

INTERGOVERNMENTAL AGREEMENT AND MUTUAL RELEASE

This Intergovernmental Agreement and Mutual Release (“**Agreement**”) is made and entered into this 1st day of APRIL, 2013, by and among the Tax Increment Financing Commission of Kansas City, Missouri (the “**Commission**”), a commission created by the City Council of Kansas City, Missouri (hereinafter the “**Council**”) by Ordinance No. 545556 adopted on November 24, 1982, as amended by Committee Substitute for Ordinance No. 911076 adopted on August 29, 1991, and by Ordinance No. 100089 adopted on January 28, 2010, pursuant to the Real Property Tax Increment Allocation Redevelopment Act, Section 99.800, R.S.Mo. et seq. (as amended) (the “**TIF Act**”), the City of Kansas City, Missouri, a constitutionally chartered municipal corporation (the “**City**”), Jackson County, Missouri, a political subdivision of the State of Missouri (the “**County**”), Consolidated School District No. 2 (Raytown), a school district organized and existing under the laws of the State of Missouri (the “**School District**”) and Mid-Continent Public Library, a political subdivision of the State of Missouri (the “**Library**”).

WHEREAS, on November 6, 1991, the Commission, by Resolution No. 91-30, recommended to the Council that it approve the Winchester Center Tax Increment Financing Plan (the “**Original TIF Plan**”);

WHEREAS, on December 19, 1991, the Council, by Ordinance No. 911435, approved the Plan pursuant to the authority granted the Council by the Act, which Original Plan the Council has subsequently amended from time to time;

WHEREAS, on May 25, 2012, the Commission distributed notice, as required by Sections 99.825 and 99.830 RSMo., to the County, the School District and the Library regarding a public hearing to consider for recommendation to the Council a proposed Sixth Amendment to the Plan (the “**Proposed Sixth Amendment**”);

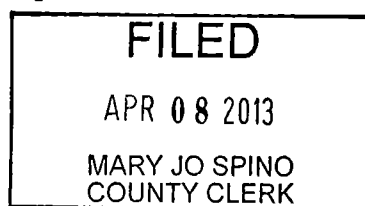
WHEREAS, on November 14, 2012, the Commission conducted a public hearing to consider the proposed Sixth Amendment, at which time the School District submitted a letter to the Commission containing objections to the Sixth Amendment and which disputed the legality of the Sixth Amendment (the “**School District Letter**”);

WHEREAS, the School District has subsequently expressed its intent to initiate litigation, if the issues outlined in the School District Letter cannot be resolved amicably;

WHEREAS, the County and the Library have expressed a desire to resolve the issues outlined in the School District Letter;

WHEREAS, the City disagrees with the conclusions reached in the School District Letter and denies that the Sixth Amendment fails to comply with the TIF Act;

WHEREAS, rather than proceed with and incur the costs associated with litigating the issues raised in the School District Letter, each of the parties hereto has determined that it is in their respective best interests to amicably resolve all issues relative to the Original TIF Plan, including the Proposed Sixth Amendment, upon the terms and conditions set forth herein;



WHEREAS, in order to amicably resolve some of the issues relative to the Proposed Sixth Amendment, on MARCH 21, 2013, the City Council adopted Ordinance No. 130155 approving a modified Sixth Amendment to the Winchester Center Tax Increment Financing Plan (the “**Sixth Amendment**” and, together with the Original Plan, the “**TIF Plan**”) and further, the City Council on MARCH 21, 2013, adopted Ordinance No. 130155 which terminated the TIF Plan and directed that after provision for payment of all remaining Redevelopment Project Costs (consisting of Bennington Road improvements, Neighborhood Infrastructure and Housing Program costs and Commission administrative costs (the “**Remaining Projects**”)) in the amount of \$2,832,000 (the “**Remaining Project Costs**”), all moneys on deposit in the Special Allocation Funds (as defined in the TIF Plan) together with all TIF Revenues (as defined in the TIF Plan) estimated to be collected throughout the available statutory life of the TIF Plan (estimated to be \$9,102,957.31 in the aggregate) were deemed surplus and transferred to the affected taxing districts, provided, that, the City, County, Commission, School District and Library have approved, executed and delivered this Agreement and provided, further, that, the City and County have approved, executed and delivered that certain Cooperative Agreement – Youth Soccer Facility Improvements (the “**City-County Cooperative Agreement**”) of even date herewith; and

