

FIRST AMENDMENT TO GLENWOOD COMMONS

REDEVELOPMENT AGREEMENT

THIS FIRST AMENDMENT TO GLENWOOD COMMONS REDEVELOPMENT AGREEMENT (the "First Amendment") is made and entered into as of this ____ day of September, 2014 (the "Effective Date"), by and between the City of Overland Park, Kansas (the "City") and Wichita/Metcalf, LLC, a Kansas limited liability company ("Developer").

A. Reference is hereby made to that certain Glenwood Commons Redevelopment Agreement dated as of October 1, 2012 between the City and Developer (the "Redevelopment Agreement"). Capitalized terms used but not defined in this First Amendment shall have the respective meanings set forth in the Redevelopment Agreement.

B. Developer is the owner of certain real property which is located in the City and is generally located on the Southwest corner of 91st Street and Metcalf Avenue, which, is legally described on Exhibit A attached to the Redevelopment Agreement and generally depicted on Exhibit B attached thereto (the "Project Site"). Developer is in the process of redeveloping the Project Site by constructing certain new retail facilities and other improvements on the Project Site, including without limitation, the development and construction of four (4) new retail buildings consisting of approximately 31,500 gross square feet of Improvements to be used for a table-service restaurant, a fast-food restaurant and other businesses conducting retail sales, all as more particularly set forth in Section 2.01 of the Redevelopment Agreement (the "Project").

C. Among other things, Section 2.05 of the Redevelopment Agreement requires Developer to construct the Project based upon the schedule set out and contained within Exhibit H attached thereto - the Performance Milestones. In Section 2.05, the parties further agree that in the event that Developer shall fail to meet any of the Performance Milestones set forth in Exhibit H, then the City may require Developer to appear before the City to show cause why Developer failed to comply with the Performance Milestones.

D. In accordance with said Section 2.05, on August 20, 2014, Developer did appear before the City's Finance and Economic Development Committee ("FAED") and showed cause as to why Developer did not complete Building A and the Decorative Site Amenities by the end of Summer, 2014 as required by Section 2.05 and Exhibit H to the Redevelopment Agreement, and on September 8, 2014, the governing body of the City accepted the recommendations of FAED to extend the deadline to complete Building A and the Decorative Site Amenities.

E. The parties now hereby agree to amend, revise and replace Exhibit H with a new Performance Milestone for completion of the Building A and the Decorative Site Amenities.

F. The parties also agree in this First Amendment to make certain other modifications to the Redevelopment Agreement to extend the one hundred eighty (180) day deadline for Developer's submission of Certificates of Expenditure for those expenditures made by Developer prior to the execution of the Redevelopment Agreement, as more particularly set forth below.

NOW, THEREFORE, in consideration of the mutual covenants herein contained and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the

parties hereby agree that the Redevelopment Agreement is hereby modified and amended as follows:

1. Amended Performance Milestones: The parties hereby agree that the Performance Milestones attached to the Redevelopment Agreement as Exhibit H shall be deleted and replaced with the revised Performance Milestones attached to this First Amendment as Exhibit H (Amended – 2014).

2. Modification of Deadline in Section 4.02(f): The parties hereby agree that the first sentence of Section 4.02(f) shall be deleted in its entirety and replaced with the following:

"Within ten (10) days of the Effective Date of the First Amendment to this Agreement, Developer shall submit Certificates of Expenditure for those expenditures made prior to the execution of this Agreement in connection with the CID Improvements, if any."

3. Maintenance of the Project Site: Without limiting the generality of anything set forth in Section 6.03 of the Redevelopment Agreement, Developer hereby specifically agrees that it shall maintain those portions of the Project Site which are not yet developed, which includes regularly mowing grass and weeds, properly managing construction equipment, gravel, dust and debris and other conditions on the Project Site so that the same is in a clean, safe and sightly condition. Also, in addition to the Developer's obligation to construct, complete and maintain the landscaping and irrigation systems described in Section 2.01(d) of the Redevelopment Agreement, Developer hereby agrees that it shall install, provide and maintain appropriate temporary landscaping improvements which are required or approved by the City's planning staff during construction of the Project, and that the expenses for such temporary landscaping improvements shall not be eligible for reimbursement by Pay-As-You-Go CID Financing. In the event that Developer shall fail to perform its maintenance or other obligations set forth in Section 3 of this First Amendment or in Section 6.03, Developer hereby understands and agrees that in addition to the City's other rights and remedies in the Redevelopment Agreement, the City may suspend all reimbursements of Eligible Expenses through Pay-As-You-Go CID Financing during any time that Developer shall fail to fully perform and comply with such maintenance obligations.

4. Miscellaneous. In connection with this First Amendment, the parties hereby agree as follows:

(a) The parties hereby understand and agree that the Recitals set forth above are hereby incorporated as though more fully set forth herein.

(b) Except as specifically modified by this First Amendment, the Redevelopment Agreement shall be and remain in full force and effect in accordance with the terms thereof.

(c) It is the intent of the parties that the provisions of the Redevelopment Agreement, as amended by this First Amendment, shall be enforced to the fullest extent permitted by applicable law. To the extent that the terms set forth in Redevelopment Agreement, as amended by this First Amendment, or any word, phrase, clause or sentence is found to be illegal or unenforceable for any reason, such word, phrase, clause or sentence shall be modified deleted or interpreted in such a manner so as to afford the party

for whose benefit it was intended the fullest benefit commensurate with making the Redevelopment Agreement as modified, enforceable and the balance of the Redevelopment Agreement shall not be affected thereby, the balance being construed as severable and independent.

(d) The parties hereto declare and represent that no promises, inducements or agreements not herein expressed have been made, that this First Amendment contains the entire agreement between the parties hereto, and that the terms hereof are contractual and not mere recitals.

(e) This First Amendment shall be binding upon and inure to the benefit of the parties hereto, and their successors and assigns.

(f) All remedies at law or in equity shall be made available for the enforcement of this First Amendment.

(g) This First Amendment may be executed in counterparts.

(h) This First Amendment shall be construed in accordance with the laws of the State of Kansas.

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

EXHIBIT H (Amended – 2014)
PERFORMANCE MILESTONES

Completion of Building D:	Summer, 2014
Completion of Building A and Decorative Site Amenities:	December 31, 2014*
Completion of remainder of the Project:	Summer, 2015**

* For purposes hereof, "Completion of Building A" shall be deemed to mean completion of the building improvements, along with parking and infrastructure improvements in connection therewith, such that the City has issued a Certificate of Occupancy for Building A.

**Notwithstanding the performance milestones set forth above, nothing in this Agreement shall require commencement of construction of any portion of the Project other than Buildings A and D and the Decorative Site Amenities until a tenant or tenants for such buildings are secured.