerly direction along the West right of way line of Lamar Avenue and along a curve to the left, having a radius of 2554.00 feet, through a central angle of 5 degrees 23 minutes 28 seconds, an arc distance of 240.32 feet to a point; thence North 1 degree 56 minutes 41 seconds West along the West right of way line of Lamar Avenue a distance of 103.78 feet to a point on the South right of way line of 135th Street; thence South 88 degrees 07 minutes 14 seconds West along the South right of way line of 135th Street a distance of 25.00 feet to a point; thence North 1 degree 56 minutes 41 seconds West a distance of 200.00 feet to a point on the North right of way line of 135th Street; thence North 88 degrees 07 minutes 14 seconds East along the North right of way line of 135th Street a distance of 30.54 feet to a point; thence North 87 degrees 58 minutes 31 seconds East a distance of 80.00 feet to a point on the North right of way line of 135th Street; thence North 87 degrees 50 minutes 31 seconds East along the North right of way line of 135th Street a distance of 1469.02 feet to a point; thence South 1 degree 58 minutes 41 seconds East along the Northerly right of way line of 135th Street a distance of 40.00 feet to a point; thence North 87 degrees 50 minutes 31 seconds East along the North right of way line of 135th Street a distance of 1032.71 feet to a point; thence North 45 degrees 47 minutes 16 seconds East along the Northerly right of way line of 135th Street a distance of 57.25 feet to a point; thence North 88 degrees 01 minutes 19 seconds East a distance of 60.00 feet to a point on the East line of the Southeast Quarter of Section 29, Township 13 South, Range 25 East; thence South 1 degree 58 minutes 41 seconds East along the East line of the Southeast Quarter of said Section 29 a distance of 98.17 feet to the POINT OF BEGINNING.

Except,

EXHIBIT C - 2

All of part of the Northeast Quarter of Section 32, Township 13 South, Range 25 East, in the City of Overland Park, Johnson County, Kansas, described as follows:

COMMENCING at the Northeast corner of the Northeast Quarter of Section 32, Township 13 South, Range 25 East; thence South 87 degrees 50 minutes 31 seconds West along the North line of the Northeast Quarter of said Section 32 a distance of 1045.49 feet to a point; thence South 2 degrees 09 minutes 29 seconds East a distance of 59.53 feet to the POINT OF BEGINNING; thence South 2 degrees 09 minutes 00 seconds East a distance of 309.50 feet to a point; thence South 5 degrees 22 minutes 57 seconds West a distance of 61.03 feet to a point; thence South 2 degrees 09 minutes 00 seconds East a distance of 325.14 feet to a point on the North right of way line of 137th Street as established by the Final Plat of Prairiefire First Plat, a subdivision in the City of Overland Park, Johnson County, Kansas; thence in a Northwesterly direction along the North right of way line of said 137th Street and along a curve to the left whose initial tangent bears North 66 degrees 10 minutes 41 seconds West, having a radius of 640.00 feet, through a central angle of 25 degrees 58 minutes 46 seconds, an arc distance of 290.19 feet to a point; thence South 87 degrees 50 minutes 33 seconds West along the North right of way line of said 137th Street a distance of 432.94 feet to a point; thence in a Southwesterly direction along the North right of way line of said 137th Street and along a curve to the left, having a radius of 640.00 feet, through a central angle of 24 degrees 36 minutes 36 seconds, an arc distance of 274.90 feet to a point; thence North 28 degrees 32 minutes 15 seconds West a distance of 52.26 feet to a point; thence in a Northwesterly direction and along a curve to the right, having a radius of 83.50 feet, through a central angle of 26 degrees 23 minutes 15 seconds, an arc distance of 38.46 feet to a point; thence North 2 degrees 09 minutes 00 seconds West a distance of 521.09 feet to a point; thence North 29 degrees 46 minutes 25 seconds East a distance of 88.11 feet to a point; thence North 87 degrees 49 minutes 07 seconds East a distance of 160.56 feet to a point; thence North 3 degrees 13 minutes 00 seconds East a distance of 9.74 feet to a point; thence North 87 degrees 54 minutes 35 seconds East a distance of 811.68 feet to the POINT OF BEGINNING and containing 649,197 Square Feet or 14.904 Acres, more or less.

The above described Tract has a net area of 2,719,206 Square Feet or 62.424 Acres, more or less.

EXHIBIT C - 3

EXHIBIT C-2

CID DISTRICT 2 – LEGAL

File No. 2007-0004
PrairieFire CID
August 20, 2012
Revised August 27, 2012

EXH12

Property Description CID2

All of part of the Northeast Quarter of Section 32, Township 13 South, Range 25 East, in the City of Overland Park, Johnson County, Kansas, described as follows:

COMMENCING at the Northeast corner of the Northeast Quarter of Section 32, Township 13 South, Range 25 East; thence South 87 degrees 50 minutes 31 seconds West along the North line of the Northeast Quarter of said Section 32 a distance of 1045.49 feet to a point; thence South 2 degrees 09 minutes 29 seconds East a distance of 59.53 feet to the POINT OF BEGINNING; thence South 2 degrees 09 minutes 00 seconds East a distance of 309.50 feet to a point; thence South 5 degrees 22 minutes 57 seconds West a distance of 61.03 feet to a point; thence South 2 degrees 09 minutes 00 seconds East a distance of 325.14 feet to a point on the North right of way line of 137th Street as established by the Final Plat of Prairiefire First Plat, a subdivision in the City of Overland Park, Johnson County, Kansas; thence in a Northwesterly direction along the North right of way line of said 137th Street and along a curve to the left whose initial tangent bears North 66 degrees 10 minutes 41 seconds West, having a radius of 640.00 feet, through a central angle of 25 degrees 58 minutes 46 seconds, an arc distance of 290.19 feet to a point; thence South 87 degrees 50 minutes 33 seconds West along the North right of way line of said 137th Street a distance of 432.94 feet to a point; thence in a Southwesterly direction along the North right of way line of said 137th Street and along a curve to the left, having a radius of 640.00 feet, through a central angle of 24 degrees 36 minutes 36 seconds, an arc distance of 274.90 feet to a point; thence North 28 degrees 32 minutes 15 seconds West a distance of 52.26 feet to a point; thence in a Northwesterly direction and along a curve to the right, having a radius of 83.50 feet, through a central angle of 26 degrees 23 minutes 15 seconds, an arc distance of 38.46 feet to a point; thence North 2 degrees 09 minutes 00 seconds West a distance of 521.09 feet to a point; thence North 29 degrees 46 minutes 25 seconds East a distance of 88.11 feet to a point; thence North 87 degrees 49 minutes 07 seconds East a distance of 160.56 feet to a point; thence North 3 degrees 13 minutes 00 seconds East a distance of 9.74 feet to a point; thence North 87 degrees 54 minutes 35 seconds East a distance of 811.68 feet to the POINT OF BEGINNING and containing 649,197 Square Feet or 14.904 Acres, more or less.

EXHIBIT D
CONSERVATION EASEMENT

To be added

EXHIBIT E

INTENTIONALLY OMITTED

EXHIBIT F

SITE PLAN

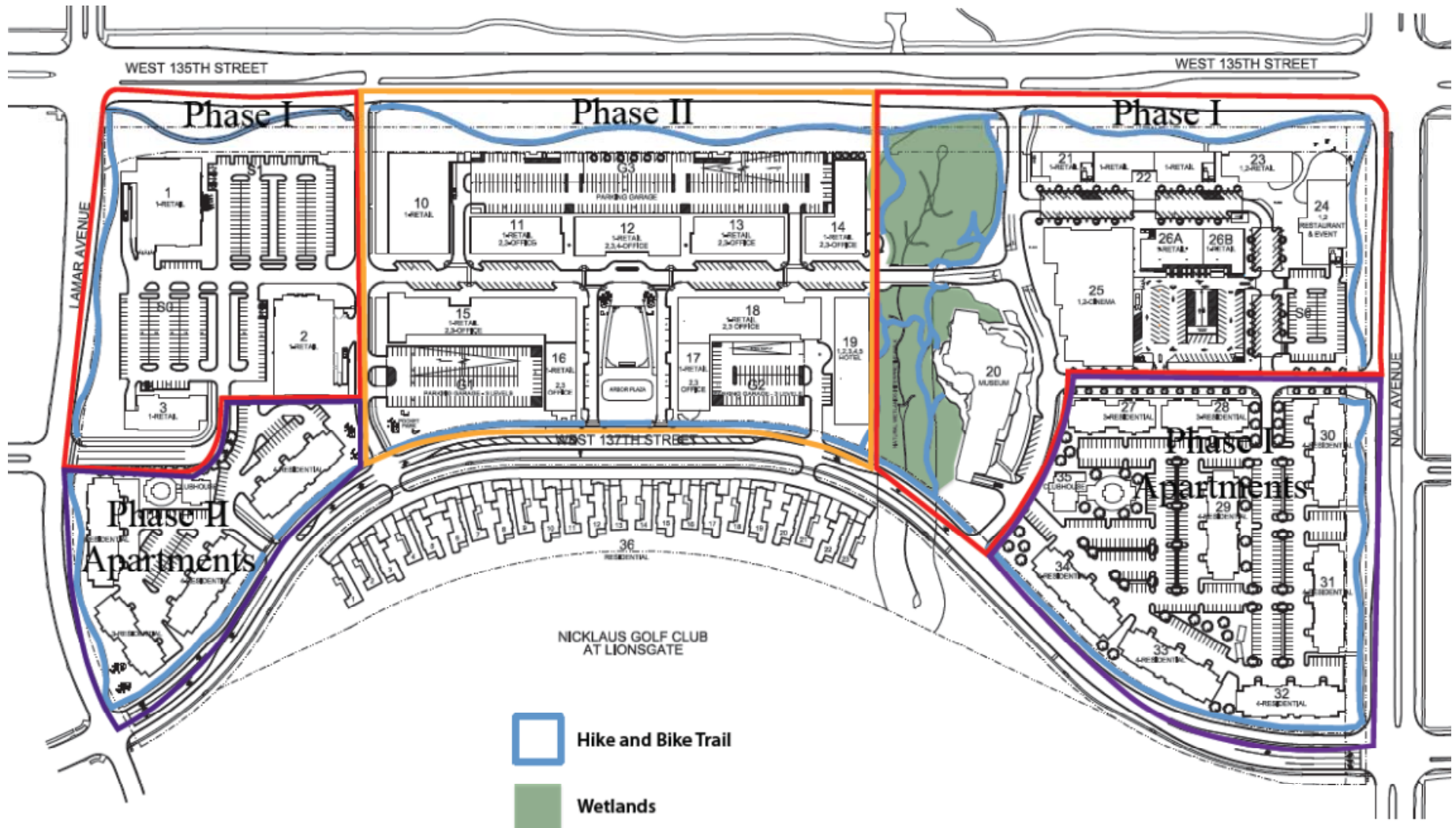


EXHIBIT G
PERFORMANCE MILESTONES

Phase 1 Commencement Date	30 days after Closing
Phase 1 Completion Date	December 31, 2014
Phase 2 Commencement Date	The earlier of (a) three years after Substantial Completion of Phase 1, or (b) December 31, 2017
Phase 2 Completion Date	The earlier of (a) three years after commencement of Phase 2; or (b) December 31, 2020

EXHIBIT H
INSURANCE SPECIFICATIONS

1. Worker's Compensation (as applicable). Developer may self-insure, to the extent allowed by applicable law. The self-insured retention shall be that which is standard in the industry. Developer will then purchase excess Worker's Compensation Insurance with statutory limits over the self-insured retention. If self-insurance is not available under applicable state law, coverage will be purchased in accordance with the statutory requirements.
2. Comprehensive General Liability. Developer will purchase and maintain with primary limits of \$3,000,000.
3. Automobile Liability (as applicable). Developer will purchase and maintain with primary limits of \$1,000,000.
4. Excess Liability. Developer will purchase and maintain excess liability insurance in an amount not less than \$5,000,000.
5. Special Perils Form Property Insurance. Developer will purchase on a replacement cost basis. Deductibles and limits will be standard to those in the industry, and the policy shall include an "Agreed Amount" endorsement. Earthquake and flood insurance, as well as fired vessel, boiler and machinery, and underground collapse, may be required by the City as additional perils, but only to the extent required by Developer's lender for the Project.

EXHIBIT I
GUARANTY AGREEMENT

THIS GUARANTY AGREEMENT dated as of _____, 2012 (this “**Guaranty**”), between **MERRILL COMPANIES, LLC**, a Kansas limited liability company (“**Guarantor**”) and **THE CITY OF OVERLAND PARK, KANSAS** (the “**City**”);

WITNESSETH:

A. The City, MC Prairiefire I, LLC, a Kansas limited liability company (“**MCP I**”), and MC Prairiefire II, LLC, a Kansas limited liability company (“**MCP II**,” and collectively, MCP I and MCP II are hereinafter referred to as the “**Developer**”), have entered into that certain Development Agreement dated as of October __, 2012 regarding the Prairiefire Project (the “**Development Agreement**”), and all capitalized terms used herein but not otherwise defined shall have the meaning ascribed to them in the Development Agreement;

B. Guarantor is related to Developer as follows: Guarantor is a member and the manager of Owner, an affiliate of Developer;

C. Guarantor desires that the City enter into the Development Agreement with Developer;

D. As a condition of entering into the Development Agreement, the City has required the execution and delivery of a guaranty in the form hereof by Guarantor;

F. Certain Public Financing Proceeds (as defined in the Development Agreement) are to be made available to Developer pursuant to the terms and conditions of the Development Agreement, which Public Financing Proceeds are to be applied by Developer to pay a portion of the costs of the Project for the benefit of Developer; and

G. Developer and Guarantor each separately and together derive substantial benefit from the operations of Developer and the availability to Developer of the Public Financing Proceeds, and the transactions contemplated in the Development Agreement;

NOW, THEREFORE, in consideration of the premises and in order to induce the City to enter into the Development Agreement and satisfy the terms thereof, Guarantor does hereby, subject to the terms hereof, covenant and agree with the City as follows:

ARTICLE I
REPRESENTATIONS OF GUARANTOR

Section 1.1. Guarantor’s Representations. Guarantor does hereby represent and warrant that:

- (a) Guarantor is a Kansas limited liability company having power to enter into this Guaranty and neither this Guaranty nor the agreements herein contained contravene or constitute a default under any agreement, instrument or indenture to which he is a party; and

- (b) The execution of this Guaranty and the assumption by Guarantor of the obligations hereunder will result in a direct financial benefit to him.

ARTICLE II THE GUARANTY

Section 2.1. Guaranty. Guarantor does hereby unconditionally and absolutely guarantee to the City (a) the full and prompt completion of construction of Phase 1 of the Project by Developer as contemplated under the Development Agreement and in accordance with the Development Plan approved by the City; and (b) the full, prompt and complete performance of the terms and conditions set forth in the following provisions of the Development Agreement: Sections 2.05 (Indemnification), 2.06 (Insurance), 4.02(j) (No Relocation Within a Certain Radius of STAR Bond District), 4.03(h) (No Relocation Within a Certain Radius of the CID Districts), 7.02 (Use and Operation), 7.05 (Continuing Disclosures; Sales and Use Tax Reporting), 7.06 (Maintenance and Use), 7.11 (Damage, Destruction or Condemnation) and 9.02 (Expenses and Administrative Fee) (collectively, Section 2.1(a) and 2.1(b) may be referred to herein as the “**Guaranteed Obligations**”). Notwithstanding anything herein (or in Section 2.2 below) to the contrary, the parties hereby agree that the Guaranteed Obligations shall not include the completion of construction of the Residential Units in Phase 1 of the Project or the operational covenants in 2.1(b) as they pertain to such Residential Units.