WHEREAS, the covenants of the County, School District and Library to enter into and perform the provisions of this Agreement is expressly conditioned on the payments to the City, County, School District, Library and other affected taxing districts following the termination of the TIF Plan.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I REPRESENTATIONS

1.01 Commission Representations. The Commission represents and warrants to City, the County, the School District and the Library as follows:

(a) Organization and Authority. The Commission (i) is a real property tax increment financing commission duly organized and existing under the Act; (ii) has lawful power and authority to enter into, execute and deliver this Agreement, and to carry out its obligations hereunder; and (iii) by all necessary action, has been duly authorized to execute and deliver this Agreement, acting by and through its duly authorized officers.

(b) No Defaults or Violations. The execution and delivery of this Agreement by the Commission will not result in a breach of any of the terms of, or constitute a default under, any agreement or instrument to which the Commission is a party or by which it is or any of its property is bound, or its bylaws, or any of the constitutional or statutory laws, rules or regulations applicable to the Commission or its property.

1.02 City Representations. The City represents and warrants to the Commission, the County, the School District and the Library as follows:

(a) Organization and Authority. The City (i) is a constitutionally chartered municipal corporation validly existing under the laws of the State of Missouri; (ii) has lawful power and authority to enter into, execute and deliver this Agreement and to carry out its obligations hereunder; and (iii) by all necessary action has, been duly authorized to execute and deliver this Agreement, acting by and through its duly authorized officers.

(b) No Defaults or Violations. The execution and delivery of this Agreement by the City will not conflict with or result in a breach of any of the terms of, or constitute a default under, any agreement or instrument to which the City is a party or by which it or any of its property is bound, or any of the constitutional or statutory laws, rules or regulations applicable to the City or its property.

1.03 County Representations. The County represents and warrants to the Commission, the City, the School District and the Library as follows:

(a) Organization and Authority. The County (i) is a political subdivision duly organized and validly existing under the laws of the State of Missouri; (ii) has lawful power and authority to enter into, execute and deliver this Agreement and to carry out its obligations hereunder; and (iii) by all necessary action has, been duly authorized to execute and deliver this Agreement, acting by and through its duly authorized officers.

(b) No Defaults or Violations. The execution and delivery of this Agreement by the County will not conflict with or result in a breach of any of the terms of, or constitute a default under, any agreement or instrument to which the County is a party or by which it or any of its property is bound, or any of the constitutional or statutory laws, rules or regulations applicable to County or its property.

1.04 School District Representations. The School District represents and warrants to the Commission, the City, the County and the Library as follows:

(a) Organization and Authority. The School District (i) is a school district duly organized and validly existing under the laws of the State of Missouri; (ii) has lawful power and authority to enter into, execute and deliver this Agreement and to carry out its obligations hereunder; and (iii) by all necessary action has, been duly authorized to execute and deliver this Agreement, acting by and through its duly authorized officers.

(b) No Defaults or Violations. The execution and delivery of this Agreement by the School District will not conflict with or result in a breach of any of the terms of, or constitute a default under, any agreement or instrument to which the School District is a party or by which it or any of its property is bound, or any of the constitutional or statutory laws, rules or regulations applicable to the School District or its property.

1.05 Library Representations. The Library represents and warrants to the Commission, the City, the County and the School District as follows:

(a) Organization and Authority. The Library (i) is a political subdivision duly organized and validly existing under the laws of the State of Missouri; (ii) has lawful power and authority to enter into, execute and deliver this Agreement and to carry out its obligations hereunder; and (iii) by all necessary action has, been duly authorized to execute and deliver this Agreement, acting by and through its duly authorized officers.

(b) No Defaults or Violations. The execution and delivery of this Agreement by the Library will not conflict with or result in a breach of any of the terms of, or constitute a default under, any agreement or instrument to which the Library is a party or by which it or any of its property is bound, or any of the constitutional or statutory laws, rules or regulations applicable to the Library or its property.

1.06 Survival of Representations. All representations of the Commission, the City, the County, the School District and the Library contained in this Agreement shall survive the execution and delivery thereof.

