

DEVELOPMENT AGREEMENT

THIS DEVELOPMENT AGREEMENT (this "Agreement"), is made and entered into this ____ day of _____, 2012 by and between the **CITY OF OVERLAND PARK, KANSAS**, a municipal corporation duly organized under the laws of the State of Kansas ("City"); and **Q95 ASSOCIATES, L.P.**, a Delaware limited partnership, (the "Developer").

A. The City has authority to create a community improvement district ("CID"), pursuant to K.S.A 12-6a26 et seq., and amendments thereto (the "CID Act"), for the purpose of financing economic development related projects. Under the CID Act, the owners of all land within the proposed CID boundaries may petition the City to request the creation of a CID and to impose special assessments or community improvement district sales taxes (the "CID Sales Tax") to pay the cost of a community improvement district project.

B. The Developer is the owner of certain land in the City located at the Northeast corner of 95th Street and Quivira Road on which redevelopment of the corner is being designed and constructed (the "Development").

C. In connection with the Development, Developer will be constructing certain community improvement projects. A general description of such projects is attached hereto as **Exhibit A** (the "CID Improvements").

D. On September 29, 2011, the Developer, who is the only property owner within the Development, submitted a petition requesting the formation of a CID district located at at the Northeast corner of 95th Street and Quivira Road (the "CID Petition"). A copy of the CID Petition is attached hereto as **Exhibit B**. A legal description of the boundaries of the CID ("Quivira 95 Shops CID" or the "District") is set forth on **Exhibit C** attached hereto. A map showing the location of the CID Improvements within the District is attached hereto as **Exhibit D**.

E. On November 7, 2011, the City approved the creation of the Quivira 95 Shops CID through the adoption of Ordinance No. CID-2940 (the "CID Ordinance") a copy of which is attached hereto as **Exhibit E**. The CID Ordinance approved the CID Improvements to be financed with the proceeds of CID Bonds payable from revenues received from the imposition of a CID Sales Tax or on a pay-as-you-go basis. The CID Sales Tax will commence on October 1, 2012, or any other effective date the City may approve upon request by all owners within the District.

F. The Parties now desire to enter into this Agreement to formalize the construction and financing of the CID Improvements.

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

A. Definitions of Words and Terms. Capitalized words used in this Agreement shall have the meanings set forth in the Recitals to this Agreement or they shall have the following meanings:

1. “Agreement” means this Agreement as may be amended in accordance with the terms hereof.
2. “CID Act” means K.S.A. 12-6a26 et seq. and amendments thereto.
3. “CID Bonds” means community improvement district bonds or notes issued by the City to finance all or a portion of the CID Improvements.
4. “CID Bond Documents” means the bond indentures, the official statements, the bond ordinances, the arbitrage letters of instructions and other documents evidencing the sale and issuance of CID Bonds.
5. “CID Bond Fund” means the fund, if any, established under the CID Bond Documents to provide for the payment of the principal of and interest on the CID Bonds.
6. “CID Sales Tax Fund” means the separate fund established by the City for deposit of the CID Sales Tax received from the State collected within the Quivira 95 Shops CID, and that is used to finance the CID Improvements pursuant to the CID Act.
7. “City” means the City of Overland Park, Kansas.
8. “City Expenses” means the expenses of the City incurred for administrative, financial and legal services incurred in connection with the CID Improvements.
9. “City Representative” means the City Manager and such other person or persons at the time designated to act on behalf of the City in matters relating to this Agreement as evidenced by a written certificate furnished to the Developer containing the specimen signature of such person or persons and signed on behalf of the City.
10. “City CID Annual Administrative Fee” means an amount equal to the greater of \$5,000 or 1% of the CID Sales Tax collected for the preceding calendar year.
11. “Developer” means Q95 Associates, L.P., and its successors and assigns.
12. “Eligible Expenses” means expenses related to the CID Improvements to the extent such expenses are “costs” or a “project” as defined in the CID Act, the maximum amount of Eligible Expenses is One Million Seven Hundred Sixty One Thousand Six Hundred and 00/100 Dollars (\$1,761,600.00).

13. “Event of Default” means any event or occurrence as defined in Article VI of this Agreement.

14. “Net CID Bond Proceeds” means the proceeds from the sale of the CID Bonds available to finance the CID Improvements.

15. “Parties” means the City and the Developer.

16. “Pay-As-You-Go CID Financing” means a method of financing pursuant to K.S.A. § 12-17,147a in which the costs of the CID Improvements are financed without notes or bonds, and the costs are reimbursed as CID Sales Tax is deposited in the CID Sales Tax Fund.

17. “Project” means the improvements described in the Preliminary Development Plan, and Final Development Plan, approved by the City as such plans might be modified or revised in accordance with the Unified Development Ordinance of the City of Overland Park.

18. “State” means the State of Kansas.

19. “Term” means from the date of execution of the Agreement to the later of the date of issuance and delivery of the CID Bonds or the reimbursement in full of the Eligible Expenses.

20. “Underwriter” means the underwriter or original purchaser of or placement agent for the CID Bonds selected by the City in consultation with the Developer.

B. 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:

1. The terms defined in this Article include the plural as well as the singular.

2. 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.

3. 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.

4. 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.

5. 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.

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

ARTICLE II

DEVELOPMENT OF THE PROJECT

A. Completion of the CID Improvements. The Developer shall complete the CID Improvements in conformance with the Preliminary Development Plan, Final Development Plan, related stipulations, and City building codes, City ordinances and all other applicable rules and regulations. Before commencement of construction or development of any buildings, structures or other work or improvement, the 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.

B. Cost of the Project. Developer shall be responsible for and will bear all costs of the CID Improvements, subject to the terms of this Agreement.

C. Indemnification. The Developer agrees to defend, indemnify and hold the City, its officers, agents and employees, harmless from and against all liability for damages, costs and expenses, including attorney fees, arising out of any claim, suit, judgment or demand arising from the negligent or intentional acts or omissions of the Developer, its contractors, subcontractors, agents or employees relating to the Project and the activities of the Developer and its contractors, subcontractors, agents and employees under this Agreement, including, but not limited to, claims for loss or damage to any property or injury to or death of any person, asserted by or on behalf of any person, firm, corporation or governmental authority arising out of or in any way connected with any property of the Developer, or the conditions, occupancy, use, possession, conduct or management of, or any work done in or about the Project by the Developer or its agents. The Developer shall give the City immediate written notice of any claim, suit or demand which may be subject to this Section.

D. Insurance.

1. 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. 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.

2. The Developer shall require of the Contractor hired to perform work on any public infrastructure the following insurance requirements:

(a) General: The Contractor shall secure and maintain, throughout the Term of this Agreement, insurance (on an occurrence basis unless otherwise agreed to) of such types and in at least such amounts as required herein. Contractor shall provide certificates of insurance and renewals thereof on forms provided by the City 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.