All payments by the Guarantor shall be made in lawful money of the United States of America. Each and every default in payment or performance of the Guaranteed Obligations shall give rise to a separate cause of action hereunder, and separate suits may be brought hereunder as each cause of action arises.

Section 2.2. Guaranteed Obligations. Without limiting the generality of the foregoing, Guarantor does hereby unconditionally and absolutely guarantee to the City the full, prompt and complete performance by Developer of, all and singular, the terms, covenants, conditions and provisions in the Development Agreement which are identified in Section 2.1(b) above and which are associated with the timely construction and completion of Phase 1 of the Project to be performed by Developer. If Developer (i) fails or neglects to complete construction of Phase 1 of the Project as contemplated by and described in Article V and the balance of the Development Agreement within the time therein specified, free and clear of liens and fully paid for (or any liens are bonded over), or (ii) fails to pursue with diligence and continuity the construction and completion of Phase 1 of the Project in accordance with the Development Agreement, or (iii) fails to promptly pay or perform the obligations set forth in the provisions of the Development Agreement which are identified in Section 2.1(b) above, then the City, in addition to the City’s other rights, remedies, and resources, whether existing hereunder, under the Development Agreement or otherwise, may proceed under this Article II. In any such event, after the City notifies Guarantor of Developer’s failure to satisfy the Development Agreement in regard to the conditions set forth above, and following expiration of the applicable cure period as referenced in Section 4.2 hereof, Guarantor agrees, at Guarantor’s sole cost and expense, to perform and discharge any such obligations in accordance with and subject to the Development Agreement and to diligently pursue such performance in order to fully and completely perform and discharge any and all such obligations of the Development Agreement within the time and in

EXHIBIT I-2

the manner specified in and in accordance with the Development Agreement.

Section 2.3 Guaranty Unconditional. Except as set forth in Article IV below, the obligations of Guarantor under this Guaranty shall be absolute and unconditional and shall remain in full force and effect until the Guaranteed Obligations shall have been completed and performed, or provision made for such completion and performance, and such obligations shall not be affected, modified or impaired upon the happening from time to time of any event, including without limitation any of the following:

- (a) Waiver by the City or Guarantor of any of the obligations, covenants or agreements contained in the Development Agreement or in this Guaranty related to the Guaranteed Obligations set forth in Sections 2.1 and 2.2 above;
- (b) The extension of the time for performance under this Guaranty;
- (c) The modification or amendment (whether material or otherwise) of any obligation, covenant or agreement set forth in the Development Agreement, provided that the obligations of Guarantor are not thereby increased or expanded without its prior written consent;
- (d) Except as set forth in Article IV below, any failure, omission, delay or lack on the part of the City to enforce, assert or exercise any right, power or remedy conferred on the City in this Guaranty, or any other act or acts on the part of the City;
- (e) The voluntary or involuntary liquidation, dissolution, sale or other disposition of all or substantially all the assets, marshaling or assets and liabilities, receivership, insolvency, bankruptcy, assignment for the benefit of creditors, reorganization, arrangement, composition with creditors or readjustment of, or other similar proceedings affecting the City, Developer or Guarantor or any of the assets of any of them, or any contest of the validity of this Guaranty in such proceeding;
- (f) The default or failure of Guarantor to perform fully any of its obligations set forth in the Guaranty.

Section 2.4 No Set off. No set off, counterclaim, reduction or diminution of any obligation, or any defense of any kind or nature which Guarantor has or may come to have against the City shall be available hereunder to Guarantor against the City respecting its obligations hereunder; provided that nothing contained herein shall prohibit Guarantor from asserting any separate or related claim against the City in a separate proceeding, which proceeding shall in no way delay the prompt performance by Guarantor of its obligations hereunder.

ARTICLE III REMEDIES ON DEFAULT

Section 3.1 Default Remedies. Upon a default in any Guaranteed Obligations when and as the same shall become due, the City may proceed hereunder following any applicable notice and cure period as set forth in Section 4.2 hereof.

EXHIBIT I-3

Section 3.2 Waiver of Notice. Guarantor hereby expressly waives notice from the City of its acceptance and reliance on this Guaranty. The Guarantor agrees to pay all reasonable costs, expenses and fees, including all reasonable attorneys' fees and expenses, which may be incurred by the City in enforcing or attempting to enforce this Guaranty following any default on the Guarantor's part hereunder, whether the same shall be enforced by suit or otherwise.

Section 3.3 Remedies not Exclusive. No remedy herein conferred upon or reserved to the City is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Guaranty or now or hereafter existing at law or in equity. No delay or omission to exercise any right or power accruing upon any default, omission or failure of performance hereunder shall impair any such right or power or shall be construed to be a waiver thereof, but subject to the terms of Section 3.1, any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the City to exercise any remedy reserved to it in this Guaranty, it shall not be necessary to give any notice, other than such notice as may be herein expressly required. In the event any provision contained in this Guaranty should be breached by Guarantor and thereafter such breach is duly waived by the City, such waiver shall be limited to the particular breach so waived and shall not be deemed to waive any other breach hereunder. No waiver, amendment, release or modification of this Guaranty shall be established by conduct, custom or course of dealing, but may be effected solely by an instrument in writing duly executed by the City.

ARTICLE IV TERM OF GUARANTY

Section 4.1 Term. Guarantor's duties and obligations hereunder, shall expire, and this Agreement shall hereby terminate, upon the earlier to occur of (a) that date which is three (3) years after (i) the completion of all improvements that constitute Phase 1 of the Project, and (ii) occupation of at least 80% of such improvements by tenants who are open for business (including, without limitation, the Museum), as confirmed by a Certificate of Completion/Operation executed by the City as set forth in Section 9.01(c) of the Development Agreement; and (b) expiration of the Term of the Development Agreement. If, after the issuance of a Certificate of Completion/Operation by the City as set forth in Section 9.01(c) of the Development Agreement, certain tenants shall thereafter close and Phase 1 of the Project shall become less than 80% occupied and open, the parties agree that the three (3) year period set forth herein shall nonetheless run from the date of the Certificate of Completion/Operation and shall be unaffected by any such change in circumstances.

Section 4.2 Notice to Guarantor. Upon the City's written notice to Developer pursuant to Article VIII of the Development Agreement of Developer's default under the Development Agreement, the City shall simultaneously provide a copy of such written notice to Guarantor. During the applicable cure period provided to Developer under Article VIII of the Development Agreement, Guarantor shall have the right to cure any such default on behalf of Developer. The failure to notify the Developer shall not relieve the Guarantor of any liability that it may have to the City under this Guaranty, provided however that such failure of timely notice to Guarantor shall extend Guarantor's cure period for the full cure period set forth in

Article VIII of the Development Agreement, with such period commencing on the date Guarantor receives such notice from the City.

ARTICLE V GENERAL COVENANTS AND AGREEMENTS

Section 5.1 Beneficiaries. This Guaranty is entered by Guarantor for the benefit of the City.

Section 5.2 Submission to Jurisdiction. Guarantor covenants that it is and will remain subject to service of process in the State of Kansas so long as this Guaranty is in effect.

ARTICLE VI MISCELLANEOUS PROVISIONS

Section 6.1 Definitions of Words and Terms. For all purposes of this Guaranty, except as otherwise provided or unless the context otherwise requires, words and terms used in this Guaranty have the same meanings as set forth in the Development Agreement.

Section 6.2 Guaranty Binding on Successors. The agreements obtained herein on the part of Guarantor shall inure to and be binding upon its successors and assigns.

Section 6.3 Entire Agreement. This Guaranty constitutes the entire agreement and supersedes all prior agreements and understandings, both written and oral, between Guarantor and the City with respect to the subject matter hereof and may be executed simultaneously in several counterparts, each of which shall be deemed an original, and all of which together shall constitute but one and the same instrument.

Section 6.4 Severability. The invalidity or unenforceability of any one or more phrases, sentences, clauses or Sections in this Guaranty shall not affect the validity or enforceability of any remaining portions of this Guaranty.

Section 6.5 Governing Law. This Guaranty shall be governed by and be construed and interpreted in accordance with the laws of the State of Kansas.

(Signature pages to follow).

IN WITNESS WHEREOF, Guarantor has caused this Guaranty to be executed as of the date first above written.

MERRILL COMPANIES, LLC, a Kansas limited liability company

Fred L. Merrill, Jr.
Manager

ACCEPTED:

THE CITY OF OVERLAND PARK, KANSAS

By: _____

Name: _____

Title: _____

EXHIBIT I-7

EXHIBIT J

PROJECT COSTS & PROJECT BUDGET

PRAIRIEFIRE AT LIONSGATE

SOURCES AND USES BUDGET

DRAFT: October 9, 2012

		USES			SOURCES			
		Estimated Project Costs	Star Bond Allocation / Eligibility			STAR Bonds Net Proceeds*	CID Bonds Net Proceeds*	Private Funds
			%	Eligible	Requested			
1	PHASE I							
	Museum of Prairiefire Attraction							
	Land Acquisition - Exhibition/Museum & surface parking	\$ 540,101	100.0%	\$ 540,101	\$ 540,101	\$ 540,101	\$ -	\$ -
	Legal, Project Mgt, Acct.	\$ 607,500	100.0%	\$ 607,500	\$ 607,500	\$ 607,500	\$ -	\$ -
	G & A, Advertising, Fees, Taxes, Insurance, Permits	\$ 930,000	100.0%	\$ 930,000	\$ 930,000	\$ 930,000	\$ -	\$ -
	A & E LEED	\$ 2,000,000	100.0%	\$ 2,000,000	\$ 2,000,000	\$ 2,000,000	\$ -	\$ -
	Building Construction	\$ 15,000,000	100.0%	\$ 15,000,000	\$ 15,000,000	\$ 15,000,000	\$ -	\$ -
	Interiors, Café, Diorama, Signage, Discovery Room	\$ 4,500,000	50.0%	\$ 2,250,000	\$ 2,250,000	\$ 1,800,000	\$ -	\$ 2,700,000
	Site Work, public parking & landscaping	\$ 1,680,000	100.0%	\$ 1,680,000	\$ 1,680,000	\$ 1,680,000	\$ -	\$ -
	Programming	\$ -	0.0%	\$ -	\$ -	\$ -	\$ -	\$ -
2	Reserves & Endowment	\$ -	0.0%	\$ -	\$ -	\$ -	\$ -	\$ -
		\$ 25,257,601		\$ 23,007,601	\$ 23,007,601	\$ 22,557,601	\$ -	\$ 2,700,000
	Wetlands & Hike/Bike Trail Educational Areas Attraction							
	Wetlands Area Land Cost	\$ 1,065,200	100.0%	\$ 1,065,200	\$ -	\$ -	\$ 1,065,200	\$ -
	Wetlands & mitigation costs	\$ 100,000	100.0%	\$ 100,000	\$ -	\$ -	\$ 100,000	\$ -
	Hike & Bike Trail construction	\$ 100,000	100.0%	\$ 100,000	\$ -	\$ -	\$ 100,000	\$ -
	Hike & Bike Trail Land	\$ 936,176	100.0%	\$ 936,176	\$ -	\$ -	\$ 936,176	\$ -
	Landscaping for Wetlands & Hike/Bike	\$ 652,592	100.0%	\$ 652,592	\$ -	\$ -	\$ 652,592	\$ -
		\$ 2,853,968		\$ 2,853,968	\$ -	\$ -	\$ 2,853,968	\$ -
	Museum District Development Attraction							
3	Museum District Land	\$ 2,571,484	100.0%	\$ 2,571,484	\$ 2,571,484	\$ 2,571,484	\$ -	\$ -
	Building 21 (Rock & Brews)	\$ 609,000	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 609,000
	Building 22 (The Pub)	\$ 732,030	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 732,030
	Building 22 (Spec)	\$ 767,956	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 767,956
	Building 23 (Paradise Diner)	\$ 340,165	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 340,165
	Building 23 (Newport Grill)	\$ 437,355	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 437,355
	Building 23 (The Club)	\$ 679,650	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 679,650
	Building 24 (Pinstripes)	\$ 3,083,385	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 3,083,385
	Building 25 (Cinetopia)	\$ 6,168,053	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 6,168,053
	Building 26 (Bar Louie)	\$ 248,833	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 248,833
3	Building 26 (Spec)	\$ 459,421	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 459,421
		\$ 16,097,332		\$ 2,571,484	\$ 2,571,484	\$ 2,571,484	\$ -	\$ 13,525,848
	Museum District - Tenant Improvements							
	Building 21 (Rock & Brews)	\$ 511,500	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 511,500
	Building 22 (The Pub)	\$ 975,000	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 975,000
	Building 22 (Spec)	\$ 1,022,850	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 1,022,850
	Building 23 (Paradise Diner)	\$ 350,000	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 350,000
	Building 23 (Newport Grill)	\$ 540,000	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 540,000
	Building 23 (The Club)	\$ 839,160	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 839,160
	Building 24 (Pinstripes)	\$ 5,402,100	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 5,402,100
Building 25 (Cinetopia)	\$ 9,213,000	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 9,213,000	
Building 26 (Bar Louie)	\$ 753,125	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 753,125	
Building 26 (Spec)	\$ 485,800	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 485,800	
	\$ 20,092,535		\$ -	\$ -	\$ -	\$ -	\$ 20,092,535	