**ARTICLE II
COVENANTS OF THE COMMISSION**

2.01 Transfer of Amounts Remaining in Special Allocation Funds. Within sixty (60) days after the termination of the TIF Plan and the approval, execution and delivery of this Agreement by each of the Commission, the City, the County, the School District and the Library (together, the “**Governmental Approvals**”) the aggregate amount in each of the Special Allocation Funds established in connection with the Plan, as amended, that is in excess of the Remaining Project Costs (which are in the amount of \$2,832,000) shall be distributed to the affected taxing districts (the “**Surplus Funds**”). The Surplus Funds are estimated to be in the amount of \$9,102,957.31. Of the amount of Surplus Funds on deposit in the Special Allocation Funds, the following estimated amounts are to be distributed to the following affected taxing jurisdictions (which are not party to this Agreement) following termination of the Plan:

<u>Taxing Jurisdiction</u>	<u>Amount</u>
Jackson County Community Mental Health Fund	\$67,858.71
Metropolitan Community Colleges of Greater Kansas City	\$130,870.37
Jackson County Board of Services For the Developmentally Disabled	\$41,673.49
Missouri Pension Fund For the Blind	\$16,713.97

The aggregate amount of the Surplus Funds estimated to be distributed to the parties to this Agreement is approximately \$8,845,840.77 (the “**Remaining Distributable Surplus Amount**”). The amounts of the Remaining Distributable Surplus Amount to be paid to the City, County, School District and Library shall be paid as follows;

(a) the Commission agrees to (i) segregate the City’s Settlement Contribution (as defined in **Section 3.01(a)**) on the books and records of the Commission from all other money, revenue, funds and accounts of the Commission, (ii) transfer the City’s Settlement Contribution, together with accrued interest, to the City for deposit into a separate account of the City, which shall be maintained by the City for the purposes outlined in Ordinance No. _____ and (iii) transfer the City’s portion, as determined by Section 99.850 RSMo., of the Remaining Distributable Surplus Amount, which is estimated to be approximately \$4,296,052.91 to a separate account designated in writing by the City and pursuant to the City-County Cooperative Agreement.

(b) the Commission agrees to (i) segregate the County’s Settlement Contribution (as defined in **Section 4.01(a)**) on the books and records of the Commission from all other money, revenue, funds and accounts of the Commission, (ii) transfer the County’s Settlement Contribution to the City as designated by the City and (iii) transfer the County’s portion, as determined by Section 99.850 RSMo, of the Remaining Distributable Surplus Amount, which is estimated to be \$326,812.37 to a separate account designated in writing by the City and pursuant to the City-County Cooperative Agreement.

(c) the Commission agrees to (i) segregate the School District’s Settlement Contribution (as defined in **Section 5.01(a)**) on the books and records of the Commission from all other money, revenue, funds and accounts of the Commission, (ii) transfer the School District’s Settlement Contribution to the City as designated by the City, and (iii) transfer the School District’s portion, as determined by Section 99.850 RSMo., of the Remaining Distributable Surplus Amount, which is estimated to be approximately \$3,162,832.09 to a separate account designated in writing by the School District.

(d) the Commission agrees to (i) segregate the Library’s Settlement Contribution (as defined in **Section 6.01(a)**) on the books and records of the Commission from all other money, revenue, funds and accounts of the Commission, (ii) transfer the Library’s Settlement Contribution to the City as designated by the City, and (iii) transfer the Library’s portion, as determined by Section 99.850 RSMo., of the Remaining Distributable Surplus Amount, which is estimated to be approximately \$160,143.40 to a separate account designated in writing by the Library.

(e) The Commission will pay to all affected taxing districts, including the parties to this Agreement, any additional surplus that is received by the Commission from time to time pursuant to Section 99.850 RSMo., et. seq.

2.02 Release of Claims. The Commission hereby releases each of the City, the County, the School District and the Library from any and all past or present claims, causes of action, damages, injuries, expenses, attorney’s fees, liabilities, in law or in equity, of any nature whatsoever,

known or unknown, patent or latent, developed or which may develop in the future, in any way relating to or arising out of the Plan and any amendment thereto.