(b) 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.

The Contractor shall monitor and promptly notify the City of any reduction in limits of protection afforded under any policy listed in the Certificate 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 promptly reinstate the original limits of liability required hereunder and shall furnish evidence thereof to the City.

(c) 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”**

(d) 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”**

(e) 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

(f) 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

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

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

(h) 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, contractor shall 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.

E. 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 paragraphs (a) through (d) above in every contract, subcontract or purchase order so that such provisions will be binding upon such contractor, subcontractor or vendor.

2. 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
CID FINANCING

A. CID Sales Tax. The City has delivered a copy of the CID Ordinance to the Kansas Department of Revenue (“DOR”) imposing the CID Sales Tax effective October 1, 2012. The Developer agrees to provide to the DOR a list of tenants within the District no later than April 1, 2012, so that the DOR can notify tenants within the District of the requirement of the tenant to impose a CID Sales Tax beginning on October 1, 2012. At the time the list of tenants is provided to the DOR, the Developer shall also provide a copy to the City. Except as otherwise set forth herein, all CID Sales Tax shall be available for and dedicated to pay Eligible Expenses until sufficient CID Sales Tax has been received to pay for the cost of Eligible Expenses or not later than the date the CID Bonds issued to finance the Project or refunding bonds issued therefor shall mature and shall be utilized according to the procedures set forth herein in the following order of priorities:

1. First, to pay the principal and interest on any CID Bonds issued to finance the CID Improvements;
2. Second, to pay or reimburse the City for all City Expenses including the City CID Annual Administrative Fee; and
3. Third, to the extent permitted by the CID Act, to reimburse the Developer for remaining Eligible Expenses.

Notwithstanding the foregoing, the Parties acknowledge that the effective date of the CID Sales Tax may be delayed to a later date or expedited to an earlier date if either such action is requested in writing at least one hundred eighty (180) days prior to October 1, 2012 or the effective date of the CID Sales Tax, if the effective date of the CID Sales Tax has been extended, by all owners of record within the District and approved by the Governing Body of the City.

B. CID Sales Tax Fund. During the existence of the Quivira 95 Shops CID and prior to issuance of CID Bonds, if any, all CID Sales Taxes generated within the Quivira 95 Shops CID shall be deposited into the CID Sales Tax Fund, which shall be established and administered by the City in compliance with the laws of the State and this Agreement.

C. CID Bonds. At the request of the Developer, on a date agreed to by the City and the Developer and subject to the conditions set forth below in paragraph D, the City will endeavor to issue CID Bonds in one or more series payable from the CID Sales Tax.

D. Conditions Precedent to CID Bond Issuance. The issuance of the CID Bonds shall be subject to Developer complying with the terms of this Agreement and the following:

1. The Developer provides such documentation to the City as required by the Underwriter or the City to reasonably demonstrate that the CID Sales Tax revenues generated within the Quivira 95 Shops CID District are sufficient to pay debt service on the CID Bonds with a coverage factor that the Underwriter or the City determines is necessary and that is agreed to by the Developer and the City. The maximum principal amount of the CID Bonds and reimbursement of Eligible Expenses from CID Sales Tax

shall not exceed One Million Seven Hundred Sixty One Thousand Six Hundred and 00/100 Dollars (\$1,761,600.00).

2. The terms of the CID Bonds, including but not limited to, limitations on sales and transfers to sophisticated investors only, shall be acceptable to the Developer and the City.

3. If applicable, the Underwriter shall hold the CID Bonds in its own account or be responsible for marketing and selling the CID Bonds, and the City shall be under no obligation to issue CID Bonds if such CID Bonds are not marketable after reasonable effort by the Underwriter. Notwithstanding the foregoing, if the Underwriter determines that the CID Bonds are not marketable after a reasonable effort by such Underwriter, the Developer shall have a right to request that the CID Bonds be marketed thereafter with an alternative underwriter that is reasonably approved by the City and Developer and upon terms and conditions that are reasonably approved by the City and Developer.

4. The Kansas Attorney General approves the transcript of proceedings relating to the CID Bonds as required by K.S.A. 10-108.

5. Bond Counsel provides to the City an opinion to the effect that the CID Bonds have been validly issued under Kansas law and, if applicable, the interest on the CID Bonds is exempt from Kansas and federal income taxation, subject to the standard exceptions.

It is not anticipated that an underwriter will be involved in the CID Bond issuance if the Developer is the buyer of the bonds.

E. Satisfaction of Conditions. Upon receipt of the information set forth in Section III (D) above, the City shall at the Developer's request and within a reasonable time thereafter either:

1. Provide written notice to the Developer that the requirements of said subsection have been satisfied, at which time it will be the City's intent to endeavor to issue the CID Bonds; or

2. Provide written notice as to why such information is not satisfactory.

F. CID Bond Fund. If CID Bonds are issued by the City, a CID Bond Fund shall be created and administered by the City or its designee and will be utilized solely to repay the CID Bonds and amounts, if any, required to pay rebate amounts. The specifics of the issuance and repayment of the CID Bonds shall be in accordance with the CID Bond Documents, to be approved by City ordinance, in accordance with this Agreement. In no event, except by mutual agreement between the parties hereto, shall the CID Bond Documents be inconsistent with this Agreement. Upon issuance of the CID Bonds, the Net CID Bond Proceeds shall be disbursed by the City or Bond Trustee for the purpose of funding Eligible Expenses in accordance with the terms of this Agreement and the CID Bond Documents.

G. Privately Placed Bonds. The parties agree that, subject to the approval of the City, the CID Bonds shall be privately placed and sold to (i) institutional investors including, without limitation, insurance companies, funds and state or federally chartered financial institutions, and/or (ii) Developer and/or entities in accordance with the provisions of this Agreement.

H. Termination of the CID. The City shall not terminate the CID or cease the collection of CID Sales Tax, except as provided by law, as requested by the Developer, or as set forth in Article VI of this Agreement.

ARTICLE IV **CID REIMBURSEMENT**

A. CID Reimbursement. Subject to Article III of this Agreement, CID Sales Tax shall be used to reimburse the Developer for the cost of the CID Improvements, as described in **Exhibit A**, whether by the issuance of CID Bonds in accordance with this Agreement or by Pay-As-You-Go CID Financing. In no event will the reimbursement described hereunder exceed the maximum authority set out in the definition of “Eligible Expenses” and as approved by the CID Ordinance and any changes must be approved by City.

B. Certification of Expenditures. Developer shall certify all costs and expenditures to be made in connection with the CID Improvements in accordance with the following:

1. The Developer shall submit to the City a Certification of Expenditure in the form attached hereto as **Exhibit F** setting forth the amount for which reimbursement is sought and an itemized listing of the related CID Improvement. Prior to or concurrently with the first Certification of Expenditure submitted to the City, the Developer shall submit plan documentation to assist the City in reviewing the Certificate of Expenditures. Such documentation shall include, but not be limited to:

(a) A scalable “General Layout” plan sheet showing the general layout and location of the CID eligible items. Non-eligible items shall be clearly differentiated from eligible items.