PRAIRIEFIRE AT LIONSGATE

SOURCES AND USES BUDGET

		USES			SOURCES			
		Estimated Project Costs	Star Bond Allocation / Eligibility			STAR Bonds Net Proceeds*	CID Bonds Net Proceeds*	Private Funds
			%	Eligible	Requested			
3	Museum District - Sitework/Landscaping							
	Utilities (Gas and Water Mains)	\$ 361,500	100.0%	\$ 361,500	\$ 156,147	\$ 156,147	\$ 205,353	\$ -
	Site Work/Grading	\$ 3,520,605	100.0%	\$ 3,520,605	\$ 3,110,605	\$ 3,013,002	\$ 410,000	\$ 97,603
	Landscape/Hardscape	\$ 1,501,485	100.0%	\$ 1,501,485	\$ 1,501,485	\$ 1,501,485	\$ -	\$ -
	Site Amenities/Sculpture/Art	\$ 250,000	100.0%	\$ 250,000	\$ -	\$ -	\$ 250,000	\$ -
	\$ 5,633,590			\$ 5,633,590	\$ 4,768,237	\$ 4,670,634	\$ 865,353	\$ 97,603
3	Museum District - Fees & Expenses							
	Legal & Accounting	\$ 521,254	100.0%	\$ 521,254	\$ -	\$ -	\$ -	\$ 521,254
	A & E Garage, Site, and Buildings	\$ 2,832,000	100.0%	\$ 2,832,000	\$ 1,378,964	\$ 1,378,964.00	\$ 827,461	\$ 625,575
	A & E Reimb. & A&E Contingency	\$ 163,365	100.0%	\$ 163,365	\$ -	\$ -	\$ -	\$ 163,365
	Signage	\$ 229,000	100.0%	\$ 229,000	\$ -	\$ -	\$ 200,000	\$ 29,000
	Testing & Inspections	\$ 100,000	100.0%	\$ 100,000	\$ -	\$ -	\$ -	\$ 100,000
	Leasing Commissions Retail	\$ 2,020,000	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 2,020,000
	Construction Consultants & Site Consultants	\$ 103,700	100.0%	\$ 103,700	\$ -	\$ -	\$ -	\$ 103,700
	Contingency	\$ 100,000	100.0%	\$ 100,000	\$ -	\$ -	\$ -	\$ 100,000
	Taxes & Insurance	\$ 50,000	100.0%	\$ 50,000	\$ -	\$ -	\$ -	\$ 50,000
	Marketing	\$ 229,879	100.0%	\$ 229,879	\$ -	\$ -	\$ -	\$ 229,879
	Bank & Other Closing Fees	\$ 400,000	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 400,000
	MC Development & Asset Management Fee	\$ 2,176,318	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 2,176,318
	Equity Fee	\$ 250,000	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 250,000
	Finance Fee for CID & STAR Bonds	\$ 602,000	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 602,000
	Overland Park Plat Tax & Transportation Fees	\$ 766,794	100.0%	\$ 766,794	\$ 766,794	\$ 400,000	\$ -	\$ 366,794
	Water One & Johnson County Wastewater Permits	\$ 954,579	100.0%	\$ 954,579	\$ 954,579	\$ 450,000	\$ -	\$ 504,579
	\$ 11,498,889			\$ 6,050,571	\$ 3,100,337	\$ 2,228,964.00	\$ 1,027,461	\$ 8,242,464
4	Museum District Attraction - Parking Structure							
	Parking Garage Structure G4	\$ 11,795,572	100.0%	\$ 11,795,572	\$ 11,795,572	\$ 11,795,572	\$ -	\$ -
5	West End Attraction Deveopment							
	West End Land	\$ 2,142,404	100.0%	\$ 2,142,404	\$ 2,142,404	\$ 2,142,404	\$ -	\$ -
	Building 1-REI	\$ 1,961,871	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 1,961,871
	Building 2-The Fresh Market	\$ 1,906,763	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 1,906,763
	Building 3-(Spec)	\$ 906,810	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 906,810
	\$ 6,917,848			\$ 2,142,404	\$ 2,142,404	\$ 2,142,404	\$ -	\$ 4,775,444
5	West End - Tenant Improvements							
	Building 1-REI	\$ 766,400	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 766,400
	Building 2-The Fresh Market	\$ 940,918	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 940,918
	Building 3-(Spec)	\$ 340,000	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 340,000
	\$ 2,047,318		0.0%	\$ -	\$ -	\$ -	\$ -	\$ 2,047,318
5	West End - Sitework/Landscaping							
	Site Work	\$ 2,663,379	100.0%	\$ 2,663,379	\$ 104,914	\$ 104,914	\$ 2,558,465	\$ -
	Landscaping	\$ 659,342	100.0%	\$ 659,342	\$ 401,721	\$ 401,721	\$ 257,621	\$ -
	Site Amenities	\$ 100,000	100.0%	\$ 100,000	\$ 100,000	\$ 100,000.00	\$ -	\$ -
	\$ 3,422,721			\$ 3,422,721	\$ 606,635	\$ 606,635.06	\$ 2,816,086	\$ -

PRAIRIEFIRE AT LIONSGATE

SOURCES AND USES BUDGET

		USES			SOURCES				
		Estimated Project Costs	Star Bond Allocation / Eligibility		STAR Bonds Net Proceeds*	CID Bonds Net Proceeds*	Private Funds		
			%	Eligible				Requested	
5	West End - Fees & Expenses								
	A & E	\$ 685,524	100.0%	\$ 685,524	\$ 417,853	\$ 300,000.00	\$ -	\$ 385,524	
	A & E Reimbursables	\$ 10,854	100.0%	\$ 10,854	-	\$ -	\$ -	\$ 10,854	
	Marketing	\$ 25,707	100.0%	\$ 25,707	-	\$ -	\$ -	\$ 25,707	
	Legal & Accounting	\$ 103,400	100.0%	\$ 103,400	-	\$ -	\$ -	\$ 103,400	
	Development Fees & Supervision	\$ 422,169	0.0%	\$ -	-	\$ -	\$ -	\$ 422,169	
	Insurance & Taxes	\$ 25,707	100.0%	\$ 25,707	-	\$ -	\$ -	\$ 25,707	
	Leasing Commissions	\$ 638,000	0.0%	\$ -	-	\$ -	\$ -	\$ 638,000	
	Materials Testing & Inspections	\$ 36,561	100.0%	\$ 36,561	-	\$ -	\$ -	\$ 36,561	
	Construction Consultant	\$ 50,000	100.0%	\$ 50,000	-	\$ -	\$ -	\$ 50,000	
	Contingency	\$ 100,000	100.0%	\$ 100,000	-	\$ -	\$ -	\$ 100,000	
		\$ 2,097,922		\$ 1,037,753	\$ 417,853	\$ 300,000.00	\$ -	\$ 1,797,922	
	Other Infrastructure necessary and linking all Attractions								
	137th Street Construction	\$ 2,348,933	100.0%	\$ 2,348,933	-	\$ -	\$ 2,348,933	-	
	137th Street Land	\$ 1,653,311	100.0%	\$ 1,653,311	-	\$ -	\$ 1,653,311	-	
	Balance of Land Not previously Allocated	\$ 6,140,840	0.0%	\$ -	-	\$ -	\$ -	\$ 6,140,840	
Turn Lanes-Offsites	\$ 475,586	100.0%	\$ 475,586	-	\$ -	\$ 475,586	-		
Engineering Costs & Fees related to public utility, pubic roads & wetlands	\$ 322,777	100.0%	\$ -	11,627	\$ 11,627	\$ 311,150	-		
KCPL Power Lines & Cable TV Burial	\$ 1,200,000	100.0%	\$ 1,200,000	1,200,000	\$ 750,000	\$ -	\$ 450,000		
KCPL Underground Duct bank	\$ 288,360	100.0%	\$ 288,360	288,360	\$ 288,360	\$ -	-		
Water One water Main & KS Gas @ 137th	\$ 139,652	100.0%	\$ 139,652	29,100	\$ 29,100	\$ 110,552	-		
	\$ 12,569,459		\$ 6,105,842	\$ 1,529,087	\$ 1,079,087	\$ 4,899,532	\$ 6,590,840		
6	Nall Multifamily								
	Hard & Soft Construction Costs	\$ 30,000,000	0.0%	\$ -	-	\$ -	\$ -	\$ 30,000,000	
	Pre-Development Costs								
	Legal fees	\$ 296,395	0.0%	\$ -	-	\$ -	\$ -	\$ 296,395	
	A&E for project design	\$ 1,279,334	0.0%	\$ -	-	\$ -	\$ -	\$ 1,279,334	
	Other A&E	\$ 173,625	0.0%	\$ -	-	\$ -	\$ -	\$ 173,625	
	Broker fees	\$ 21,462	0.0%	\$ -	-	\$ -	\$ -	\$ 21,462	
	Lease commissions	\$ 188,291	0.0%	\$ -	-	\$ -	\$ -	\$ 188,291	
	Mortgage closing costs	\$ 24,814	0.0%	\$ -	-	\$ -	\$ -	\$ 24,814	
	Plat tax	\$ 23,507	0.0%	\$ -	-	\$ -	\$ -	\$ 23,507	
	Developer & Asset Mgt Fees	\$ 1,390,721	0.0%	\$ -	-	\$ -	\$ -	\$ 1,390,721	
	Tax & insurance	\$ 65,677	0.0%	\$ -	-	\$ -	\$ -	\$ 65,677	
	Loan & closing fees	\$ 183,356	0.0%	\$ -	-	\$ -	\$ -	\$ 183,356	
	Loan interest	\$ 2,439,912	0.0%	\$ -	-	\$ -	\$ -	\$ 2,439,912	
	Marketing	\$ 287,288	0.0%	\$ -	-	\$ -	\$ -	\$ 287,288	
	Permits	\$ 40,222	0.0%	\$ -	-	\$ -	\$ -	\$ 40,222	
	Consultants	\$ 210,984	0.0%	\$ -	-	\$ -	\$ -	\$ 210,984	
		\$ 6,625,588		\$ -	-	\$ -	\$ -	\$ 6,625,588	
	TOTAL PHASE I COSTS (w/out contingency & const. int.)		\$ 156,910,343		\$ 64,621,506	\$ 49,939,210	\$ 47,952,381	\$ 12,462,400	\$ 96,495,562
	Contingency		\$ 2,500,000	50.0%	\$ 1,250,000	\$ 1,250,000	\$ 500,000	\$ -	\$ 2,000,000
	Private Loan Construction Interest Costs		\$ 1,369,668	9.5%	\$ 130,118	\$ 130,118	\$ 130,118	\$ -	\$ 1,239,550
	TOTAL PHASE I COSTS (with contingency & const. int.)		\$ 160,780,011		\$ 66,001,624	\$ 51,319,329	\$ 48,582,500	\$ 12,462,400	\$ 99,735,112

PRAIRIEFIRE AT LIONSGATE

SOURCES AND USES BUDGET

		USES			SOURCES			
		Estimated Project Costs	Star Bond Allocation / Eligibility		STAR Bonds Net Proceeds*	CID Bonds Net Proceeds*	Private Funds	
			%	Eligible				Requested
PHASE II								
2	Wetlands & Hike/Bike Trail Educational Areas Attraction							
	Timber Bridge & related work	\$ 2,527,392	100.0%	\$ 2,527,392	\$ 2,527,392	\$ 527,392	\$ -	\$ 2,000,000
	Hike/Bike Landscape & Construction	\$ 624,000	100.0%	\$ 624,000	\$ 624,000	\$ 624,000	\$ -	\$ -
	Hike/Bike Trail Land	\$ 474,298	100.0%	\$ 474,298	\$ 474,298	\$ 474,298	\$ -	\$ -
		\$ 3,625,690		\$ 3,625,690	\$ 3,625,690	\$ 1,625,690	\$ -	\$ 2,000,000
7	Arbor Plaza Attraction							
	Construction & Landscape	\$ 1,561,350	100.0%	\$ 1,561,350	\$ 1,561,350	\$ 561,350	\$ -	\$ 1,000,000
	Arbor Plaza Design	\$ 250,000	100.0%	\$ 250,000	\$ 250,000	\$ 250,000	\$ -	\$ -
	Land	\$ 328,007	100.0%	\$ 328,007	\$ 328,007	\$ 328,007	\$ -	\$ -
	Parking (328 Spaces)	\$ 5,248,000	100.0%	\$ 5,248,000	\$ -	\$ -	\$ 4,000,000	\$ 1,248,000
	Architectural Treatments to Garages	\$ 1,230,000	100.0%	\$ 1,230,000	\$ 400,000	\$ 400,000	\$ 560,646	\$ 269,354
		\$ 8,617,357		\$ 8,617,357	\$ 2,539,357	\$ 1,539,357	\$ 4,560,646	\$ 2,517,354
8	Signature Hotel Attraction							
	Land/FAR & Infrastructure	\$ 150,600	20.0%	\$ 30,120	\$ 30,120	\$ 30,120	\$ -	\$ 120,480
	Hotel Development	\$ 22,000,000	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 22,000,000
	Parking Hotel 100 spaces	\$ 1,600,000	20.0%	\$ 320,000	\$ 320,000	\$ 320,000	\$ -	\$ 1,280,000
		\$ 23,750,600		\$ 350,120	\$ 350,120	\$ 350,120	\$ -	\$ 23,400,480
	Access Roads & Internal Drives for Attractions							
	Drive B, C Land	\$ 447,579	100.0%	\$ 447,579	\$ 447,579	\$ 447,579	\$ -	\$ -
	Drive B, C Construction	\$ 2,028,891	100.0%	\$ 2,028,891	\$ 2,028,891	\$ 1,596,249	\$ -	\$ 432,642
	Structured Parking for Core Village (ex Hotel & Arbor Plaza)	\$ 30,336,000	100.0%	\$ 30,336,000	\$ 22,300,065	\$ 20,000,000	\$ 5,043,954	\$ 5,292,046
	Fill Dirt, Grading & Site Prep	\$ 7,187,637	100.0%	\$ 7,187,637	\$ 7,187,637	\$ 4,651,702	\$ 1,000,000	\$ 1,535,935
	Street Traffic Signals (137th Street)	\$ 300,000	100.0%	\$ 300,000	\$ -	\$ -	\$ 300,000	\$ -
	Unspecified OP fees for transportation & Ramp Fees	\$ 986,000	100.0%	\$ 986,000	\$ 986,000	\$ 986,000	\$ -	\$ -
	Plat Tax-Core	\$ 128,981	100.0%	\$ 128,981	\$ 128,981	\$ 128,981	\$ -	\$ -
	Legal & Zoning	\$ 250,000	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 250,000
		\$ 41,665,088		\$ 41,415,088	\$ 33,079,153	\$ 27,810,511	\$ 6,343,954	\$ 7,510,623
	Core Village Development							
	Hard & Soft Construction Costs	\$ 126,664,000	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 126,664,000
	\$ 126,664,000		\$ -	\$ -	\$ -	\$ -	\$ 126,664,000	
9	Lamar Multifamily							
	Hard & Soft Construction Costs	\$ 27,000,000	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 27,000,000
10	Golf Course Villas							
	Hard & Soft Construction Costs	\$ 14,950,000	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 14,950,000

PRAIRIEFIRE AT LIONSGATE

SOURCES AND USES BUDGET

	USES				SOURCES		
	Estimated Project Costs	Star Bond Allocation / Eligibility			STAR Bonds Net Proceeds*	CID Bonds Net Proceeds*	Private Funds
		%	Eligible	Requested			
Pre-Development Costs							
Legal fees	\$ 221,495	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 221,495
A&E for project design	\$ 956,040	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 956,040
Other A&E	\$ 129,750	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 129,750
Broker fees	\$ 16,038	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 16,038
Lease commissions	\$ 140,709	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 140,709
Mortgage closing costs	\$ 18,543	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 18,543
Plat tax	\$ 17,566	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 17,566
Developer & Asset Mgt Fees	\$ 1,039,279	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 1,039,279
Tax & insurance	\$ 49,081	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 49,081
Loan & closing fees	\$ 137,021	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 137,021
Loan interest	\$ 1,823,335	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 1,823,335
Marketing	\$ 214,689	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 214,689
Permits	\$ 30,057	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 30,057
Consultants	\$ 157,667	0.0%	\$ -	\$ -	\$ -	\$ -	\$ 157,667
	\$ 4,951,270		\$ -	\$ -	\$ -	\$ -	\$ 4,951,270
TOTAL PHASE II COSTS (w/out contingency & const. int.)	\$ 251,224,005		\$ 54,008,255	\$ 39,594,320	\$ 31,325,678	\$ 10,904,600	\$ 208,993,727
Contingency	\$ 6,129,682	50.0%	\$ 3,064,841.03	\$ 3,064,841.03	\$ 841,822	\$ -	\$ 5,287,860
Private Loan Construction Interest	\$ 8,500,000	9.5%	\$ 807,500.00	\$ 807,500.00	\$ 250,000	\$ -	\$ 8,250,000
TOTAL PHASE II COSTS (with contingency & const. int.)	\$ 265,853,687		\$ 57,880,596	\$ 43,466,661	\$ 32,417,500	\$ 10,904,600	\$ 222,531,587
TOTAL PHASE I & PHASE II COSTS	\$ 426,633,698		\$ 123,882,221	\$ 94,785,990	\$ 81,000,000	\$ 23,367,000	\$ 322,266,699

* CID Bonds net proceeds are not limited to the specified line items or amounts in the "CID Bonds Net Proceeds" column set forth above on an aggregate or per line item basis. The line items associated with CID Bonds Net Proceeds above and the amounts therein are only estimates and assume CID Bonds with Par Values of \$16,000,000 (Phase 1) and \$14,000,000 (Phase 2). Subject to any limitations established by the City of Overland Park in a development agreement to be entered into by and between the Developer and the City, all actual CID Bonds Net Proceeds shall be available to pay for or reimburse any Project costs, subject to the limitations in the CID Act.