ARTICLE III COVENANTS OF THE CITY

3.01 City Written Direction Regarding Share of Remaining Distributable Surplus Amount. The City agrees that upon its receipt of its share of the Remaining Distributable Surplus Amount from the Commission:

(a) The City shall cause the City Manager, or his designee, to deposit \$486,600.19 (the “City Settlement Contribution”) to a separate account maintained by the City, pursuant to Ordinance No. _____. The City shall further cause the City Manager, or his designee, to deposit the County Settlement Contribution, the School District Settlement Contribution and the Library Settlement Contribution to the account maintained by the City pursuant to Ordinance No. _____. The County Settlement Contribution, School District Settlement Contribution and Library Contribution shall be the sole property of the City once transferred to the City; and

(b) The City shall cause the City Manager, or his designee, to deposit approximately \$4,296,052.91 (which represents the City’s portion of the Remaining Distributable Surplus Amount after the City Settlement Contribution) to a separate account, which shall be maintained and utilized pursuant to the City-County Cooperative Agreement.

3.02 Release of Claims. The City hereby releases each of the Commission, the County, the School District and the Library from any and all past or present claims, causes of action, damages, injuries, expenses, attorney’s fees, liabilities, in law or in equity, of any nature whatsoever, known or unknown, patent or latent, developed or which may develop in the future, in any way relating to or arising out of the Plan, as amended.

3.03 Deadline to Complete Remaining Projects; Disbursement of Unexpended Funds Relative to Remaining Project Costs. The City represents that it expects to complete the Remaining Projects and disbursement of the funds for Remaining Project Costs within the period ending _____, 2018. In the event the Remaining Projects Costs in the amount of \$2,832,000 have not been fully expended or obligated for Remaining Projects by _____, 2018, the City covenants to disburse any unexpended funds from the Remaining Projects Costs to all affected taxing districts (including, but not limited to the parties to this Agreement), in amounts as if the funds to be so disbursed were surplus to be distributed pursuant to Section 99.850 RSMo., et seq. on termination of the TIF Plan, provided, that, the City’s covenant to make such payments is subject to appropriation by the City Council.

**ARTICLE IV
COVENANTS OF THE COUNTY**

4.01 County Written Direction Regarding Share of Remaining Distributable Surplus Amount. The County agrees that its share of the Remaining Distributable Surplus Amount shall be paid as follows:

(a) The County shall cause the County Executive, or his designee, to submit to the Commission a written direction to transfer \$37,016.99 (the “**County Settlement Contribution**”) to a separate account maintained by the City, pursuant to Ordinance No. _____; and

(b) The County shall cause the County Executive, or his designee, to submit to the Commission a written direction to transfer approximately \$326,812.37, which represents the County’s remaining portion of the Remaining Distributable Surplus Amount, to the account designated by the City, which shall be maintained and utilized pursuant to the City-County Cooperative Agreement.

4.02 Release of Claims. The County hereby releases each of the Commission, the City, the School District and the Library from any and all past or present claims, causes of action, damages, injuries, expenses, attorney’s fees, liabilities, in law or in equity, of any nature whatsoever, known or unknown, patent or latent, developed or which may develop in the future, in any way relating to or arising out of the Plan, as amended.

**ARTICLE V
COVENANTS OF THE SCHOOL DISTRICT**

5.01 School District Written Direction Regarding Share of Remaining Distributable Surplus Amount. The School District agrees that its share of the Remaining Distributable Surplus Amount shall be paid as follows”

(a) The School District shall cause the Superintendent, or his designee, to submit to the Commission a written direction to transfer \$358,243.89 (the “**School District Settlement Contribution**”) to a separate account maintained by the City, pursuant to Ordinance No. _____; and

(b) The School District shall cause the Superintendent, or his designee, to submit to the Commission a written direction to transfer approximately \$3,162,832.09, which represents the School District’s portion of the Remaining Distributable Surplus Amount, to a separate account maintained by the School District.

5.02 Release of Claims. The School District hereby releases each of the Commission, the City, the County and the Library from any and all past or present claims, causes of action, damages, injuries, expenses, attorney’s fees, liabilities, in law or in equity, of any nature whatsoever, known or unknown, patent or latent, developed or which may develop in the future, in any way relating to or arising out of the Plan, as amended.