(b) A summary of plan quantities delineating the eligible from non-eligible items.

(c) Copies of certified bid tabulations or contracts verifying the contractor’s bid on eligible items. Such tabulations or contracts must clearly differentiate items by eligible and. non-eligible items.

2. Each Certification of Expenditure shall be accompanied by such bills, contracts, invoices, lien waivers and other evidence as the City shall reasonably require to document appropriate payment and shall include an overall cost summary, as well as a cost summary for each division of work (i.e., grading, erosion control, roadway, sanitary sewer and storm sewer). The cost breakdown shall include the quantity, unit price and price extension for each eligible item requested for reimbursement, or some other commercially reasonable method acceptable to the City.

3. The City reserves the right to have its engineer, City staff or other agents or employees inspect all work in respect of which a Certification of Expenditure is submitted, to examine the Developer's and other's records relating to all costs of CID Improvements to be paid, and to obtain from such parties such other information as is reasonably necessary for the City to evaluate compliance with the terms hereof. The Developer hereby agrees to pay all actual and verifiable expenses incurred by the City pursuant to this paragraph 3.

4. The City shall have sixty (60) calendar days after receipt of any Certification of Expenditure to review and respond by written notice to the Developer. If the submitted documentation demonstrates that: (1) the Certification of Expenditure relates to the CID Improvements; (2) the expense was incurred; (3) Developer is not in default under this Agreement; and (4) there is no fraud on the part of the Developer, then the City shall approve the Certification of Expenditure and reimburse the Developer for financing the cost of the CID Improvements pursuant to the terms of this Agreement. If the City reasonably disapproves of the Certification of Expenditure, the City shall notify the Developer in writing of the reason for such disapproval within such sixty (60) day period.

5. Within one-hundred eighty (180) days of execution of this Agreement, the Developer shall submit a Certification of Expenditures for those expenditures made prior to the execution of this Agreement in connection with the CID Improvements. During the Term, the Developer shall endeavor to submit Certifications of Expenditures for those expenditures made in connection with the CID Improvements on a quarterly basis, and shall submit a Certification of Expenditures for any expenditure made in connection with a CID Improvement within one-hundred eighty (180) days of incurring such expenditure.

ARTICLE V
RECOGNITION OF CERTAIN ASSIGNMENTS BY DEVELOPER

A. Except as otherwise set forth herein, the Developer shall not assign or transfer all or any of its rights or duties under this Agreement without the prior written approval of the City (which will not be unreasonably withheld, conditioned, or delayed), except for assignments, transfers and conveyances of all or substantially all of Developer's rights and duties under this Agreement to a subsidiary or affiliate which is owned or controlled by the Developer or any entity owned or controlled, directly or indirectly, by the Developer. In the event of a transfer pursuant to this Article V that does not require the consent of the City; the Developer shall nonetheless promptly provide prompt written notice of the same to the City.

B. The City hereby consents to the assignment of this Agreement by the Developer to 95Q Corner Properties, LLC (the "Assignee") subject to the satisfaction of the following conditions:

1. Receipt by the City of an executed assignment from the Developer to Assignee; and
2. Receipt by the City of organizational documents of Assignee; and

3. Receipt by the City of certificates of good standing of Assignee.

ARTICLE VI

DEFAULTS AND REMEDIES

A. Defaults - General. The following events shall constitute an Event of Default under this Agreement:

1. Subject to the extensions of time set forth in subsection F below (Enforced Delay), failure or delay by any party to perform any term or provision of this Agreement, after receiving written notice and failing to cure, as set forth in paragraph (2) below, constitutes a default under this Agreement. A party claiming a default (claimant) shall give written notice of default to the other parties, specifying the default complained of.

The claimant shall not institute proceedings against a party, nor be entitled to damages if the other party within fourteen (14) days from receipt of such written notice, with due diligence, commences to cure, correct or remedy such failure or delay and shall complete such cure, correction or remedy within thirty (30) days from the date of receipt of such notice or if such cure, correction or remedy by its nature cannot be effected within such thirty (30) day period, such cure, correction or remedy is diligently and continuously prosecuted until completion thereof.

2. The filing of a bankruptcy petition by the Developer.

B. Remedies.

1. Developer Remedies on Default. Whenever any Event of Default by the City shall have occurred and be continuing, subject to applicable cure periods, Developer may pursue any remedy at law and in equity.

2. City Remedies on Default. Whenever any Event of Default by Developer shall have occurred and be continuing, subject to applicable cure periods, the City may (1) pursue any remedy at law and in equity and/or (2) refuse to approve any further Certificates of Expenditures and make any disbursements until such Event of Default is cured by the Developer and/or (3) terminate the CID and/or the CID Sales Tax unless bonds have been issued and/or (4) terminate this Agreement.

3. Limitation on Damages. Notwithstanding any other provision of this Agreement to the contrary, in no event shall Developer or City be liable for any punitive, special, incidental, or consequential damages in connection with this Agreement.

C. Legal Actions.

1. 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.

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

3. Acceptance of Service of Process.

(a) 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.

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

D. Rights and Remedies Are Cumulative. Except as otherwise expressly stated in this Agreement, the rights and remedies of the Parties are cumulative, and the exercise by a party of one or more of such rights or remedies shall not preclude the exercise by it, at the same or different times, of any other rights or remedies for the same default or any other default by the other party.

E. 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.

F. Enforced Delay; Extension of Times of Performance.

1. 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 default of the 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; or unusually severe weather.

2. Times of performance under this Agreement may also be extended in writing by the mutual agreement of City and the Developer.

ARTICLE VII **GENERAL PROVISIONS**

A. Expenses and City CID Annual Administrative Fee. The Developer shall be responsible for and pay, within thirty (30) days of the invoice, the reasonable legal fees of the City's Bond Counsel incurred in connection with the creation of the Quivira 95 Shops CID and related agreements and in connection with the review of certified expenditures for Eligible Expenses and the reimbursement of such Eligible Expenses, pursuant to the terms of Article III

(A). Bond Counsel fees incurred with the issuance of the CID Bonds, if any, will be paid from CID Bonds and if such CID Bonds are not issued 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 financing of the CID Improvements including any issuance of CID Bonds. Such financial advisor fees will be paid from proceeds of CID Bonds and if such CID Bonds are not issued shall be paid by the Developer. The CID Sales Tax or the proceeds of the CID Bonds to the extent permitted under the CID Act and federal tax law shall be used to pay the City CID Annual Administrative Fee. The City CID Annual Administrative Fee shall be due on the earlier of the date the CID Sales Tax is received (but only if the CID Act permits payment directly from the CID Sales Tax) or any CID Bonds are issued, except that the City CID Annual Administrative Fee paid upon the issuance of the CID Bonds shall be reduced by any City CID Annual Administrative Fee paid prior to the issuance of the CID Bonds.