* STAR Bonds net proceeds are not limited to the estimated amounts in the "STAR Bonds Net Proceeds" column set forth above on an aggregate or per line item basis, but rather may be used to pay for or reimburse any of the costs of work set forth in any line item above that has a value in the STAR Bonds "Requested" column. The amount for any given line item in such column shall not act as a cap on the reimbursable amount for such line item from STAR Bond proceeds, but rather amounts in the "Requested" column may be moved freely among such reimbursable line items, subject to: i) the maximum aggregate amount of STAR Bond net proceeds for Phases 1 and 2 of \$81,000,000; and ii) the amount set forth in the "Requested" column for any structured parking line item shall not be exceeded. Amounts in the "Requested" column for "contingency" may be used to reimburse costs incurred for any line item of work for which there is value in the "Eligible" and/or "Requested" columns, to the full extent permitted by law.

EXHIBIT K
ELIGIBLE STAR BOND EXPENSES

EXHIBIT K

"ELIGIBLE STAR BOND EXPENSES"

DRAFT: October 12, 2012

		Star Bond
		Requested
PHASE I		
Map		
Key		
	Museum of Prairiefire Attraction	
	Land Acquisition - Exhibition/Museum & surface parking	\$ 540,101
	Legal, Project Mgt, Acct.	\$ 607,500
	G & A, Advertising, Fees, Taxes, Insurance, Permits	\$ 930,000
1	A & E LEED	\$ 2,000,000
	Building Construction	\$ 15,000,000
	Interiors, Café, Diorama, Signage, Discovery Room	\$ 2,250,000
	Site Work, public parking & landscaping	\$ 1,680,000
	Programming	\$ -
	Reserves & Endowment	\$ -
		\$ 23,007,601
	Wetlands & Hike/Bike Trail Educational Areas Attraction	
	Wetlands Area Land Cost	\$ -
	Wetlands & mitigation costs	\$ -
2	Hike & Bike Trail construction	\$ -
	Hike & Bike Trail Land	\$ -
	Landscaping for Wetlands & Hike/Bike	\$ -
		\$ -
	Museum District Development Attraction	
	Museum District Land	\$ 2,571,484
	Building 21 (Rock & Brews)	\$ -
	Building 22 (The Pub)	\$ -
	Building 22 (Spec)	\$ -
	Building 23 (Paradise Diner)	\$ -
	Building 23 (Newport Grill)	\$ -
3	Building 23 (The Club)	\$ -
	Building 24 (Pinstripes)	\$ -
	Building 25 (Cinetopia)	\$ -
	Building 26 (Bar Louie)	\$ -
	Building 26 (Spec)	\$ -
		\$ 2,571,484
	Museum District - Tenant Improvements	
	Building 21 (Rock & Brews)	\$ -
	Building 22 (The Pub)	\$ -
	Building 22 (Spec)	\$ -
	Building 23 (Paradise Diner)	\$ -
3	Building 23 (Newport Grill)	\$ -
	Building 23 (The Club)	\$ -
	Building 24 (Pinstripes)	\$ -
	Building 25 (Cinetopia)	\$ -
	Building 26 (Bar Louie)	\$ -
	Building 26 (Spec)	\$ -

EXHIBIT K

"ELIGIBLE STAR BOND EXPENSES"

		Star Bond	
		Requested	
PHASE I			
3	Museum District - Sitework/Landscaping		
	Utilities (Gas and Water Mains)	\$	156,147
	Site Work/Grading	\$	3,110,605
	Landscape/Hardscape	\$	1,501,485
	Site Amenities/Sculpture/Art	\$	-
		\$	4,768,237
3	Museum District - Fees & Expenses		
	Legal & Accounting	\$	-
	A & E Garage, Site, and Buildings	\$	1,378,964
	A & E Reimb. & A&E Contingency	\$	-
	Signage	\$	-
	Testing & Inspections	\$	-
	Leasing Commissions Retail	\$	-
	Construction Consultants & Site Consultants	\$	-
	Contingency	\$	-
	Taxes & Insurance	\$	-
	Marketing	\$	-
	Bank & Other Closing Fees	\$	-
	MC Development & Asset Management Fee	\$	-
	Equity Fee	\$	-
	Finance Fee for CID & STAR Bonds	\$	-
	Overland Park Plat Tax & Transportation Fees	\$	-
	Water One & Johnson County Wastewater Permits	\$	954,579
		\$	2,333,543
4	Museum District Attraction - Parking Structure		
	Parking Garage Structure G4	\$	11,795,572
5	West End Attraction Deveopment		
	West End Land	\$	2,142,404
	Building 1-REI	\$	-
	Building 2-The Fresh Market	\$	-
	Building 3-(Spec)	\$	-
		\$	2,142,404
5	West End - Tenant Improvements		
	Building 1-REI	\$	-
	Building 2-The Fresh Market	\$	-
	Building 3-(Spec)	\$	-
		\$	-
5	West End - Sitework/Landscaping		
	Site Work	\$	104,914
	Landscaping	\$	401,721
	Site Amenities	\$	100,000
		\$	606,635

EXHIBIT K

"ELIGIBLE STAR BOND EXPENSES"

		Star Bond
		Requested
PHASE I		
5	West End - Fees & Expenses	
	A & E	\$ 417,853
	A & E Reimbursables	\$ -
	Marketing	\$ -
	Legal & Accounting	\$ -
	Development Fees & Supervision	\$ -
	Insurance & Taxes	\$ -
	Leasing Commissions	\$ -
	Materials Testing & Inspections	\$ -
	Construction Consultant	\$ -
	Contingency	\$ -
		\$ 417,853
	Other Infrastructure necessary and linking all Attractions	
	137th Street Construction	\$ -
	137th Street Land	\$ -
6	Balance of Land Not previously Allocated	\$ -
	Turn Lanes-Offsites	\$ -
	Engineering Costs & Fees related to public utility, public roads & wetlands	\$ 11,627
	KCPL Power Lines & Cable TV Burial	\$ 1,200,000
	KCPL Underground Duct bank	\$ 288,360
	Water One water Main & KS Gas @ 137th	\$ 29,100
		\$ 1,529,087
	Nall Multifamily	
	Hard & Soft Construction Costs	\$ -
	Pre-Development Costs	
	Legal fees	\$ -
	A&E for project design	\$ -
	Other A&E	\$ -
	Broker fees	\$ -
	Lease commissions	\$ -
	Mortgage closing costs	\$ -
	Plat tax	\$ -
	Developer & Asset Mgt Fees	\$ -
	Tax & insurance	\$ -
	Loan & closing fees	\$ -
	Loan interest	\$ -
	Marketing	\$ -
	Permits	\$ -
	Consultants	\$ -
		\$ -
TOTAL PHASE I COSTS (w/out contingency & const. int.)		\$ 49,172,416
Contingency		\$ 1,250,000
Private Loan Construction Interest Costs		\$ 130,118
TOTAL PHASE I COSTS (with contingency & const. int.)		\$ 50,552,535

EXHIBIT K

"ELIGIBLE STAR BOND EXPENSES"

		Star Bond
		Requested
PHASE II		
2	Wetlands & Hike/Bike Trail Educational Areas Attraction	
	Timber Bridge & related work	\$ 2,527,392
	Hike/Bike Landscape & Construction	\$ 624,000
	Hike/Bike Trail Land	\$ 474,298
		\$ 3,625,690
	Arbor Plaza Attraction	
	Construction & Landscape	\$ 1,561,350
	Arbor Plaza Design	\$ 250,000
7	Land	\$ 328,007
	Parking (328 Spaces)	\$ -
	Architectural Treatments to Garages	\$ 400,000
		\$ 2,539,357
	Signature Hotel Attraction	
8	Land/FAR & Infrastructure	\$ 30,120
	Hotel Development	\$ -
	Parking Hotel 100 spaces	\$ 320,000
		\$ 350,120
	Access Roads & Internal Drives for Attractions	
	Drive B, C Land	\$ 447,579
	Drive B, C Construction	\$ 2,028,891
	Structured Parking for Core Village (ex Hotel & Arbor Plaza)	\$ 22,300,065
	Fill Dirt, Grading & Site Prep	\$ 7,187,637
	Street Traffic Signals (137th Street)	\$ -
	Unspecified OP fees for transportation & Ramp Fees	\$ -
	Plat Tax-Core	\$ -
	Legal & Zoning	\$ -
		\$ 31,964,172
	Core Village Development	
	Hard & Soft Construction Costs	\$ -
		\$ -
9	Lamar Multifamily	
	Hard & Soft Construction Costs	\$ -
10	Golf Course Villas	
	Hard & Soft Construction Costs	\$ -

EXHIBIT K

"ELIGIBLE STAR BOND EXPENSES"

	Star Bond
	Requested
PHASE II	
Pre-Development Costs	
Legal fees	\$ -
A&E for project design	\$ -
Other A&E	\$ -
Broker fees	\$ -
Lease commissions	\$ -
Mortgage closing costs	\$ -
Plat tax	\$ -
Developer & Asset Mgt Fees	\$ -
Tax & insurance	\$ -
Loan & closing fees	\$ -
Loan interest	\$ -
Marketing	\$ -
Permits	\$ -
Consultants	\$ -
	\$ -
TOTAL PHASE II COSTS (w/out contingency & const. int.)	\$ 38,479,339
Contingency	\$ 3,064,841.03
Private Loan Construction Interest	\$ 807,500.00
TOTAL PHASE II COSTS (with contingency & const. int.)	\$ 42,351,680
TOTAL PHASE I & PHASE II COSTS	\$ 92,904,214

* STAR Bonds net proceeds are not limited to the estimated amounts in the "STAR Bonds Net Proceeds" column set forth above on an aggregate or per line item basis, but rather may be used to pay for or reimburse any of the costs of work set forth in any line item above that has a value in the STAR Bonds "Requested" column. The amount for any given line item in such column shall not act as a cap on the reimbursable amount for such line item from STAR Bond proceeds, but rather amounts in the "Requested" column may be moved freely among such reimbursable line items, subject to: i) the maximum aggregate amount of STAR Bond net proceeds for Phases 1 and 2 of \$81,000,000; and ii) the amount set forth in the "Requested" column for any structured parking line item shall not be exceeded. Amounts in the "Requested" column for "contingency" may be used to reimburse costs incurred for any line item of work for which there is value in the "Eligible" and/or "Requested" columns, to the full extent permitted by law.

EXHIBIT L

PHASE 1 CID PROJECT COSTS

Exhibit L

Phase I CID Project Costs

DRAFT: October 12, 2012

		SOURCES	
		CID Bonds Net	Proceeds*
PHASE I			
Map	Museum of Prairiefire Attraction		
Key	Land Acquisition - Exhibition/Museum & surface parking	\$	-
	Legal, Project Mgt, Acct.	\$	-
	G & A, Advertising, Fees, Taxes, Insurance, Permits	\$	-
1	A & E LEED	\$	-
	Building Construction	\$	-
	Interiors, Café, Diorama, Signage, Discovery Room	\$	-
	Site Work, public parking & landscaping	\$	-
	Programming	\$	-
	Reserves & Endowment	\$	-
		\$	-
	Wetlands & Hike/Bike Trail Educational Areas Attraction		
	Wetlands Area Land Cost	\$	1,065,200
2	Wetlands & mitigation costs	\$	100,000
	Hike & Bike Trail construction	\$	100,000
	Hike & Bike Trail Land	\$	936,176
	Landscaping for Wetlands & Hike/Bike	\$	652,592
		\$	2,853,968
	Museum District Development Attraction		
	Museum District Land	\$	-
	Building 21 (Rock & Brews)	\$	-
	Building 22 (The Pub)	\$	-
	Building 22 (Spec)	\$	-
	Building 23 (Paradise Diner)	\$	-
3	Building 23 (Newport Grill)	\$	-
	Building 23 (The Club)	\$	-
	Building 24 (Pinstripes)	\$	-
	Building 25 (Cinetopia)	\$	-
	Building 26 (Bar Louie)	\$	-
	Building 26 (Spec)	\$	-
		\$	-
	Museum District - Tenant Improvements		
	Building 21 (Rock & Brews)	\$	-
	Building 22 (The Pub)	\$	-
	Building 22 (Spec)	\$	-
	Building 23 (Paradise Diner)	\$	-
3	Building 23 (Newport Grill)	\$	-
	Building 23 (The Club)	\$	-
	Building 24 (Pinstripes)	\$	-
	Building 25 (Cinetopia)	\$	-
	Building 26 (Bar Louie)	\$	-
	Building 26 (Spec)	\$	-
		\$	-
		\$	-

Exhibit L

Phase I CID Project Costs

		SOURCES	
		CID Bonds Net Proceeds*	
PHASE I			
3	Museum District - Sitework/Landscaping		
	Utilities (Gas and Water Mains)	\$	205,353
	Site Work/Grading	\$	410,000
	Landscape/Hardscape	\$	-
	Site Amenities/Sculpture/Art	\$	250,000
		\$	865,353
3	Museum District - Fees & Expenses		
	Legal & Accounting	\$	-
	A & E Garage, Site, and Buildings	\$	827,461
	A & E Reimb. & A&E Contingency	\$	-
	Signage	\$	200,000
	Testing & Inspections	\$	-
	Leasing Commissions Retail	\$	-
	Construction Consultants & Site Consultants	\$	-
	Contingency	\$	-
	Taxes & Insurance	\$	-
	Marketing	\$	-
	Bank & Other Closing Fees	\$	-
	MC Development & Asset Management Fee	\$	-
	Equity Fee	\$	-
	Finance Fee for CID & STAR Bonds	\$	-
	Overland Park Plat Tax & Transportation Fees	\$	-
	Water One & Johnson County Wastewater Permits	\$	-
		\$	1,027,461
4	Museum District Attraction - Parking Structure		
	Parking Garage Structure G4	\$	-
5	West End Attraction Deveopment		
	West End Land	\$	-
	Building 1-REI	\$	-
	Building 2-The Fresh Market	\$	-
	Building 3-(Spec)	\$	-
		\$	-
5	West End - Tenant Improvements		
	Building 1-REI	\$	-
	Building 2-The Fresh Market	\$	-
	Building 3-(Spec)	\$	-
		\$	-
5	West End - Sitework/Landscaping		
	Site Work	\$	2,558,465
	Landscaping	\$	257,621
	Site Amenities	\$	-
		\$	2,816,086

Exhibit L

Phase I CID Project Costs

		SOURCES
		CID Bonds Net Proceeds*
PHASE I		
5	West End - Fees & Expenses	
	A & E	\$ -
	A & E Reimbursables	\$ -
	Marketing	\$ -
	Legal & Accounting	\$ -
	Development Fees & Supervision	\$ -
	Insurance & Taxes	\$ -
	Leasing Commissions	\$ -
	Materials Testing & Inspections	\$ -
	Construction Consultant	\$ -
	Contingency	\$ -
		\$ -
	Other Infrastructure necessary and linking all Attractions	
6	137th Street Construction	\$ 2,348,933
	137th Street Land	\$ 1,653,311
	Balance of Land Not previously Allocated	\$ -
	Turn Lanes-Offsites	\$ 475,586
	Engineering Costs & Fees related to public utility, pubic roads & wetlands	\$ 311,150
	KCPL Power Lines & Cable TV Burial	\$ -
	KCPL Underground Duct bank	\$ -
	Water One water Main & KS Gas @ 137th	\$ 110,552
		\$ 4,899,532
	Nall Multifamily	
	Hard & Soft Construction Costs	\$ -
	Pre-Development Costs	
	Legal fees	\$ -
	A&E for project design	\$ -
	Other A&E	\$ -
	Broker fees	\$ -
	Lease commissions	\$ -
	Mortgage closing costs	\$ -
	Plat tax	\$ -
	Developer & Asset Mgt Fees	\$ -
	Tax & insurance	\$ -
	Loan & closing fees	\$ -
	Loan interest	\$ -
	Marketing	\$ -
	Permits	\$ -
	Consultants	\$ -
		\$ -
	TOTAL PHASE I COSTS (w/out contingency & const. int.)	\$ 12,462,400
	Contingency	\$ -
	Private Loan Construction Interest Costs	\$ -
	TOTAL PHASE I COSTS (with contingency & const. int.)	\$ 12,462,400

* CID Bonds net proceeds are not limited to the specified line items or amounts in the "CID Bonds Net Proceeds" column set forth above on an aggregate or per line item basis. The line items associated with CID Bonds Net Proceeds above and the amounts therein are only estimates and assume CID Bonds with Par Values of \$16,000,000 (Phase 1) and \$14,000,000 (Phase 2). Subject to any limitations established by the City of Overland Park in a development agreement to be entered into by and between the Developer and the City, all actual CID Bonds Net Proceeds shall be available to pay for or reimburse any Project costs, subject to the limitations in the CID Act.