**ARTICLE VI
COVENANTS OF THE LIBRARY**

6.01 Library Written Direction Regarding Share of Remaining Distributable Surplus Amount. The Library agrees that its share of the Remaining Distributable Surplus Amount shall be paid as follows:

(a) The Library shall cause its Director of Libraries, or his designee, to submit to the Commission a written direction to transfer \$18,138.93 (the “**Library Settlement Contribution**”) to a separate account maintained by the City, pursuant to Ordinance No. _____; and

(b) The Library shall cause the Director of Libraries, or his designee, to submit to the Commission a written direction to transfer approximately \$160,143.40, which represents the Library’s portion of the Remaining Distributable Surplus Amount, to a separate account maintained by the Library.

6.02 Release of Claims. The Library hereby releases each of the Commission, the City, the County and the School District from any and all past or present claims, causes of action, damages, injuries, expenses, attorney’s fees, liabilities, in law or in equity, of any nature whatsoever, known or unknown, patent or latent, developed or which may develop in the future, in any way relating to or arising out of the Plan, as amended.

**ARTICLE VII
MISCELLANEOUS**

7.01 Survival. The representations, warranties and covenants herein shall survive the transfer of any funds described herein and shall remain in full force and effect after the transactions contemplated by this Agreement have been consummated.

7.02 Notices. Any notice, payment, demand or communication required or permitted to be given by any provision of this Agreement will be deemed to have been given when (a) delivered personally to the party designated to receive such notice, (b) on the third (3rd) business day after the same is sent by certified mail, postage and charges prepaid, (c) on the next business day after such notice is delivered to a regularly scheduled overnight delivery service with delivery fees prepaid or an arrangement, satisfactory with such carrier, made for payment of such fees, or (d) by facsimile transmission on the date of transmission if a business day or the next business day if not transmitted on a business day or prior to noon on a business day, in each case, directed to the following addresses or to such other or additional addresses as any party might designate by written notice to the other parties:

City:

City Attorney
City of Kansas City, Missouri
28th Floor, City Hall
414 E. 12th St.
Kansas City, MO 64106
816-513-3142
Fax: 816-513-3133

Commission:

Heather Brown
Executive Director
Tax Increment Financing Commission
1100 Walnut, Suite 1700
Kansas City, Missouri 64106
816-691-2109
Fax: 816-221-0189

With a copy to:

Wesley O. Fields, Esq.
Bryan Cave LLP
3500 One Kansas City Place
1200 Main Street
Kansas City, MO 64105
816-391-7667
Fax: 816-855-3667

County:

County Executive
Jackson County Courthouse, 2nd Floor
415 E. 12th Street
Kansas City, MO 64106

School District:

Superintendent
Raytown C-2 School District
6608 Raytown Road
Raytown, MO 64133

Library:

Director of Libraries
Mid-Continent Public Library
15616 E. US Highway 24
Independence, MO 64050

7.03. No Partnership or Joint Venture. Nothing contained in this Agreement will be deemed to create a partnership or joint venture between all or any of the parties hereto, or to cause any party to be liable or responsible in any way for the actions, liabilities, debts or obligations of any other party.

7.04 Severability. If any clause or provision of this Agreement is determined to be illegal, invalid or unenforceable under any present or future law by the final judgment of a court of competent jurisdiction, the remainder of this Agreement will not be affected thereby. It is the intention of the parties that if any such provision is held to be illegal, invalid or unenforceable, there shall be added in lieu thereof a provision as similar in terms to such provision as is possible which will be legal, valid and enforceable.

7.05 Counterpart Execution. This Agreement may be executed in counterparts, each of which shall be deemed an original document, but all of which shall constitute a single document.

7.06 Governing Law and Venue. This Agreement will be interpreted and construed under the laws of the State of Missouri. Venue shall be in a state or federal court having jurisdiction over Jackson County, Missouri.

7.07 Cooperation; Further Documents. All parties agree to execute and deliver, or to cause to be executed and delivered, such documents and to do, or cause to be done, such other acts and things as might reasonably be requested to assure that the benefits of this Agreement are realized by the parties.