B. 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.

C. 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.

D. Immunity of Officers, Employees and Members of the City. No personal recourse shall be had for the payment of the principal of or interest on the CID Bonds 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.

E. 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 CID Improvements as pertinent to the purposes of this Agreement.

F. Right of Access. For the purposes of assuring compliance with this Agreement, representatives of the City shall have the right of access to the Development, without charges or fees, at normal construction hours during the period of construction for purposes related to this Agreement, including, but not limited to, the inspection of the work being performed in constructing the improvements.

G. 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.

H. 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.

I. 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.

J. Kansas Law and Order of Precedence. This Agreement shall be construed in accordance with the laws of the State of Kansas. To the extent there is a conflict between this Agreement and the Resolution, the Resolution is controlling.

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

To the Developer:

David Bayer
Q5Q Associates, L.P.
KC Commercial Realty Group
5350 W. 94th Terrace, Suite 100
Prairie Village, KS 66207

With copies to:

Charles F. Miller
Lewis, Rice & Fingersh, L.C.
1010 Walnut, Suite 500
Kansas City, MO 64106

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, Senior Assistant 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.

L. 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.

M. Recordation of Agreement. The Parties agree to execute and deliver a memorandum of this Agreement in proper form for recording in the real property records of Johnson County, Kansas.

N. Consent or Approval. Except as otherwise provided in this Agreement, whenever consent or approval of either party is required, such consent or approval shall not be unreasonably withheld.

O. Survivorship. Notwithstanding the termination of this Agreement, Developer's obligations of insurance and indemnification set out in Article II 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.

P. 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.

Q. 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. If any provision in this Agreement relating to the performance by the City of an act in the future is determined by a court of law to be the exercise of the City's legislative or governmental power, as opposed to an exercise of its proprietary or administrative power, such provision shall be deemed to be an expression of the intent of the City to perform such act.

R. 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. §§10-1112 and 10-1113), the Budget Law (K.S.A. § 79-2935), 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.

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

Carl Gerlach, Mayor

ATTEST:

Marian Cook, City Clerk

APPROVED AS TO FORM:

Tammy M. Owens
Senior Assistant City Attorney

APPROVED AS TO FORM:

Janet S. Garms, Bond Counsel

EXHIBITS

Exhibit A	CID Improvements
Exhibit B	CID Petition
Exhibit C	Legal Description of the CID Improvements
Exhibit D	Map of the CID Improvements
Exhibit E	CID Ordinance
Exhibit F	Certification of Expenditure

EXHIBIT A
TO THE DEVELOPMENT AGREEMENT
CID IMPROVEMENTS

General Nature of Proposed CID Project

Petitioner is seeking CID financing to assist in the funding of all or part of the demolition of the existing vacant building, most of the existing parking lot and certain other existing incidental improvements, construction of new onsite infrastructure improvements, creation of a pedestrian friendly corner feature and focal point at the intersection of 95th Street and Quivira Road, construction of pedestrian friendly paths, decorative crosswalks, landscaping and enhanced facades on, and streetscape along, the proposed multi-tenant retail storefronts with benches, signage program, bike racks, and other focal point amenities.

The CID Project is being undertaken in conjunction with the Petitioner redeveloping its property located at the northeast corner of 95th Street and Quivira Road in Overland Park by replacing existing vacant retail improvements with a new multi-tenant retail project. The property currently consists of land currently zoned CP2 and includes a vacant retail building that was originally constructed as a Sheplers retail store in the 1970's and a Mongolian BBQ restaurant currently in operation. This project site is part of a larger Quivira 95 shopping center development to the east, which is not being redeveloped in connection with this project. Petitioner proposes to demolish the vacant retail facilities (excluding the existing restaurant) and replace them with new multi-tenant retail.

**EXHIBIT B
TO DEVELOPMENT AGREEMENT**

CID PETITION

**PETITION FOR THE CREATION OF A
COMMUNITY IMPROVEMENT DISTRICT
[Quivira 95 Shops]**

TO: City Council,
City of Overland Park, Kansas

The undersigned ("Petitioner"), being the owner of record, whether resident or not, of the following:

1. One hundred percent (100%) of the land area contained within the hereinafter described community improvement district; and
2. One hundred percent (100%) by assessed value of the land area contained within the hereinafter described community improvement district;

hereby petitions the City of Overland Park, Kansas (the "City") to create a Community Improvement District ("CID") and authorize the proposed CID project (the "CID Project") hereinafter set forth, all in the manner provided by K.S.A. §12-6a26, *et seq.* (the "Act"). In furtherance of such request the Petitioner states as follows:

1. GENERAL NATURE

- ✓ The general nature of the proposed CID Project to be constructed within the CID is set forth on EXHIBIT "A" attached hereto and incorporated herein by reference.

Through CID financing in accordance with this Petition and with the Act, the Developer seeks public assistance to finance the development, construction, maintenance, and/or operations of the CID Project.

2. ESTIMATED COST

The estimated cost of the CID Project is \$1,761,600.

3. PROPOSED METHOD OF FINANCING

The proposed method of financing the CID Project is CID pay-as-you-go financing, as defined in the Act, and/or through the issuance of special obligation CID bonds or notes.

4. PROPOSED METHOD AND AMOUNT OF ASSESSMENT

Petitioner does not propose that the CID Project be financed through the levying of assessments.

5. PROPOSED AMOUNT OF SALES TAX

Petitioner proposes that the CID Project be financed through the levying of a CID sales tax in the amount of 1% as authorized by the Act.

6. MAP AND LEGAL DESCRIPTION OF THE PROPOSED CID

A map of the CID is attached hereto at **EXHIBIT "B"**.

The legal description of the CID is attached hereto as **EXHIBIT "C"**.

7. NOTICE TO PETITIONER SIGNER

Petitioner hereby acknowledges that signatures may not be withdrawn from this Petition by the signer hereof after the City commences consideration of this Petition, or later than seven (7) days after the filing hereof with the City Clerk, whichever occurs first.

8. PETITION BINDING ON FUTURE OWNERS

Petitioner hereby acknowledges that if this Petition is not properly withdrawn as permitted by the Act, any future owners of the property within the CID shall be bound by this Petition.

9. BOND MARKETABILITY

Petitioner hereby acknowledges that the City will record this Petition if the proposed CID Project is approved by the City Council and that by the acceptance of this Petition, the City Council is not making any representation as to the marketability of bonds, if any, to finance the CID Project described in this Petition. The Petitioner assumes the risk that such bonds can be issued under terms acceptable to the City.

10. COUNTERPARTS

For purposes of executing this Petition, this document signed and transmitted by facsimile machine or telecopier is to be treated as an original document. This Petition may be executed in one or more counterparts and by each signer hereof on a separate counterpart, each of which when so executed and delivered shall be an original, and all of which shall constitute one instrument.