EXHIBIT M

PHASE 2 CID PROJECT COSTS

Exhibit M

Phase II CID Project Costs

DRAFT: October 12, 2012

PHASE II		
2	Wetlands & Hike/Bike Trail Educational Areas Attraction	
	Timber Bridge & related work	\$ -
	Hike/Bike Landscape & Construction	\$ -
	Hike/Bike Trail Land	\$ -
7	Arbor Plaza Attraction	
	Construction & Landscape	\$ -
	Arbor Plaza Design	\$ -
	Land	\$ -
	Parking (328 Spaces)	\$ 4,000,000
8	Architectural Treatments to Garages	\$ 560,646
		\$ 4,560,646
	Signature Hotel Attraction	
	Land/FAR & Infrastructure	\$ -
9	Hotel Development	\$ -
	Parking Hotel 100 spaces	\$ -
10	Access Roads & Internal Drives for Attractions	
	Drive B, C Land	\$ -
	Drive B, C Construction	\$ -
	Structured Parking for Core Village (ex Hotel & Arbor Plaza)	\$ 5,043,954
	Fill Dirt, Grading & Site Prep	\$ 1,000,000
	Street Traffic Signals (137th Street)	\$ 300,000
	Unspecified OP fees for transportation & Ramp Fees	\$ -
	Plat Tax-Core	\$ -
	Legal & Zoning	\$ -
		\$ 6,343,954
	Core Village Development	
	Hard & Soft Construction Costs	\$ -
9	Lamar Multifamily	
	Hard & Soft Construction Costs	\$ -
10	Golf Course Villas	
	Hard & Soft Construction Costs	\$ -
10	Pre-Development Costs	
	Legal fees	\$ -
	A&E for project design	\$ -
	Other A&E	\$ -
	Broker fees	\$ -
	Lease commissions	\$ -
	Mortgage closing costs	\$ -
	Plat tax	\$ -
	Developer & Asset Mgt Fees	\$ -
	Tax & insurance	\$ -
	Loan & closing fees	\$ -
	Loan interest	\$ -
	Marketing	\$ -
	Permits	\$ -
	Consultants	\$ -
		\$ -
	TOTAL PHASE II COSTS (w/out contingency & const. int.)	\$ 10,904,600
	Contingency	\$ -
	Private Loan Construction Interest	\$ -
		\$ -
	TOTAL PHASE II COSTS (with contingency & const. int.)	\$ 10,904,600
		\$ -
	TOTAL PHASE I & PHASE II COSTS	\$ 23,367,000

* CID Bonds net proceeds are not limited to the specified line items or amounts in the "CID Bonds Net Proceeds" column set forth above on an aggregate or per line item basis. The line items associated with CID Bonds Net Proceeds above and the amounts therein are only estimates and assume CID Bonds with Par Values of \$16,000,000 (Phase 1) and \$14,000,000 (Phase 2). Subject to any limitations established by the City of Overland Park in a development agreement to be entered into by and between the Developer and the City, all actual CID Bonds Net Proceeds shall be available to pay for or reimburse any Project costs, subject to the limitations in the CID Act.

EXHIBIT N

FORM OF CERTIFICATE OF EXPENDITURE

**CERTIFICATION OF EXPENDITURES
PRAIRIFIRE AT LIONSGATE IMPROVEMENTS**

Date: _____

Certification # _____

Governing Body of the
City of Overland Park, Kansas

In accordance with the Development Agreement dated _____, 2012 (the "Agreement"), between the City of Overland Park, Kansas (the "City"), and [_____] (the "Developer"), the Developer hereby certifies, with respect to all payment amounts requested pursuant to this Certificate to be reimbursed to the Developer for the cost of financing the CID Improvements, as follows:

1. To the best of my knowledge, all amounts are expenses for CID Improvements that are reimbursable to the Developer pursuant to the Agreement.

2. All amounts have been advanced by or on behalf of the Developer for CID Improvement costs in accordance with the Agreement and represent the fair value of work, materials or expenses.

3. No part of such amounts has been the basis for any previous request for reimbursement under the Agreement.

The Developer further certifies that all insurance policies which are required to be in force under the Agreement are in full force and effect and that the Developer is in compliance, in all material respects, with all further terms of the Agreement.

The total amount of reimbursement requested by this Certificate is \$ _____ which amount is itemized on Attachment A attached hereto and which Attachment A includes _____ page(s), is incorporated herein by reference and has been signed by the authorized representative of the Developer who signed this Certificate.

Approved: _____

By: _____

Its _____

City's Representative

**ATTACHMENT A
TO CERTIFICATION OF EXPENDITURES**

PAGE _____ OF _____

Date: _____

Certification # _____

DESCRIPTION OF EXPENSE

(ATTACH ADDITIONAL SUPPORTING DOCUMENTATION)

Amount of Expense

1. _____	\$ _____
2. _____	\$ _____
3. _____	\$ _____
4. _____	\$ _____

TOTAL EXPENSES \$ _____

Signature of Developer

EXHIBIT N -2

EXHIBIT O
WETLANDS/TRAILS MAINTENANCE AGREEMENT

THIS WETLANDS MAINTENANCE AGREEMENT (this "Agreement") is hereby made and entered into as of the _____ day of _____, 2012 (the "Effective Date") by and between the CITY OF OVERLAND PARK, KANSAS, a municipal corporation duly organized under the laws of the State of Kansas (the "City"), and MC PRAIRIEFIRE I, LLC, a Kansas limited liability company ("Developer").

RECITALS:

A. MC Prairiefire, LLC, a Kansas limited liability company (the "Owner") is the owner of approximately fifty-six (56) acres of real property which is located in the City and is generally located at 135th Street between Lamar Avenue and Nall Avenue and, along with approximately five and a half (5.5) acres of 137th Street right-of-way, is legally described on Exhibit A-1 and generally depicted on Exhibit A-2, as attached hereto (the "Project Site"). A portion of the Project Site, which includes the Wetlands/Trails Area (as defined below), shall be leased from Owner to Developer pursuant to the Ground Lease.

B. Pursuant to that certain Prairiefire at Lionsgate Development Agreement (the "Development Agreement") dated as of October __, 2012 between the City, Developer, and MC Prairiefire II, LLC, a Kansas limited liability company ("MCP II"), Developer and MCP II propose to design, develop, construct, complete and operate a unique destination experience on a portion of the Project Site (the "Project"), which Project is more particularly described therein. Capitalized terms which are not otherwise defined herein shall have the meanings assigned to them in the Development Agreement.

C. The Development Agreement also provides that the Project shall include a wetlands area and trail area (collectively, the "Wetlands/Trails Area") which is legally described on **Exhibit B-1** and generally depicted on **Exhibit B-2**, as attached hereto. The Wetlands/Trails Area shall be developed by Developer in accordance with a wetlands mitigation plan (the "Wetlands Plan") which Wetlands Plan is attached hereto as **Exhibit C**, and shall include (i) a native wetlands with streams, rocks and vegetation (the "Wetlands"), (ii) a bridge featuring natural materials which traverse the Wetlands (the "Bridge"), and (iii) a perimeter nature trail (the "Perimeter Trails") and (iv) internal trails within the Wetlands (the "Internal Trails"; collectively, the Perimeter Trails and the Internal Trails may be referred to herein as the "Trails").

D. The Wetlands/Trails Area shall also be subject to a Permanent Conservation Easement (the "Conservation Easement") which is executed contemporaneously herewith and pursuant to which the Developer shall grant to the City a permanent conservation easement for the purposes more particularly set forth therein.

E. Developer hereby agrees that Developer shall design, develop, construct, manage, maintain and operate the Wetlands/Trails Area pursuant to the terms and conditions of this Agreement.

EXHIBIT O-1

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Developer hereby agree as follows:

1. Undertaking of Developer. Developer hereby agrees, subject to the terms and conditions hereinafter provided, to design, develop, construct, manage, maintain and operate the Wetlands/Trails Area on the Project Site. The performance of all activities by Developer hereunder shall be as an independent contractor and not as an agent of the City.

2. Term. The Term of this Agreement shall commence on the Effective Date and shall expire upon the expiration or termination of the Conservation Easement (the "Term").

3. Construction and Maintenance of the Wetlands/Trails Area, Generally. Developer hereby covenants, at its expense, that it shall construct the Wetlands as set forth in the Wetlands Plan and thereafter, Developer shall at all times during the Term, manage, maintain and operate the Wetlands/Trails Area. Without limiting the generality of the foregoing: (a) Developer shall manage the Wetlands/Trails Area in a dignified quality manner and in conformity with as good or better standards of practice for other similar-type amenities in Johnson County, Kansas, (b) Developer shall manage, maintain and operate the Wetlands/Trials Area in accordance with all of the terms and conditions set forth in the Development Agreement, the Conservation Easement and the Wetlands Plan, and (c) Developer shall be considered, in all respects, to be an independent contractor of, and not an agent or employee of, the City.

4. Maintenance and Use of Trails. Without limiting the generality of Section 3 hereof, Developer agrees that during the Term, Developer shall, at its sole cost and expense, cause the Trails to be maintained, preserved and kept in good repair and working order and in a safe condition and will make all repairs, renewals, replacements and improvements necessary for the safe and efficient operation of the Trails and as needed to maintain the physical and aesthetic integrity of the Trails in conformity with as good or better standards of practice for other similar-type amenities in Johnson County, Kansas. Developer may make additions, alterations and changes to the Trails so long as such additions, alterations and changes are made in compliance with the Development Agreement, the Conservation Easement and all Applicable Laws and Requirements. In particular, Developer hereby agrees that Developer shall (a) keep the Trail surfaces in good condition and repair, including without limitation, repair and replacement of surfaces resulting from normal wear and tear, accidents, weathering, vandalism, or material failure including providing replacement of material and all other incidental materials; (b) maintain any landscaping adjacent to the Trail; and (iii) keep the Bridge and Trail free of debris and litter.

5. Maintenance and Use of Wetlands. Without limiting the generality of Section 3 hereof, Developer agrees that during the Term, Developer shall, at its sole cost and expense, cause the Wetlands to be maintained, preserved and kept in good repair and condition and will take all necessary and appropriate actions for the preservation, operation and upkeep of the Wetlands and as needed to maintain the natural, physical and aesthetic integrity of the Wetlands in conformity with as good or better standards of practice for other similar-type amenities in Johnson County, Kansas. Developer may make additions, alterations and changes to the Wetlands so long as such additions, alterations and changes are made in compliance with the

EXHIBIT O-2

Development Agreement, the Conservation Easement and all Applicable Laws and Requirements. In particular, Developer hereby agrees that:

5.1 Developer shall maintain, repair and/or replace, including without limitation, the Bridge and the vegetation, rocks structures, berms, drainage systems, and markers and signs (if any) constituting a part of the Wetlands.

5.2 Developer shall (i) keep the Bridge in good condition and repair, including without limitation, repair and replacement of surfaces resulting from normal wear and tear, accidents, weathering, vandalism, or material failure including providing replacement of material and all other incidental materials; (ii) maintain landscaping of the Wetlands in accordance with the Wetlands Plan; and (iii) keep the Bridge and Wetlands free of debris and litter.

5.3 Developer shall perform maintenance measures, including but not limited to:

- a. Removal and disposal of accumulated sediment and debris that is preventing the flow of water;
- b. Elimination of noxious weeds, nuisance trees and shrubs in the wetland and native grass buffer;
- c. Late season mowing in the native grass buffer and the Wetlands, if necessary, as well as landscaping in the native grass buffer and wetland to prevent seeding of nuisance species;
- d. Grading to repair water control structures, resetting of outfall structures and removal of excess sediment that would otherwise prevent the flow and circulation of water (but not in excess of the original as-built elevations);
- e. Transplanting of species in critical areas, reseeding, and tree maintenance;
- f. Biannual site monitoring as set forth in the Wetlands Plan; and

5.4 The Wetlands shall be included in the City's stream setback ordinance, which will include at least a fifty (50) foot wide buffer on either side of the mitigated channel.

5.5 Developer shall retain the Kansas State University's Department of Horticulture, Forestry & Recreation Resources or a similar expert to serve as a special consultant to Developer on the design, operation and maintenance of the Wetlands.

5.6 Developer shall maintain the Wetlands/Trails Area in as good or better condition as similarly situated amenities in Johnson County, Kansas.

6. Signage. During the Term, Developer shall install and maintain educational signage at certain viewing points around the Wetlands, which educational signage may include

EXHIBIT O-3

information about wetland functions, native vegetation found in the Wetlands, water quality and other similar educational topics. Additionally, Developer shall install and maintain directional and educational signage along the Trails, which directional signs shall provide way-finding information and educational signs which shall provide information about the natural features along and around the Internal Trails.

7. Compliance. Developer shall conduct its affairs and carry on its business and operations in such a manner as to comply with any and all Applicable Laws and Requirements, and to observe and conform to all valid orders, regulations or requirements (including, but not limited to, those relating to safety and health) of any Governmental Authorities applicable to the conduct of its business and operations of the Wetlands/Trails Area. Developer agrees to promptly pay any and all fees and expenses related to the Wetlands/Trails Area imposed by Applicable Law and Requirements.

8. Payment of Taxes and Other Charges. Developer shall pay or cause to be paid as they become due and payable all taxes, assessments and other governmental charges lawfully levied or assessed or imposed upon Developer or the Wetlands/Trails Area or any part thereof or upon any income therefrom, including, but not limited to, any taxes, assessments or other governmental charges levied, assessed or imposed on the Wetlands/Trails Area, or with respect to the assessed value of the Wetlands/Trails Area; provided, however, that Developer shall not be required to pay and discharge or cause to be paid and discharged any such tax, assessment or governmental charge to the extent that the amount, applicability or validity thereof shall be contested in good faith by appropriate proceedings.

9. Default Provisions. Developer shall be in default under this Agreement if:

9.1 Developer fails to keep or perform any covenant or obligation herein contained on Developer's part to be kept or performed, and Developer fails to remedy the same within thirty (30) days after the City has given Developer written notice specifying such failure and requesting that it be remedied; provided, however, that if any default shall be such that it cannot be corrected within such period, it shall not constitute a default if corrective action is instituted by Developer within such period and diligently pursued until the default is corrected; or

9.2 Developer shall file a voluntary petition under any bankruptcy law or an involuntary petition under any bankruptcy law is filed against any such party in a court having jurisdiction and said petition is not dismissed within sixty (60) days; or Developer generally is not paying its debts as such debts become due; or Developer makes an assignment for the benefit of its creditors; or a custodian, trustee or receiver is appointed or retained to take charge of and manage any substantial part of the assets of Developer and such appointment is not dismissed within sixty (60) days; or any execution or attachment shall issue against Developer whereupon the Wetlands/Trails Area, or any part thereof, or any interest therein of Developer under this Agreement shall be taken and the same is not released prior to judicial sale thereunder (each of the events described in this subparagraph being deemed a default under the provisions of this Agreement); or

EXHIBIT O-4

9.3 Subject to any cure rights provided therein, Developer fails to perform its covenants and obligations set forth in the Conservation Easement or the Development Agreement.