7.08 Entire Agreement; Written Modifications Only. This Agreement, the exhibits attached hereto and the documents referred to herein or contemplated herein constitute the sole and entire agreement between the parties hereto with respect to the subject matter hereof, and there are no other covenants, promises, agreements or understandings regarding the same. This Agreement, including the provisions of this Section, may not be modified except by written amendment to this Agreement signed by the parties affected by the same, and the parties hereto hereby (a) expressly agree that it shall not be reasonable for any of them to rely on any alleged, non-written amendment to this Agreement; (b) irrevocably waive any and all right to enforce any alleged, non-written amendment to this Agreement; and (c) expressly agree that it shall be beyond the scope of authority (apparent or otherwise) for any of their respective agents to agree to any non-written modification of this Agreement.

7.09 Construction of Agreement. The following rules of construction are applicable for the purposes of this Agreement and all documents and instruments supplemental hereto unless the context clearly requires otherwise:

(a) All references herein to numbered sections or to lettered exhibits are references to the sections hereof and the exhibits annexed hereto.

(b) The terms “include,” “including,” and similar terms shall be construed as if followed by the phrase “without being limited to.”

(c) Words of masculine, feminine or neutral gender shall mean and include the correlative words of the other genders, and words importing the singular number shall mean and include the plural, and vice versa.

(d) No inference in favor of or against any party hereto shall be drawn from the fact that such party has drafted any portion of this Agreement.

7.10 Binding on Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective heirs, executors, administrators, personal representatives, successors and permitted assigns.

7.11 Headings. The headings of sections contained in this Agreement are for convenience only and shall not be deemed to control or effect a meaning or construction of any provision of this Agreement.

7.12 Full and Final Settlement. The parties consider that this settlement and the consideration being paid is acceptable under all of the circumstances and accepted as the full and final settlement of all claims, rights and damages which each may now have or will ever have against each other.

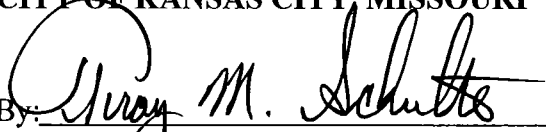
7.13 No Admission of Liability. It is understood and agreed that this Agreement is a compromise of disputed claims, and that the payments made hereunder are not to be construed as an admission of liability on the part of the parties hereby released. The parties’ intent is merely to reach a compromise and settlement of all claims and litigation.

7.14 Representation by Counsel. The parties acknowledge that each one has read this Agreement carefully, that each party has consulted with its attorney(s) prior to the execution of this Agreement about its contents, and that each party further states that it understands the entire contents of this Agreement. Each party shall be responsible for its respective attorneys’ fees.

7.15 Enforcement. The parties specifically agree that this Agreement may be enforced in court and used as evidence in any matter in which the terms hereof are deemed relevant by a court of competent jurisdiction.


IN WITNESS WHEREOF, the parties have caused this Agreement to be duly executed as of the Effective Date.

CITY OF KANSAS CITY, MISSOURI

By: 

Name: Troy Schulte

Title: City Manager

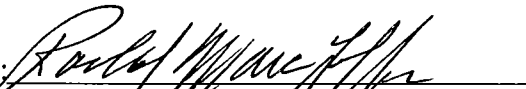
Attest: 

Title: City Clerk Marilyn Sanders

Approved: 

Title: Assoc. City Attorney

**THE TAX INCREMENT FINANCING TIF
COMMISSION OF KANSAS CITY,
MISSOURI**

By: 

Name: Ronald Marc Yaffe

Title: Chairman

JACKSON COUNTY

By: _____
Name: _____
Title: _____

**CONSOLIDATED SCHOOL DISTRICT NO. 2
(RAYTOWN)**

By: Kristie R. Collins-DeLarber
Name: Kristie Collins-DeLarber
Title: Board President

MID-CONTINENT PUBLIC LIBRARY

By: _____
Name: _____
Title: _____

JACKSON COUNTY

By: _____
Name: _____
Title: _____

**CONSOLIDATED SCHOOL DISTRICT NO. 2
(RAYTOWN)**

By: _____
Name: _____
Title: _____

MID-CONTINENT PUBLIC LIBRARY

By: SV Potts
Name: Steven V Potts
Title: Library Director

Res. 18104

APPROVED AS TO FORM:

By: W. Stephen Nixon
W. Stephen Nixon, County Counselor

JACKSON COUNTY, MISSOURI

By: Michael D. Sanders
Michael D. Sanders, County Executive

ATTEST:

By: Mary Jo Spino
Mary Jo Spino, Clerk County Legislature