11. ACKNOWLEDGMENTS

Petitioner acknowledges that:

(A) the City's approval of this Petition or of the CID Project set forth in this Petition and creation of a CID by the City as proposed in this Petition does not eliminate

independent requirements by the Petitioner to comply with all applicable zoning, planning, permit and other laws relating to the development of property; and

(B) the City is relying on the estimated cost of the CID Project set forth in this Petition without independent investigation as to the accuracy of such estimate; and

(C) the implementation of the CID proposed by the Petition is subject to the terms of a reimbursement or development agreement to be entered into between the City and the Petitioner or the developer or other agent authorized by the Petitioner.

Q95 ASSOCIATES, L.P., a
Delaware limited partnership

By: CWB ASSOCIATES #3, INC., a
Missouri corporation, General
Partner

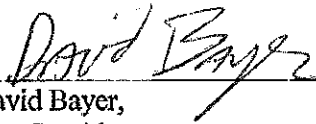
By: 
David Bayer,
Vice President

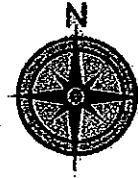
Exhibit A

General Nature of Proposed CID Project

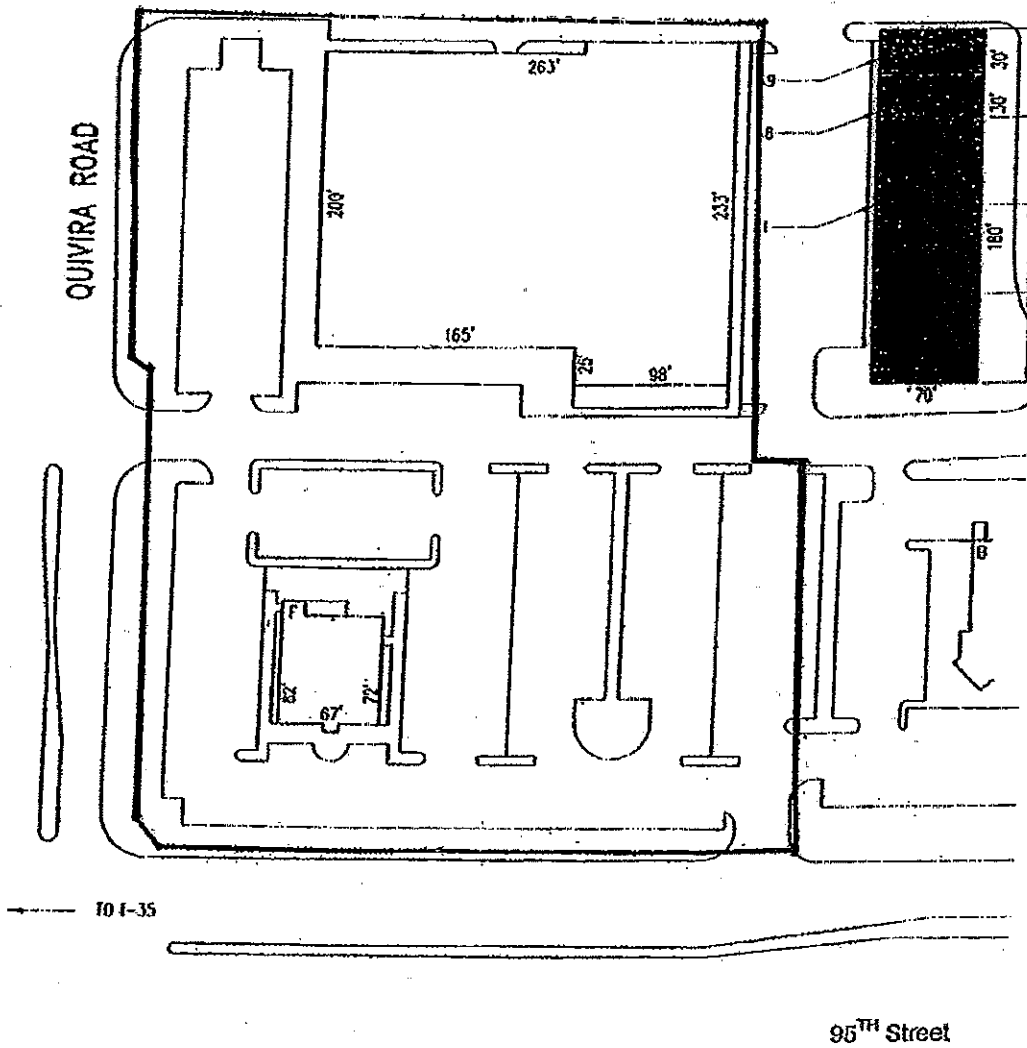
Petitioner is seeking CID financing to assist in the funding of all or part of the demolition of the existing vacant building, most of the existing parking lot and certain other existing incidental improvements, construction of new onsite infrastructure improvements, creation of a pedestrian friendly corner feature and focal point at the intersection of 95th Street and Quivira Road, construction of pedestrian friendly paths, decorative crosswalks, landscaping and enhanced facades on, and streetscape along, the proposed multi-tenant retail storefronts with benches, signage program, bike racks, and other focal point amenities.

The CID Project is being undertaken in conjunction with the Petitioner redeveloping its property located at the northeast corner of 95th Street and Quivira Road in Overland Park by replacing existing vacant retail improvements with a new multi-tenant retail project. The property currently consists of land currently zoned CP2 and includes a vacant retail building that was originally constructed as a Sheplers retail store in the 1970's and a Mongolian BBQ restaurant currently in operation. This project site is part of a larger Quivira 95 shopping center development to the east, which is not being redeveloped in connection with this project. Petitioner proposes to demolish the vacant retail facilities (excluding the existing restaurant) and replace them with new multi-tenant retail.

EXHIBIT B



This line represents the boundaries of the CID District.



TO I-35

95TH Street

TO OAK PARK MALL



*The above drawing does not depict all of the improvements in the Quivira 95 Shopping Center.