In the event of such default, the City may take such actions, or pursue such remedies, as exist hereunder, or at law or in equity, and Developer covenants to pay and to indemnify the City against all reasonable costs and charges, including attorneys' fees, lawfully and reasonably incurred by or on behalf of the City in connection with the enforcement of such actions or remedies. In addition to the foregoing remedies, the City shall also have the right, but not the obligation, to perform any of Developer's obligations hereunder and Developer shall reimburse the City for the City's costs of such performance within ten (10) days of demand therefor, with interest at fifteen percent (15%) per annum.

10. Amendments. This Agreement may be amended, changed or modified only by a written agreement duly executed by the City and Developer.

11. Construction and Enforcement. This Agreement shall be construed and enforced in accordance with the laws of the State.

12. Invalidity of Any Provisions. If for any reason any provision hereof shall be determined to be invalid or unenforceable, the validity and effect of the other provisions hereof shall not be affected thereby.

13. Headings. The Section headings shall not be treated as a part of this Agreement or as affecting the true meaning of the provisions hereof.

14. Execution of Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument.

15. Notices. All notices required or desired to be given hereunder shall be in writing and all such notices and other written documents required or desired to be given hereunder shall be deemed duly served and delivered for all purposes:

a. upon the City, if mailed by certified or registered mail, postage prepaid, addressed to the City as set forth below, or at such other place as the City from time to time may designate in writing to Developer:

City Manager
City of Overland Park
8500 Santa Fe Drive
Overland Park, Kansas 66212

With copies to:

Deputy City Manager
City of Overland Park

EXHIBIT O-5

8500 Santa Fe Drive
Overland Park, Kansas 66212

City Attorney
City of Overland Park
8500 Santa Fe Drive
Overland Park, Kansas 66212

b. upon Developer, if mailed by certified or registered mail, postage prepaid, addressed to Developer as follows, or at such other place as Developer from time to time may designate in writing to the City:

MC Prairiefire I, LLC
6240 West 135th Street
Overland Park, KS 66223
Attn: Fred L. Merrill Jr.

With a copy to:

John Petersen, Esq.
Curt Petersen, Esq.
Polsinelli Shughart PC
6201 College Blvd., Suite 500
Overland Park, Kansas 66211

All notices given by certified or registered mail as aforesaid shall be deemed duly given as of the date they are so mailed.

16. Entire Agreement. Together with the Exhibits hereto, which are hereby incorporated by reference, this Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes and replaces all prior oral or written agreements concerning the subject matter hereof.

17. Run with the Property. This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, successors and assigns and shall run with the land that constitutes the Wetlands/Trails Area.

18. Memorandum of Agreement. The parties shall execute and record a memorandum of this Agreement against the Wetlands/Trails Area, which memorandum shall be in a form acceptable to both parties.

[REMAINDER OF PAGE IS INTENTIONALLY BLANK]

EXHIBIT O-6

IN WITNESS WHEREOF, the parties hereto have executed these presents as of the day and year first above written.

CITY OF OVERLAND PARK, KANSAS

ATTEST:

Carl Gerlach, Mayor

Marian Cook, City Clerk

APPROVED AS TO FORM:

Tammy M. Owens
Deputy City Attorney

APPROVED AS TO FORM:

Todd A. LaSala, Esq.
Stinson Morrison Hecker LLP

EXHIBIT O-7

MC PRAIRIEFIRE I, LLC, a Kansas limited liability company

By: _____

Printed Name: _____

Date: _____

STATE OF _____)
) ss.
COUNTY OF _____)

On this _____ day of _____, 2012, before me personally appeared _____, to me personally known, who being by me duly sworn did say that she is the _____ of MC Prairiefire I, LLC, a Kansas limited liability company, and that said instrument was signed and delivered on behalf of said limited liability company and acknowledged to me that he/she executed the same as the free act and deed of said limited liability company.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public

Printed Name: _____

My Commission Expires:

EXHIBIT O-8

JOINDER OF THE OWNER

The undersigned, the "Owner" of the Project Site as set forth in this Agreement, hereby executes and joins in this Agreement for purposes of evidencing the Owner's consent and agreement that, in the event the Ground Lease terminates or expires, Owner, and its successors and assigns, shall be deemed "Developer" for purposes of this Agreement, in which case Owner shall be subject to the terms and conditions set forth herein for all purposes.

IN WITNESS WHEREOF, the Owner has duly executed and joined in this Agreement to the extent set forth above pursuant to all requisite authorizations as of the date first above written.

MC PRAIRIEFIRE , LLC,

a Kansas limited liability company

By: _____

Printed Name: _____

Date: _____

STATE OF _____)
) ss.

COUNTY OF _____)

On this _____ day of _____, 2012, before me personally appeared _____, to me personally known, who being by me duly sworn did say that she is the _____ of MC Prairiefire, LLC, a Kansas limited liability company, and that said instrument was signed and delivered on behalf of said limited liability company and acknowledged to me that he/she executed the same as the free act and deed of said limited liability company.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public

Printed Name: _____

My Commission Expires:

EXHIBIT O-9

EXHIBITS

- Exhibit A-1 Project Site – Legal Description
- Exhibit A-2 Project Site – Map
- Exhibit B-1 Wetlands/Trails Area – Legal Description
- Exhibit B-2 Wetlands/Trails Area – Map
- Exhibit C Wetlands Plan

EXHIBIT P

COVENANT TO MAINTAIN PRIVATE PARKING FACILITIES

To be added

EXHIBIT Q
MUSEUM OPERATION AGREEMENT

THIS MUSEUM OPERATION AGREEMENT (this "Agreement"), is made and entered into this ____ day of _____, 2012 (the "Effective Date") by and between the **CITY OF OVERLAND PARK, KANSAS**, a municipal corporation duly organized under the laws of the State of Kansas (the "City") and **MUSEUM OF PRAIRIEFIRE FOUNDATION**, a 501(c)(3) corporation (the "Foundation").

RECITALS:

A. MC Prairiefire, LLC, a Kansas limited liability company (the "Owner") is the owner of approximately fifty-six (56) acres of real property which is located in the City and is generally located at 135th Street between Lamar Avenue and Nall Avenue and, along with approximately five and half (5.5) acres of 137th Street right-of-way, is legally described on **Exhibit A-1** and generally depicted on **Exhibit A-2**, as attached hereto (the "Project Site").

B. Reference is hereby made to that certain Prairiefire at LionsGate Development Agreement (the "Development Agreement") dated as of October ____, 2012 between the City and MC Prairiefire I, LLC, a Kansas limited liability company ("MCP I") and MC Prairiefire II, LLC, a Kansas limited liability company (the "MCP II"; and collectively, along with MCP I, the "Developer"). Pursuant to the terms and conditions of the Development Agreement, Developer proposes to design, develop, construct, complete and operate a unique destination experience on a portion of the Project Site (the "Project"), which Project is more particularly described therein. Capitalized terms which are not otherwise defined herein shall have the meanings assigned to them in the Development Agreement.

C. Among other things, the Project is intended to include an approximately 35,000 square foot natural history museum (the "Museum"), which is to be designed, constructed and completed by Developer and then conveyed to the Foundation by Developer (and/or the Owner) and thereafter to be operated by the Foundation. The Museum shall be located on that portion of the Project Site described on **Exhibit B-1** and generally depicted on **Exhibit B-2** as attached hereto.

D. The Museum was a fundamental and primary consideration of the City when the City agreed to the Public Financing set forth in the Development Agreement. Accordingly, the Development Agreement provides that prior to any reimbursement of Public Financing Proceeds to Developer, the City and the Foundation shall enter into this Agreement.

E. The parties desire to enter into this Agreement to set forth certain obligations of the Foundation with respect to the Museum during the Term of the Development Agreement.

AGREEMENT

EXHIBIT Q-1

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Incorporation of Recitals. The parties understand and agree that the Recitals set forth above are hereby incorporated as though more fully set forth herein.

2. Term of Agreement. This Agreement shall commence upon the conveyance of the Museum to the Foundation by the Developer (and/or the Owner) and shall terminate upon the expiration of the Development Agreement (the "Term").

3. Use and Operation. Subject to the terms and conditions of Section 11 below, the Foundation hereby agrees that at all times during the Term, the Foundation shall own and operate the Museum. The Foundation also hereby covenants that at all times during the Term it will, at its expense, except as otherwise required to maintain its current tax exempt status:

(a) Conduct its operations at all times in a dignified quality manner and in conformity with the first class industry standards and maximize visitation and Museum usage to help establish and maintain a high reputation for the Museum.

(b) Occupy the Museum as soon as possible and thereafter continuously operate and conduct Museum and related services and operations in one hundred percent (100%) of the Museum, and without interruption (except for transition of exhibits, etc.), use, occupy and operate all of the same, other than minor portions thereof as are reasonably required for maintenance, storage and office purposes; furnish and install all trade fixtures and permitted signs; and operate in accordance with first-class industry standards for similarly situated museums or similar attractions in the greater metropolitan Kansas City area.

(c) Have an agreement with the renowned American Museum of Natural History from New York City (the "AMNH") for the exhibits of the Museum (the "AMNH Agreement"), and provide a unique destination science and cultural experience for its patrons. The AMNH Agreement shall provide, among other things: (i) an exclusive radius of three hundred (300) miles in which the Museum shall be the only venue for exhibition of AMNH exhibits, (ii) maintenance of permanent exhibits and approximately 7,000 square feet of traveling exhibits which shall rotate twice per year, and (iii) AMNH Science Bulletins or other similar educational correspondence and amenities for the patrons of the Museum. The City hereby understands and agrees that the AMNH Agreement is initially for a five (5) year term, with one optional (5) year renewal term. However, the Foundation hereby agrees that in the event that AMNH Agreement shall expire, terminate or otherwise not be renewed during the Term of this Agreement, the Foundation shall use best efforts to secure a substantially similar contractual agreement to provide exhibits for the Museum from a similar institution or educational facility (the "Substitute Agreement"), which Substitute Agreement shall be approved by the City in its reasonable discretion. In such event, as long

EXHIBIT Q-2

as the Foundation continues to use best efforts to secure a Substitute Agreement, the Foundation shall not be deemed to be in default of Section 3(b) hereof.

(d) Cause the Museum to feature a connection to an interpretive walk, prairie gardens, a discovery room providing an interactive learning experience for children, event space and possible art installations.

4. Payment of Property Taxes. During the Term of this Agreement, the Foundation shall pay when due any real estate taxes and assessments applicable to any portion of the Museum. Notwithstanding the foregoing, nothing contained in this Agreement shall prohibit the Foundation from contesting the assessed value of the property, improvements or the taxes thereon in good faith by appropriate proceedings; provided however that the Foundation shall pay any and all amounts that are contested under protest while any such proceedings are pending. The Foundation shall promptly notify the City in writing of a protest of real estate taxes or valuation of the Museum.

5. Sales Tax Information. The Foundation hereby understands and agrees that the Foundation shall not take any actions or adopt any practices or procedures which are designed to, or which may or will have the effect of, eliminating, reducing or diverting in any way any sales taxes or use taxes payable to the City or the State in connection with sales made or services from, in or on and about the Museum, including without limitation, using its 501(c)(3) status to try to avoid any payment of sales taxes or use taxes by it or any other business operating within the Museum (as set forth below). The Foundation agrees that it will provide the City and/or State, or their designee(s), with documentation of sales tax receipts for each such business within the Museum, indicating the type and amount of the sales taxes and/or use taxes paid within or in connection with the Museum (and not in the aggregate). During the Term of this Agreement, the Foundation shall also provide to the City and/or State, or their designee(s), true and correct copies of all sales tax and/or use tax returns filed with the State with respect to sales in, on or from such business, the same to be provided simultaneously with, or within ten (10) days after such filing. Notwithstanding the above, for any business operating within the Museum that is not owned by the Foundation, the Foundation shall include in its lease or other agreement with such business the language above requiring disclosure of sales taxes and/or use taxes and copies of all sales tax and/or use tax returns, with the City named as a third-party beneficiary with enforcement rights. In no event shall any such business's failure to make the required disclosures be deemed a default of this Agreement, but the Foundation shall not be obligated to enforce such business's disclosure obligations.

6. Continuing Disclosures. The Foundation understands and agrees that the Foundation will be required to execute and deliver Continuing Disclosure Agreements with the Dissemination Agent named therein in connection with the STAR Bonds and the CID Bonds, in which the Foundation will agree to provide information during the Term of this Agreement about the status of the AMNH Agreement or any Substitute Agreement, the touring exhibits which have been presented at the Museum, the touring exhibits scheduled to be presented at the Museum and comparable matters.

7. Maintenance. During the Term, the Foundation shall cause the the Museum and all other of its property used or useful in the conduct of its business and operations in connection

EXHIBIT Q-3

with the Museum, to be maintained, preserved and kept in good repair and working order and in a safe condition, consistent at all times with other similarly situated museums or similar attractions in the greater metropolitan Kansas City area, and will make all repairs, renewals, replacements and improvements necessary for the safe, efficient, and professional conduct of its business and operations in connection with the Museum. Nothing in this Section 6 shall preclude the Foundation from removing or demolishing any building or buildings, if in its reasonable judgment, such removal or demolition is desirable in the conduct of its business, and as long as the same does not materially adversely affect the value of the Museum or the Foundation's ability to (i) perform its obligations under this Agreement, or (ii) generate visitation or sales and use taxes for the Museum. The Foundation may make additions, alterations and changes to the Museum so long as such additions, alterations and changes are made in compliance with all Applicable Laws and Requirements, this Agreement, the Project Plan, the Development Plan, and as long as the same do not materially adversely affect the value of the Museum or the Foundation's ability to perform its obligations under this Agreement, or generate visitation or sales and use taxes for the Museum. The Foundation agrees to set aside on its books such commercially reasonable reserves for future maintenance and capital expenditures.

8. Compliance. The Foundation shall conduct its affairs and carry on its business and operations in such a manner as to comply with all Applicable Laws and Requirements, and to observe and conform to all valid orders, regulations or requirements (including, but not limited to, those relating to safety and health) of any Government Authorities applicable to the conduct of their business and operations and the ownership of the Museum. The Foundation agrees to promptly pay any and all fees and expenses associated with any safety, health or other inspections required under this Agreement or imposed by Applicable Law and Requirements. Provided, however, that nothing contained in this Agreement shall require the Foundation to comply with, observe and conform to any such law, order, regulation or requirement of any Government Authorities so long as the validity thereof shall be contested by the Foundation in good faith by appropriate proceedings, and provided that the Foundation shall have set aside on its books adequate reserves in accordance with GAAP or secured adequate bonding with respect to such contest and such contest shall not materially impair the ability of the Foundation to meet its obligations under this Agreement.

9. Licenses and Permits. During the Term, the Foundation shall procure and maintain all licenses and permits, and conduct or cause to be conducted, all inspections and/or investigations required by Applicable Laws and Requirements or otherwise necessary in the operation of its business and affairs in, on or about the Museum; provided, however, that the Foundation shall not be required to procure or maintain in effect any right, license or accreditation that the Foundation and the City shall have determined in good faith and subject to Applicable Laws and Requirements, is not in the best interests of the Foundation and is no longer necessary in the conduct of its business and that lack of such compliance will not materially impair the ability of the Foundation to pay or perform its obligations under this Agreement.

10. Access. During the Term, the Foundation hereby recognizes, acknowledges and agrees that the City, and its duly authorized representatives and agents, shall have the right to enter the portions of the Museum at reasonable times and upon reasonable notice, to substantiate compliance with this Agreement or, to the extent the Foundation has failed to cure any breach

EXHIBIT Q-4

within applicable notice and cure periods, to cure any defaults under this Agreement. In exercising its rights hereunder, the City shall use reasonable efforts to avoid unreasonable interference with the operation of the Project. Except as otherwise provided in this Agreement, the City shall pay all costs it incurs under this provision. Nothing contained in this Section 7.12 shall restrict or impede the right of the City to enter the Museum pursuant to any Applicable Laws and Requirements.

11. Assignment and Transfer of the Museum. The rights, duties and obligations hereunder of the Foundation hereunder may not be assigned, in whole or in part, to another entity, without the prior approval of the City's governing body, which approval may be granted or withheld in its sole discretion based upon the governing body's findings about whether or not the proposed assignee shall have the commercially reasonable qualifications, experience and financial responsibility which are necessary and adequate to fulfill the obligations of the Foundation with respect to the Museum and/or this Agreement. The City hereby understands and agrees that any approval of the City's governing body pursuant to the prior sentence shall release the Foundation from the obligations set forth in this Agreement. Any proposed assignee shall, by instrument in writing, for itself and its successors and assigns, and expressly for the benefit of the City, assume all of the obligations of the Foundation under this Agreement and agree to be subject to all the conditions and restrictions to which the Foundation is subject.

12. Indemnification. The Foundation agrees to indemnify and hold the City, its employees, agents and independent contractors and consultants (each, a "City Indemnified Party" and collectively, the "City Indemnified Parties") harmless from and against any and all suits, claims, costs of defense, damages, injuries, liabilities, judgments, costs and/or expenses, including court costs and reasonable attorneys fees, resulting from, arising out of, or in any way connected with: (i) the acquisition of the Museum by the Foundation; (ii) the use or occupation of the Museum by the Foundation or anyone acting by, through or under the Foundation; (iii) damage or injury, actual or claimed, of whatsoever kind or character to persons or property occurring or allegedly occurring in, on or about the Museum; (iv) any breach, default or failure to perform by the Foundation under this Agreement; (v) any act by an employee of the City at or on the Museum which is within or under the control of the Foundation or pursued for the benefit of or on behalf of the Foundation; (vi) the Foundation's actions and undertaking in implementation of the Museum or this Agreement; and (vii) any delay or expense resulting from any litigation filed against the Foundation by any member or shareholder of the Foundation, any prospective investor, prospective partner or joint venture partner, lender, co-proposer, architect, contractor, consultant or other vendor. The parties further agree as follows:

(a) This section shall not apply to negligence or willful misconduct of the City or its officers, employees or agents.

(b) This section includes, but is not limited to, any repair, cleanup, remediation, detoxification, or preparation and implementation of any removal, remediation, response, closure or other plan (regardless of whether undertaken due to governmental action) concerning any hazardous substance or hazardous wastes including petroleum and its fractions as defined in (i) the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"; 42 U.S.C. Section 9601, *et seq.*), (ii) the Resource Conservation and Recovery Act

EXHIBIT Q-5

("RCRA"; 42 U.S.C. Section 6901 *et seq.*), (iii) Article 34, Chapter 65, K.S.A. and all amendments thereto, and any other Applicable Laws and Requirements at the Museum Site or any other place where The Foundation owns or has control of real property pursuant to any of the Foundation's activities under this Agreement. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107 (e) of CERCLA to assure, protect, hold harmless and indemnify City from liability.

(c) In the event any suit, action, investigation, claim or proceeding (collectively, an "Action") is begun or made as a result of which the Foundation may become obligated to one or more of the City Indemnified Parties hereunder, the City Indemnified Party shall give prompt notice to the Foundation of the occurrence of such event. The failure to notify the Foundation shall not relieve the Foundation of any liability that it may have to a City Indemnified Party; provided however that the City hereby agrees that it shall not defend, settle or otherwise resolve any such Actions without prior notice to the Foundation. After receipt of such notice, the Foundation may elect to defend, contest or otherwise protect a City Indemnified Party against any such Action, at the cost and expense of the Foundation, utilizing counsel approved by a City Indemnified Party. The City Indemnified Party shall have the right, but not the obligation, to participate, at the City Indemnified Party's own cost and expense, in the defense thereof by counsel of the City Indemnified Party's choice. In the event that the Foundation shall fail timely to defend, contest or otherwise protect a City Indemnified Party against such Action, the City Indemnified Party shall have the right to do so, and (if such defense is undertaken by the City Indemnified Party after notice to the Foundation asserting the Foundation's failure to timely defend, contest or otherwise protect against such Action), the City Indemnified Party may submit any bills for fees and costs received from its counsel to the Foundation for payment for services that were rendered no sooner than thirty (30) days after such notice is provided to the Foundation and, within thirty (30) business days after such submission of such bills for fees and costs, the Foundation shall transfer to the City Indemnified Party sufficient funds to pay such bills. The Foundation acknowledges that such bills may be redacted to delete any information which would constitute attorney-client communication or attorney work product.

(d) A City Indemnified Party shall submit to the Foundation any settlement proposal that the City Indemnified Party shall receive. The Foundation shall be liable for the payment of any amounts paid in settlement of any Action to the extent that The Foundation consents to such settlement. Neither the Foundation nor the City Indemnified Party will unreasonably withhold its consent to a proposed settlement.

(e) The Foundation expressly confirms and agrees that it has provided this indemnification and assumes the obligations under this Agreement imposed upon The Foundation in order to induce the City to enter into this Agreement. To the fullest extent permitted by law, a City Indemnified Party shall have the right to

EXHIBIT Q-6

maintain an action in any court of competent jurisdiction to enforce and/or to recover damages for breach of the rights to indemnification created by, or provided pursuant to, this Agreement, and the right to apply any deposit or other funds submitted by the Foundation to the City Indemnified Party in payment of the damages suffered by it, as is necessary to protect the City Indemnified Party from loss. If such court action is successful, the City Indemnified Party shall be reimbursed by The Foundation for all fees and expenses (including attorneys' fees) actually and reasonably incurred in connection with such action (including, without limitation, the investigation, defense, settlement or appeal of such action).

(f) The right to indemnification set forth in this Agreement with respect to events or circumstances that occurred or arose during the term of this Agreement shall survive the termination of this Agreement.

13. Insurance. Not in derogation of the indemnification provisions set forth herein, the Foundation shall, at its sole cost and expense, throughout the Term, maintain or cause to be maintained insurance with respect to the Museum covering such risks that are of an insurable nature and of the character customarily insured against by organizations operating similar properties and engaged in similar operations, similar development projects (including but not limited to property and casualty, worker's compensation, general liability and employee dishonesty) and in such amounts as are adequate to protect the Foundation and the Museum, which amounts shall not be less than those set forth on Exhibit C attached hereto. Throughout the Term, the Foundation agrees to provide the City upon request evidence of property insurance and a certificate of liability insurance ("Certificate") listing all coverages applicable to the Museum.

14. Non-Discrimination. The Foundation agrees that throughout the Term:

(a) The Foundation shall observe the provisions of the Kansas Act Against Discrimination (K.S.A. 44-1001 *et seq.*) and shall not discriminate against any person in the performance of work under the Agreement because of race, religion, color, sex, national origin, ancestry or age;

(b) In all solicitations or advertisements for employees, the Foundation shall include the phrase, "equal opportunity employer," or a similar phrase to be approved by the Kansas Human Rights Commission ("Commission");

(c) If the Foundation fails to comply with the manner in which the Foundation reports to the Commission in accordance with the provisions of K.S.A. 44-1031 and amendments thereto, the Foundation shall be deemed to have breached the Agreement and it may be canceled, terminated or suspended, in whole or in part, by the City;

(d) If the Foundation is found guilty of a violation of the Kansas Act Against Discrimination under a decision or order of the Commission which has become final, the Foundation shall be deemed to have breached the Agreement and it may be canceled, terminated or suspended, in whole or in part, by the City; and

EXHIBIT Q-7

- (e) The Foundation shall include the provisions of Sections 14(a) through (d) above in every contract, subcontract or purchase order so that such provisions will be binding upon such contractor, subcontractor or vendor.

The Foundation further agrees that throughout the Term the Foundation shall abide by the Kansas Age Discrimination In Employment Act (K.S.A. 44-1111 *et seq.*) and the applicable provision of the Americans With Disabilities Act (42 U.S.C. 12101 *et seq.*) as well as all other federal, state and local laws, ordinances and regulations applicable to this Project and to furnish any certification required by any federal, state or local laws, ordinances and regulations applicable to this project.

15. Damage, Destruction and Condemnation. The parties hereby agree as follows:

- (a) In the event of damage to or destruction of any portion of the Museum resulting from fire or other casualty during the Term, or in the event any portion of the Museum is condemned or taken for any public or quasi-public use or title thereto is found to be deficient during the Term, the net proceeds of any insurance relating to such damage or destruction, the net proceeds of such condemnation or taking or the net proceeds of any realization on title insurance shall be paid into, and used in accordance with a construction escrow agreement reasonably satisfactory to the City and the Foundation ("Casualty Escrow").
- (b) If, at any time during the Term, the Museum or any part thereof shall be damaged or destroyed by a Casualty (the "Damaged Facilities"), the Foundation, at its sole cost and expense, shall commence and thereafter proceed as promptly as possible to repair, restore and replace the Damaged Facilities as nearly as possible to their condition immediately prior to the Casualty and shall be entitled to draw upon the Casualty Escrow for payment of said costs.
- (c) If at any time during the Term, title to the whole or substantially all of the Museum shall be taken in condemnation proceedings or by right of eminent domain, the Foundation, at its sole discretion, may terminate this Agreement as of the date of such taking. For purposes of this Section 7.11(c), "substantially all of the Museum" shall be deemed to have been taken if the City and the Foundation, each acting reasonably and in good faith, determine that the untaken portion of the Museum, including the parking improvements therefor, cannot be practically and economically used by the Foundation for the purposes and at the times contemplated by this Agreement.
- (d) In the event of condemnation of less than the whole or substantially all of the Museum during the Term, the Foundation, at its sole cost and expense, shall commence and thereafter proceed as promptly as possible to repair, restore and replace the remaining part of the Improvements, as nearly as possible, to their former condition, and shall be entitled to draw upon the Casualty Escrow for payment of said costs.

EXHIBIT Q-8

(e) Nothing in this section will require the Foundation to expend funds in excess of the Casualty Escrow.

16. Default Provisions. The Foundation shall be in default under this Agreement if:

(a) The Foundation fails to make any of the payments of money required by the terms of this Agreement and the Foundation fails to cure or remedy the same within ten (10) days after the City has given the Foundation written notice specifying such default; or

(b) The Foundation fails to keep or perform any covenant or obligation herein contained on the Foundation's part to be kept or performed, and the Foundation fails to remedy the same within thirty (30) days after the City has given the Foundation written notice specifying such failure and requesting that it be remedied; provided, however, that if any default shall be such that it cannot be corrected within such period, it shall not constitute a default if corrective action is instituted by the Foundation within such period and diligently pursued until the default is corrected; or

(c) The Foundation shall file a voluntary petition under any bankruptcy law or an involuntary petition under any bankruptcy law is filed against any such party in a court having jurisdiction and said petition is not dismissed within sixty (60) days; or the Foundation generally is not paying its debts as such debts become due; or the Foundation or makes an assignment for the benefit of its creditors; or a custodian, trustee or receiver is appointed or retained to take charge of and manage any substantial part of the assets of the Foundation and such appointment is not dismissed within sixty (60) days; or any execution or attachment shall issue against the Foundation whereupon the Museum, or any part thereof, or any interest therein of the Foundation under this Agreement shall be taken and the same is not released prior to judicial sale thereunder (each of the events described in this subparagraph being deemed a default under the provisions of this Agreement).

In the event of such default, the City may take such actions, or pursue such remedies, as exist hereunder, or at law or in equity, and the Foundation covenants to pay and to indemnify the City against all reasonable costs and charges, including attorneys' fees, lawfully and reasonably incurred by or on behalf of the City in connection with the enforcement of such actions or remedies.

17. Rights and Remedies. The rights and remedies reserved by the City hereunder and those provided by law shall be construed as cumulative and continuing rights, no one of which shall be exhausted by the exercise of any one or more of such rights or remedies on any one or more occasions. If a default by the Foundation occurs under this Agreement and is continuing, the City may take whatever action at law or in equity as may appear necessary or desirable to enforce performance and observance by the Foundation of any provision of this Agreement, however, the Foundation's liability for monetary amounts shall be limited to the actual amount, if any, in question, and under no circumstances shall the Foundation be liable for

EXHIBIT Q-9

any remote or consequential damages. The City shall be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Agreement, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity. Failure by the City to enforce any such rights shall not be deemed a waiver thereof. Either party shall have the right to record a memorandum describing this Agreement in the Property records of Johnson County, Kansas.

18. Waiver of Breach. No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by either party of any covenant, agreement or undertaking, the non-defaulting party may nevertheless accept from the other any payment or payments or performance hereunder without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any such default or defaults which were in existence at the time such payment or payments or performance were accepted by it.

19. Power of the City. Notwithstanding anything set forth herein to the contrary, no provision contained herein shall in any manner diminish or usurp the inherent rights and powers of the City to act in its capacity as a public body. Further, nothing herein shall relieve the Foundation from complying with all Applicable Laws and Requirements.

20. Meetings with the City. The Foundation hereby agrees to meet with the City Manager (or a designee of the City Manager) on an annual basis at a time and location that is mutually convenient to both parties to provide the City Manager (or his designee) with an oral report on the operation of the Museum, visitation and the ongoing relationship with AMNH, and to answer any questions about the management and operation of the Museum. Additionally, the Foundation hereby agrees, upon a request from the City, to arrange a meeting for City representatives, the Foundation and administrative officers for AMNH in New York City at a time that is mutually convenient to all of the parties, but such meetings shall occur no more often than annually.

21. Miscellaneous. The parties further agree as follows:

(a) Time of Essence. Time is of the essence of this Agreement. The City and the Foundation will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation.

(b) Amendment. This Agreement, and any exhibits attached hereto, may be amended only by the mutual consent of the parties, upon official action of the City's governing body approving said amendment, and by the execution of said amendment by the parties or their successors-in-interest.

(c) Immunity of Officers, Employees and Members of the City. No personal recourse shall be had for any claim, representation, obligation, covenant or agreement in this Agreement against any past, present or future officer, member,

EXHIBIT Q-10

employee or agent of the City, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and any liability of any such officers, members, directors, employees or agents is hereby expressly waived and released as a condition of and consideration for the execution of this Agreement. Furthermore, no past, present or future officer, member, employee or agent of the City shall be personally liable to the Foundation, or any successor in interest, for any default or breach by the City.

(d) Right to Inspect. The Foundation agrees that the City, with reasonable advance notice and during normal business hours, shall have the right and authority to review, inspect, audit, and copy, from time to time, all of the Foundation's books and records relating to the Museum as pertinent to the purposes of this Agreement.

(e) No Other Agreement. Except as otherwise expressly provided herein, this Agreement and all documents incorporated herein by reference supersedes all prior agreements, negotiations and discussions, both written and oral, relative to the subject matter of this Agreement and is a full integration of the agreement of the parties.