Exhibit C

Legal Description

All that part of the Southwest Quarter of Section 35, Township 12 South, Range 24 East, in the City of Overland Park, Johnson County, Kansas, described as follows:

COMMENCING at the Southwest corner of the Southwest Quarter of Section 35, Township 12 South, Range 24 East; thence North 2 degrees 13 minutes 59 seconds West along the West line of the Southwest Quarter of said Section 35 a distance of 80.01 feet to a point; thence North 87 degrees 46 minutes 01 seconds East a distance of 55.00 feet to a point on the East right of way line of Quivira Road as established in Book 945 at Page 587, the POINT OF BEGINNING; thence North 2 degrees 13 minutes 59 seconds West along said East right of way line of Quivira Road a distance of 320.00 feet to a point; thence North 28 degrees 48 minutes 01 seconds West along said East right of way line of Quivira Road a distance of 22.36 feet to a point; thence North 2 degrees 13 minutes 59 seconds West along said East right of way line of Quivira Road a distance of 241.39 feet to a point on the Westerly prolongation of the South line of Lot 1, Best Buy, a subdivision in the City of Overland Park, Johnson County, Kansas; thence North 87 degrees 44 minutes 14 seconds East along the South line of said Lot 1 and its prolongation a distance of 414.50 feet to a point on the West line of Lot 2, Quivira 95, a subdivision in the City of Overland Park, Johnson County, Kansas; thence South 2 degrees 13 minutes 59 seconds East along the West line of said Lot 2 a distance of 334.24 feet to a point; thence North 87 degrees 46 minutes 01 seconds East along the Westerly line of said Lot 2 a distance of 32.50 feet to a point; thence South 2 degrees 13 minutes 59 seconds East along the West line of said Lot 2 a distance of 272.28 feet to a point on the North right of way line of 95th Street as established in Book 945 at Page 587; thence South 87 degrees 45 minutes 23 seconds West along said North right of way line of 95th Street a distance of 72.63 feet to a point on said right of way line as established in Volume 3580 at Page 422; thence North 2 degrees 14 minutes 37 seconds West along said North right of way line of 95th Street a distance of 5.00 feet to a point; thence South 89 degrees 47 minutes 07 seconds West along said North right of way line of 95th Street a distance of 169.48 feet to a point; thence South 87 degrees 45 minutes 23 seconds West along said North right of way line of 95th Street a distance of 180.00 feet to a point; thence North 49 degrees 12 minutes 41 seconds West along said North right of way line of 95th Street a distance of 20.51 feet to the POINT OF BEGINNING, and containing 253,071 Square Feet or 5.810 Acres, more or less.

EXHIBIT C
TO DEVELOPMENT AGREEMENT
LEGAL DESCRIPTION

Legal Description of Quivira 95 Shops CID

All that part of the Southwest Quarter of Section 35, Township 12 South, Range 24 East, in the City of Overland Park, Johnson County, Kansas, described as follows:

COMMENCING at the Southwest corner of the Southwest Quarter of Section 35, Township 12 South, Range 24 East; thence North 2 degrees 13 minutes 59 seconds West along the West line of the Southwest Quarter of said Section 35 a distance of 80.01 feet to a point; thence North 87 degrees 46 minutes 01 seconds East a distance of 55.00 feet to a point on the East right of way line of Quivira Road as established in Book 945 at Page 587, the POINT OF BEGINNING; thence North 2 degrees 13 minutes 59 seconds West along said East right of way line of Quivira Road a distance of 320.00 feet to a point; thence North 28 degrees 48 minutes 01 seconds West along said East right of way line of Quivira Road a distance of 22.36 feet to a point; thence North 2 degrees 13 minutes 59 seconds West along said East right of way line of Quivira Road a distance of 241.39 feet to a point on the Westerly prolongation of the South line of Lot 1, Best Buy, a subdivision in the City of Overland Park, Johnson County, Kansas; thence North 87 degrees 44 minutes 14 seconds East along the South line of said Lot 1 and its prolongation a distance of 414.50 feet to a point on the West line of Lot 2, Quivira 95, a subdivision in the City of Overland Park, Johnson County, Kansas; thence South 2 degrees 13 minutes 59 seconds East along the West line of said Lot 2 a distance of 334.24 feet to a point; thence North 87 degrees 46 minutes 01 seconds East along the Westerly line of said Lot 2 a distance of 32.50 feet to a point; thence South 2 degrees 13 minutes 59 seconds East along the West line of said Lot 2 a distance of 272.28 feet to a point on the North right of way line of 95th Street as established in Book 945 at Page 587; thence South 87 degrees 45 minutes 23 seconds West along said North right of way line of 95th Street a distance of 72.63 feet to a point on said right of way line as established in Volume 3580 at Page 422; thence North 2 degrees 14 minutes 37 seconds West along said North right of way line of 95th Street a distance of 5.00 feet to a point; thence South 89 degrees 47 minutes 07 seconds West along said North right of way line of 95th Street a distance of 169.48 feet to a point; thence South 87 degrees 45 minutes 23 seconds West along said North right of way line of 95th Street a distance of 180.00 feet to a point; thence North 49 degrees 12 minutes 41 seconds West along said North right of way line of 95th Street a distance of 20.51 feet to the POINT OF BEGINNING, and containing 253,071 Square Feet or 5.810 Acres, more or less.