(f) Severability. If any provision, covenant, agreement or portion of this Agreement, or its application to any person, entity or property, is held invalid or unenforceable in whole or in part, this Agreement shall be deemed amended to delete or modify, in whole or in part, if necessary, the invalid or unenforceable provision or provisions, or portions thereof, and to alter the balance of this Agreement in order to render the same valid and enforceable. In no such event shall the validity or enforceability of the remaining valid portions hereof be affected.

(g) Kansas Law. This Agreement shall be construed in accordance with the laws of the State of Kansas.

(h) Notice. All notices and requests required pursuant to this Agreement shall be in writing and shall be sent as follows:

To the Foundation:
Museum of PrairieFire Foundation
6240 West 135th Street
Overland Park, KS 66223
Attn: Fred Merrill

With copies to:

Lyle D. Pishny, Esq.
Lathrop & Gage
10851 Mastin Boulevard
Building 82, Suite 1000

EXHIBIT Q-11

Overland Park, KS 66210

To the City:
William Ebel, Jr., City Manager
City of Overland Park
8500 Santa Fe Drive
Overland Park, KS 66212

With copies to:
Kristy Stallings, Deputy City Manager
City of Overland Park
8500 Santa Fe Drive
Overland Park, KS 66212

Tammy M. Owens, Deputy City Attorney
City of Overland Park
8500 Santa Fe Drive
Overland Park, KS 66212

or at such other addresses as the parties may indicate in writing to the other either by personal delivery, courier, or by registered mail, return receipt requested, with proof of delivery thereof. Mailed notices shall be deemed effective on the third day after mailing; all other notices shall be effective when delivered.

(i) Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

(j) Agreement Runs With the Land; Recording. The Parties understand and agree that this Agreement runs with the land. Additionally, the Parties agree to execute and deliver a Memorandum of this Agreement and any amendments or supplements hereto, in proper form for recording and/or indexing in the appropriate land or governmental records, including, but not limited to, recording in the real estate records of Johnson County, Kansas. Such Memorandum of Agreement shall be promptly recorded against the Museum property by the Foundation at the Foundation's cost after execution, and proof of recording shall be provided to the City. Such Memorandum shall state that a copy of this Agreement shall be on file with the City Clerk.

(k) Survivorship. Notwithstanding the termination of this Agreement, the Foundation's obligations of insurance and indemnification set out in Sections 12 and 13 shall survive the termination of this Agreement to the extent that any incident giving rise to a claim, suit, judgment or demand occurred during Term.

(l) Incorporation of Exhibits. The Exhibits attached hereto and incorporated herein by reference are a part of this Agreement to the same extent as if fully set forth herein.

EXHIBIT Q-12

(m) Tax Implications. The Foundation acknowledges and represents that (i) neither the City nor any of its officials, employees, consultants, attorneys or other agents has provided to the Foundation any advice regarding the federal or state income tax implications or consequences of this Agreement and the transactions contemplated hereby, and (ii) the Foundation is relying solely upon its own tax advisors in this regard.

(n) Required Disclosures. The Foundation shall immediately notify the City of the occurrence of any material event which would cause any of the information furnished to the City by the Foundation in connection with the matters covered in this Agreement to contain any untrue statement of any material fact or to omit to state any material fact required to be stated therein or necessary to make any statement made therein, in the light of the circumstances under which it was made, not misleading.

(o) Counterparts. This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same agreement.

(p) Amendment to Carry Out Intent. If any provision, covenant, agreement or portion of this Agreement, or its application to any person, entity or property, is held invalid, the parties shall take such reasonable measures including but not limited to reasonable amendment of this Agreement, to cure such invalidity where the invalidity contradicts the clear intent of the parties in entering into this Agreement; provided, however, nothing herein is intended to bind a future governing body of the City in a manner prohibited by the laws of the State of Kansas.

(q) Effectiveness. This Agreement shall not become effective unless and until the Museum is constructed and conveyed to the Foundation pursuant to the terms of the Real Estate Sale Contract by and between the Foundation and the Developer (and/or the Owner).

IN WITNESS WHEREOF, the City and the Foundation have duly executed this Agreement pursuant to all requisite authorizations as of the date first above written.

CITY OF OVERLAND PARK, KANSAS

ATTEST:

Carl Gerlach, Mayor

Marian Cook, City Clerk

APPROVED AS TO FORM:

Michael R. Santos
City Attorney

APPROVED AS TO FORM:

Todd A. LaSala, Esq.
Stinson Morrison Hecker LLP

By: _____
 Printed Name: _____
 Date: _____

On this _____ day of _____, 2012, before me personally appeared _____, to me personally known, who being by me duly sworn did say that she is the _____ of THE MUSEUM OF PRAIRIEFIRE FOUNDATION, a 501(c)(3) corporation, and that said instrument was signed and delivered on behalf of said limited liability company and acknowledged to me that he/she executed the same as the free act and deed of said limited liability company.

Notary Public
Printed Name:

LIST OF EXHIBITS TO
MUSEUM OPERATION AGREEMENT

Exhibit A-1 Project Site – Legal Description

Exhibit A-2 Project Site – Map

Exhibit B-1 Museum – Legal Description

Exhibit B-2 - Museum – Map

Exhibit C – Insurance Specifications

EXHIBIT C
INSURANCE SPECIFICATIONS

1. Worker's Compensation (as applicable). The Foundation may self-insure, to the extent allowed by applicable law. The self-insured retention shall be that which is standard in the industry. The Foundation will then purchase excess Worker's Compensation Insurance with statutory limits over the self-insured retention. If self-insurance is not available under applicable state law, coverage will be purchased in accordance with the statutory requirements.

2. Comprehensive General Liability. The Foundation will purchase and maintain with primary limits of \$2,000,000.

3. Automobile Liability (as applicable). The Foundation will purchase and maintain with primary limits of \$1,000,000.

4. Excess Liability. The Foundation will purchase and maintain excess liability insurance in an amount not less than \$3,000,000.

5. Special Perils Form Property Insurance. The Foundation will purchase on a replacement cost basis. Deductibles and limits will be standard to those in the industry, and the policy shall include an "Agreed Amount" endorsement. Earthquake and flood insurance, as well as fired vessel, boiler and machinery, and underground collapse, may be required by the City as additional perils.

EXHIBIT R
RESIDENTIAL PROJECT ACKNOWLEDGEMENT
AND ASSUMPTION AGREEMENT

THIS RESIDENTIAL PROJECT ACKNOWLEDGEMENT AND ASSUMPTION AGREEMENT (this "Agreement"), is made and entered into this ____ day of _____, 2012 (the "Effective Date") by and between the **CITY OF OVERLAND PARK, KANSAS**, a municipal corporation duly organized under the laws of the State of Kansas (the "City") and **PRAIRIEFIRE APARTMENTS, LLC**, an Indiana limited liability company ("Residential Developer").

RECITALS:

A. MC Prairiefire, LLC, a Kansas limited liability company ("Owner") is the owner of approximately fifty-six (56) acres of real property which is located in the City and is generally located at 135th Street between Lamar Avenue and Nall Avenue and, along with approximately five and a half (5.5) acres of 137th Street right-of-way, is legally described on **Exhibit A-1** and generally depicted on **Exhibit A-2**, as attached hereto (the "Project Site").

B. Pursuant to that certain Prairiefire at Lionsgate Development Agreement (the "Development Agreement") dated as of October __, 2012 between the City, MC Prairiefire I, LLC, a Kansas limited liability company ("MCP I"), and MC Prairiefire II, LLC, a Kansas limited liability company ("MCP II," and together with MCP I, the "Developer"), Developer proposes to design, develop, construct, complete and operate a unique destination experience on a portion of the Project Site (the "Project"), which Project is more particularly described therein. Capitalized terms which are not otherwise defined herein shall have the meanings assigned to them in the Development Agreement and the Annex of Definitions attached thereto.

C. Among other things, Phase 1 of the Project is intended to include approximately three hundred (300) residential units, including condominium units and/or apartment units (collectively, the "Residential Project"), which is to be designed, constructed and completed and operated by the Residential Developer. The Residential Project shall be located on that portion of the Project Site described on **Exhibit B-1** and generally depicted on **Exhibit B-2** as attached hereto (the "Residential Land").

D. The Residential Project was a fundamental and primary consideration of the City when the City agreed to the Public Financing set forth in the Development Agreement. Accordingly, the Development Agreement provides that prior to any reimbursement of Public Financing Proceeds to Developer, the City and the Residential Developer shall enter into this Agreement.

E. The parties desire to enter into this Agreement so that the Residential Developer shall acknowledge, assume and agree to perform the obligations, covenants and agreements of the Developer under the Development Agreement, as modified herein, and as the same pertain to the design, construction, completion and operation of the Residential Project.

EXHIBIT R-1

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and in consideration of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereby agree as follows:

1. Incorporation of Recitals. The parties understand and agree that the Recitals set forth above are hereby incorporated as though more fully set forth herein.

2. Term of Agreement. This Agreement shall commence upon the Effective Date and shall terminate upon the expiration of the Development Agreement (the "Term").

3. General Acknowledgement and Assumption. Residential Developer hereby acknowledges, assumes and agrees to perform each and every obligation, covenant and agreement of the "Developer" under the Development Agreement, except as modified below, but only to the extent that the same shall pertain to the design, construction, completion and operation of the Residential Project, each of which is hereby incorporated as though more fully set forth herein and Residential Developer hereby understands and agrees that the City may enforce the same directly against Residential Developer.

4. Specific Acknowledgement and Assumption. Without limiting the generality of the foregoing, Residential Developer specifically acknowledges, assumes and agrees to perform the following obligations, covenants and agreements set forth in the Development Agreement, as modified in certain instances below:

(a) All of the terms and conditions in Section 2.05 (Indemnification), Section 2.06 (Insurance) and Section 2.07 (Non-Discrimination).

(b) All of the terms and conditions set forth in Article V (Construction of Improvements), except as follows:

(i) Residential Developer's General Contractor (as that term is used in the Development Agreement) shall be Hearthview Construction – PrairieFire, LLC, an affiliate of Residential Developer, and thus Residential Developer shall not be subject to Section 5.02(b) and (c) or Section 5.07; and

(ii) Residential Developer shall not be subject to Section 5.04, but Residential Developer shall be obligated to commence construction within ninety (90) days of closing on the purchase of the Residential Land.

(c) Until such time as the Residential Project is Substantially Complete, all of the terms and conditions set forth in Article VI (Assignment and Transfer), after which time Residential Developer shall not be subject to Article VI.

(d) All of the terms and conditions set forth in Sections 7.02 (Use and Operation), 7.04 (Use Restrictions), 7.05 (Continuing Disclosures; Sales and Use

EXHIBIT R-2

Tax Reporting), 7.06 (Maintenance and Use), 7.07 (Compliance), 7.08 (Payment of Taxes and Liens), 7.09 (Payment of Obligations), 7.10 (Licenses and Permits), 7.11 (Damage Destruction or Condemnation), 7.12 (Access), and 7.13 (Power of the City), except as follows:

(i) If and to the extent that the Residential Project does not include any retail components, then Residential Developer's obligations under Section 7.05 shall not include Section 7.05(a), and disclosures under Section 7.05(b) shall be limited to those relating to construction and completion of the Residential Project and the transfer, sale, or other conveyance of the Residential Land and/or Residential Project. Residential Developer shall not have any obligation to disclose residential tenants in the Residential Project.

(ii) In connection with Residential Developer's obligations under Section 7.11, the performance of such obligations shall be subject to the consent of Residential Developer's lender, if any, if and to the extent that the damage, destruction, or condemnation shall affect more than twenty percent (20%) of the gross floor area of the improvements that constitute the Residential Project.

(e) All of the terms and conditions set forth in Article VIII (Default and Remedies).

(f) All of the terms and conditions set forth in Section 9.03 (Time of Essence) through Section 9.19 (Cash Basis and Budget Laws), inclusive. However, the parties hereby understand and agree that the notice address for the Residential Developer in Section 9.10 (Notice) shall be replaced with the following:

To the Residential Developer:

PrairieFire Apartments, LLC
c/o Hearthview Residential
805 City Center Drive, Suite 140
Carmel, IN 46032
Attn: Jim Thomas

With copies to:

Darren Neil, Esq.
Polsinelli Shughart PC
6201 College Blvd., Suite 500
Overland Park, KS 66211

(g) Notwithstanding anything herein or in the Development Agreement to the contrary, Article III, Article IV, Section 9.01, and Section 9.02 of the Development Agreement shall not apply to the Residential Developer.

EXHIBIT R-3

Each of the foregoing provisions is hereby incorporated by reference and Residential Developer hereby understands and agrees that the City may enforce the same against Residential Developer in connection with the Residential Project. Further, parties understand and agree that if and to the extent the various exhibits attached to the Development Agreement are referenced in the obligations that are acknowledged and assumed by the Residential Developer, such exhibits are hereby incorporated by reference as though more fully set forth herein.

[Remainder of page intentionally left blank. Signature pages immediately follow.]

EXHIBIT R-4

IN WITNESS WHEREOF, the City and the Residential Developer have duly executed this Agreement pursuant to all requisite authorizations as of the date first above written.

CITY OF OVERLAND PARK, KANSAS

ATTEST:

Carl Gerlach, Mayor

Marian Cook, City Clerk

APPROVED AS TO FORM:

Michael R. Santos
City Attorney

APPROVED AS TO FORM:

Todd A. LaSala, Esq.
Stinson Morrison Hecker LLP

EXHIBIT R-5

**PRAIRIEFIRE APARTMENTS, LLC,
an Indiana limited liability company**

By: _____

Printed Name: _____

Date: _____

STATE OF _____)
) ss.

COUNTY OF _____)

On this ____ day of _____, 2012, before me personally appeared _____, to me personally known, who being by me duly sworn did say that she is the _____ of PrairieFire Apartments, LLC, a limited liability company, and that said instrument was signed and delivered on behalf of said limited liability company and acknowledged to me that he/she executed the same as the free act and deed of said limited liability company.

In Testimony Whereof, I have hereunto set my hand and affixed my official seal the day and year first above written.

Notary Public

Printed Name: _____

My commission expires:

EXHIBIT R-6

LIST OF EXHIBITS TO RESIDENTIAL PROJECT
ACKNOWLEDGEMENT AND ASSUMPTION AGREEMENT

- Exhibit A-1 Project Site – Legal Description
- Exhibit A-2 Project Site – Map
- Exhibit B-1 Residential Project – Legal Description
- Exhibit B-2 Residential Project – Map
- Exhibit C Insurance Specifications

EXHIBIT C
INSURANCE SPECIFICATIONS

1. Worker's Compensation (as applicable). Residential Developer may self-insure, to the extent allowed by applicable law. The self-insured retention shall be that which is standard in the industry. Residential Developer will then purchase excess Worker's Compensation Insurance with statutory limits over the self-insured retention. If self-insurance is not available under applicable state law, coverage will be purchased in accordance with the statutory requirements.
2. Comprehensive General Liability. Residential Developer will purchase and maintain with primary limits of \$2,000,000.
3. Automobile Liability (as applicable). Residential Developer will purchase and maintain with primary limits of \$1,000,000.
4. Excess Liability. Residential Developer will purchase and maintain excess liability insurance in an amount not less than \$3,000,000.
5. Special Perils Form Property Insurance. Residential Developer will purchase on a replacement cost basis. Deductibles and limits will be standard to those in the industry, and the policy shall include an "Agreed Amount" endorsement. Earthquake and flood insurance, as well as fired vessel, boiler and machinery, and underground collapse, may be required by the City as additional perils, but only to the extent required by Residential Developer's lender for the Residential Project.

EXHIBIT S
PROJECT PLAN

To be added