EXHIBIT D
TO DEVELOPMENT AGREEMENT
MAP OF CID IMPROVEMENTS

Map of Quivira 95 Shops CID

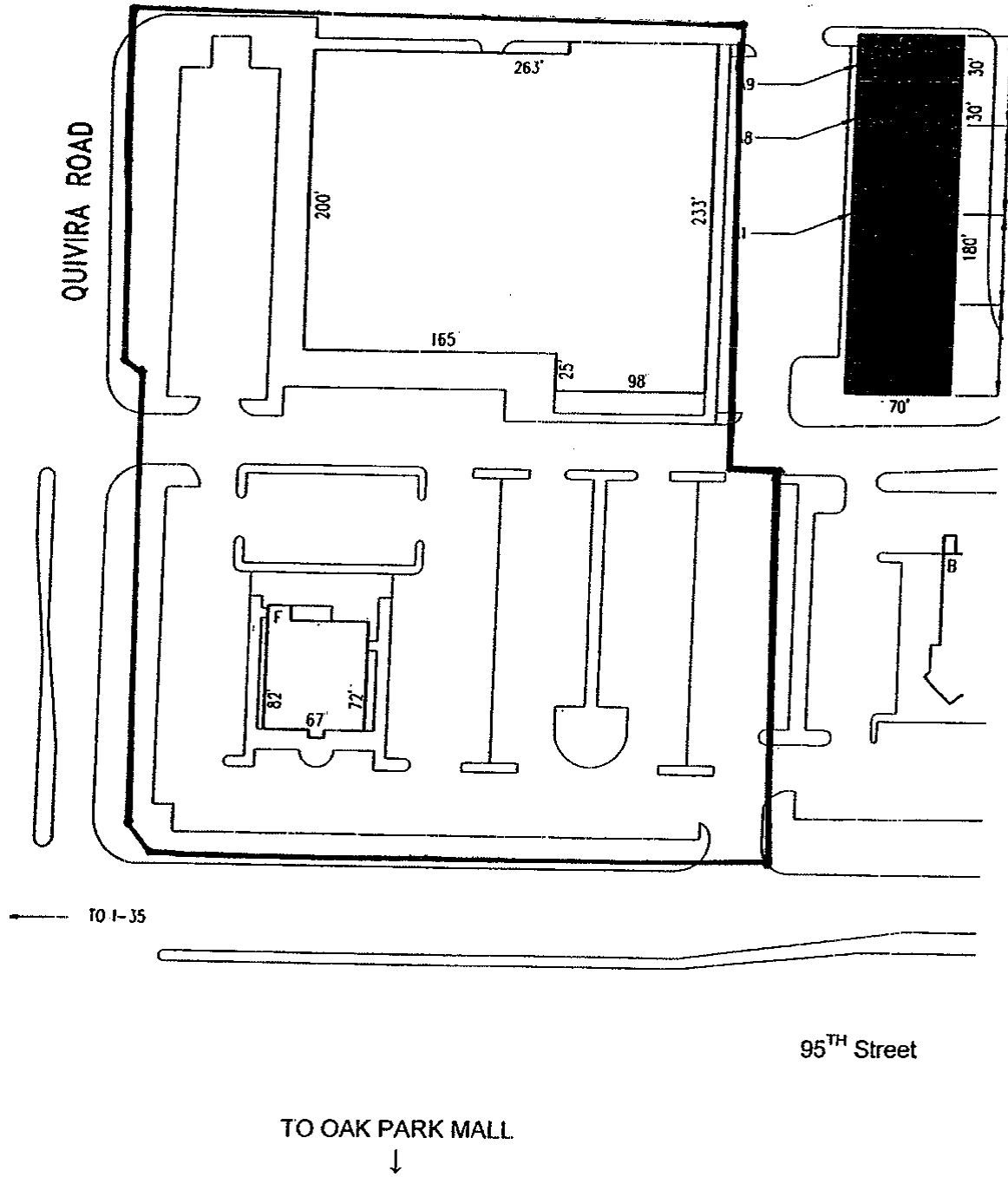


EXHIBIT E
TO DEVELOPMENT AGREEMENT
CID ORDINANCE

ORDINANCE NO. CID-2940

AN ORDINANCE AUTHORIZING THE CREATION OF THE QUIVIRA 95 SHOPS COMMUNITY IMPROVEMENT DISTRICT IN THE CITY OF OVERLAND PARK, KANSAS; AND AUTHORIZING THE IMPOSITION OF A COMMUNITY IMPROVEMENT DISTRICT SALES TAX TO BE COLLECTED WITHIN SUCH DISTRICT; AND APPROVING AND AUTHORIZING CERTAIN OTHER ACTIONS IN CONNECTION THEREWITH.

WHEREAS, pursuant to K.S.A. 12-6a26 *et seq.*, as amended (the "Act"), municipalities are authorized to create community improvement districts for economic development purposes and any other purpose for which public money may be expended; and

WHEREAS, the City of Overland Park, Kansas (the "City"), is a municipality within the meaning of the Act; and

WHEREAS, on September 29, 2011, a petition (the "Petition") was filed with the City Clerk requesting (a) that the community improvement district described therein (the "CID") be created; (b) that the City levy a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing services taxable pursuant to the provisions of the Kansas retailer's sales tax act, as amended, within the CID in the amount of one percent (1%) (the "CID Sales Tax"); and (c) that certain community improvement district project costs to be incurred within the CID be financed with pay-as-you-go financing and/or the issuance of special obligation notes and bonds payable from such CID Sales Tax, all in accordance with the Act; and

WHEREAS, said Petition was signed by the owners of all of the land area within the proposed CID; and

WHEREAS, the Act provides that prior to creating any community improvement district and imposing a community improvement district sales tax, a governing body shall, by resolution, direct and order a public hearing on the advisability of creating such community improvement district and the construction of such community improvement district project therein, and provide for notice of the hearing by publication at least once each week for two consecutive weeks in the official city newspaper, with the second publication occurring at least seven days prior to the hearing, and by certified mail to all property owners within the proposed community improvement district, with such certified mail sent at least ten days prior to such hearing; and

WHEREAS, on October 3, 2011, the Governing Body of the City adopted Resolution No. 3903 directing a public hearing on the proposed CID be held and declaring its intent to levy the CID Sales Tax in the proposed CID; and

WHEREAS, on November 7, 2011, following proper notice as provided in the Act, the Governing Body of the City held a public hearing on the proposed CID, the proposed community improvement district project and the imposition of the CID Sales Tax in the proposed CID; and

WHEREAS, the Governing Body hereby finds and determines that it is in the best interests of the City and in furtherance of the purposes of the Act to create the CID and impose the CID Sales Tax.

THEREFORE, BE IT ORDAINED BY THE GOVERNING BODY OF THE CITY OF OVERLAND PARK, KANSAS:

Section 1. Creation of District; Boundaries. The Governing Body of the City hereby creates the CID within the City, which shall be designated as the “Quivira 95 Shops Community Improvement District.” The boundaries of the CID are legally described on *Exhibit A* attached hereto and as depicted on the map attached hereto as *Exhibit B*.

Section 2. Authorization of District Project; Estimated Costs. The Governing Body of the City hereby authorizes the project within the CID described in *Exhibit C* attached hereto (the “Project”) and approves the estimated cost of the Project which may be financed with CID Sales Tax as \$1,761,600.00. Notwithstanding the approval of the Project by this Ordinance, the Project and owner or owners of all property comprising the Project must comply with all applicable zoning, planning permit and other laws and regulations applicable to the Project.

Section 3. Method of Financing. The Project within the proposed CID will be financed on a pay-as-you-go basis and/or by the issuance of special obligation notes and bonds payable from revenues received from the imposition of the CID Sales Tax. No special assessments shall be implemented under the Act to pay for the Project.

Section 4. Levy of Sales Tax. In accordance with the Act and to provide funds to pay costs of the Project, the Governing Body of the City hereby levies a community improvement district sales tax on the selling of tangible personal property at retail or rendering or furnishing services taxable pursuant to the provisions of the Kansas retailer’s sales tax act, as amended, within the CID in the amount of one percent (1%) (the “CID Sales Tax”). The imposition and collection of the CID Sales Tax shall commence on October 1, 2012 or any other effective date the City may approve by ordinance if a change in the effective date outlined herein is requested in writing by all owners of record in the district.

Section 5. Effective Date. This Ordinance shall be in force and take effect from and after its passage, approval and publication once in the official City newspaper. When this Ordinance becomes effective in accordance with this Section, the City Clerk shall provide a certified copy of the same to the State Director of Taxation pursuant to K.S.A. 12-189. The City Clerk is hereby further authorized to submit this Ordinance to the Register of Deeds, referred to in Johnson County as the Office of Records and Tax Administration, for recording.

[The Balance of This Page Has Been Intentionally Left Blank]

THIS ORDINANCE passed by the Governing Body of the City this 7th day of November, 2011.

CITY OF OVERLAND PARK, KANSAS



By: Carl R. Gerlach
Carl R. Gerlach
Mayor

By: Marian Cook
Marian Cook
City Clerk

APPROVED AS TO FORM:

By: Tammy M. Owens
Tammy M. Owens
Senior Assistant City Attorney

By: Janet S. Garms
Janet S. Garms
Bond Counsel

EXHIBIT A
Legal Description of Quivira 95 Shops CID

All that part of the Southwest Quarter of Section 35, Township 12 South, Range 24 East, in the City of Overland Park, Johnson County, Kansas, described as follows:

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EXHIBIT B
Map of Quivira 95 Shops CID

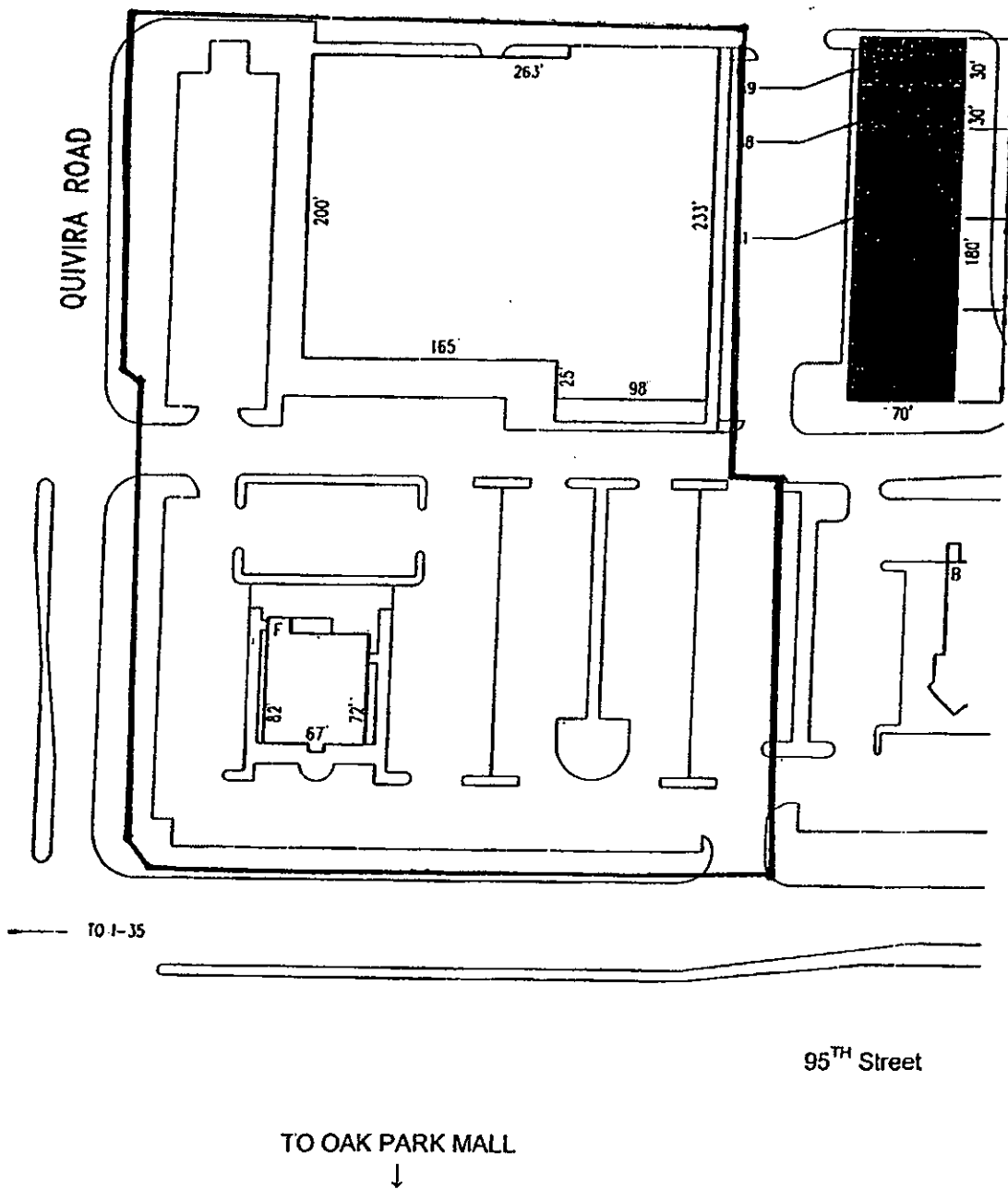


EXHIBIT C
Project Description

General Nature of Proposed CID Project

Petitioner is seeking CID financing to assist in the funding of all or part of the demolition of the existing vacant building, most of the existing parking lot and certain other existing incidental improvements, construction of new onsite infrastructure improvements, creation of a pedestrian friendly corner feature and focal point at the intersection of 95th Street and Quivira Road, construction of pedestrian friendly paths, decorative crosswalks, landscaping and enhanced facades on, and streetscape along, the proposed multi-tenant retail storefronts with benches, signage program, bike racks, and other focal point amenities.

The CID Project is being undertaken in conjunction with the Petitioner redeveloping its property located at the northeast corner of 95th Street and Quivira Road in Overland Park by replacing existing vacant retail improvements with a new multi-tenant retail project. The property currently consists of land currently zoned CP2 and includes a vacant retail building that was originally constructed as a Sheplers retail store in the 1970's and a Mongolian BBQ restaurant currently in operation. This project site is part of a larger Quivira 95 shopping center development to the east, which is not being redeveloped in connection with this project. Petitioner proposes to demolish the vacant retail facilities (excluding the existing restaurant) and replace them with new multi-tenant retail.

**EXHIBIT F
TO DEVELOPMENT AGREEMENT
CERTIFICATION OF EXPENDITURES**

**CERTIFICATION OF EXPENDITURES
OF QUIVIRA 95 SHOPS DEVELOPMENT PROJECT**

Date: _____

Certification # _____

Governing Body of the City of Overland Park

In accordance with the Development Agreement dated _____, 2012 (the "Agreement"), between the City of Overland Park, Kansas (the "City"), and Q95 Associates, L.P. (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 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 Exhibit A attached hereto, is incorporated herein by reference and has been initialed by the authorized representative of the Developer who signed this Certificate.

APPROVED:

BY: _____

Kristy Stallings
Deputy City Manager

ITS: _____

Tammy M. Owens
Senior Assistant City Attorney

Alysen M. Abel
Civil Engineer II

EXHIBIT F

EXHIBIT " A "
TO CERTIFICATION OF EXPENDITURES
OF QUIVIRA 95 SHOPS DEVELOPMENT PROJECT

Date: _____

Certification # _____

Amount of Expense

DESCRIPTION OF EXPENSE (ADDITIONAL
SUPPORTING DOCUMENTATION ATTACHED)

1.	\$
2.	\$
3.	\$
4.	\$
5.	\$
6.	\$
7.	\$
TOTAL EXPENSES TO DATE (EXCLUDING CITY FEES)	\$

Initials of Developer