

UNIVERSAL FLOODWATER DETENTION TIF PLAN COOPERATIVE AGREEMENT

This Universal Floodwater Detention TIF Plan Cooperative Agreement ("**Agreement**") is made and entered into this 16th day of November, 2017, 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, by Ordinance No. 100089 adopted on January 28, 2010, by Ordinance No. 130986 adopted on December 19, 2013 and by Committee Substitute for Ordinance No. 140823 adopted on June 18, 2015, pursuant to the Real Property Tax Increment Allocation Redevelopment Act, Section 99.800, RSMo. et seq. (as amended) (the "**Act**"), the City of Kansas City, Missouri, a constitutionally chartered municipal corporation (the "**City**"), and Jackson County, Missouri, a political subdivision of the State of Missouri (the "**County**").

WHEREAS, on November 14, 1990, the Commission, by Resolution No. 90-27, recommended to the Council that it approve the Universal Floodwater Detention Tax Increment Financing Plan (the "**Original Plan**"); and

WHEREAS, on April 18, 1991, the Council, by Committee Substitute for Ordinance No. 910047, approved the Original Plan pursuant to the authority granted the Council by the Act, which Original Plan the Council has subsequently amended from time to time (the Original Plan, together with all amendments thereto shall hereafter be referred to as the "**Plan**"); and

WHEREAS, on September 13, 2017, the Commission conducted a public hearing to consider the proposed Fifth Amendment to the Plan (the "**Fifth Amendment**"), which contemplates the construction of certain infrastructure improvements, including the following: improvements to Universal Avenue, between E. Front Street and Executive Drive, a bicycle and pedestrian trail between N. Chouteau Trafficway and Olive Street, the acquisition and demolition of a Ramada Inn and improvements to Front Street between N. Chouteau Trafficway and Universal Avenue (the "**Fifth Amendment Public Improvements**"); and

WHEREAS, the Fifth Amendment provides for the reimbursement of Redevelopment Project Costs related to Fifth Amendment the Public Improvements, which are estimated to be approximately \$6,900,000 (the "**Fifth Amendment Costs**"); and

WHEREAS, the Special Allocation Fund(s) established in connection with each Redevelopment Project described by the Plan (the "**Special Allocation Fund**") had, as of April 30, 2017, an existing balance of \$11,885,799 (the "**SAF Balance**"), which is comprised of payments in lieu of taxes ("**PILOTS**") and economic activity taxes ("**EATS**") generated and collected within the Redevelopment Area described by the Plan and deposited in the Special Allocation Fund; and

WHEREAS, as of April 30, 2017, the amount of the SAF Balance in excess of the Fifth Amendment Costs, which is approximately \$4,985,799 (the "**Existing Surplus Funds**"), is deemed surplus and shall be distributed to the taxing districts affected by the Plan in accordance with Section 99.850 of the Act; and

WHEREAS, the City desires to enter this Agreement, which shall provide for contribution of its portion of the Existing Surplus Funds and an additional portion of its surplus funds generated thereafter, to each of the taxing districts affected by the Plan.

NOW, THEREFORE, the parties hereto agree as follows:

ARTICLE I REPRESENTATIONS

1.01 Commission Representations. The Commission represents and warrants to the City and the County 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 and the County 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 and the City 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 Survival of Representations. All representations of the Commission, the City and the County contained in this Agreement shall survive the execution and delivery thereof.

ARTICLE II COVENANTS OF THE COMMISSION

2.01 Transfer of the Existing Surplus Funds.

(a) Within thirty (30) days after the Council's approval of the Fifth Amendment, by Ordinance, and the approval, execution and delivery of this Agreement by each of the Commission, the City and the County (together, the "**Governmental Approvals**") the Existing Surplus Funds in the amount of \$2,735,278 (the "**Non-City Existing Distributable Surplus Amount**"), together with Additional Surplus (as defined in **Section 3.01(a)**), shall be distributed to certain affected taxing districts. Of the amount of the Non-City Existing Distributable Surplus Amount, the following estimated amounts are to be distributed to the following affected taxing districts (the "**Non-City Affected Taxing Districts**"):

<u>Taxing Jurisdiction</u>	<u>Amount</u>
Jackson County Community Mental Health Fund	\$38,921
Metropolitan Community Colleges of Greater Kansas City	\$75,799
Jackson County Board of Services For the Developmentally Disabled	\$23,916
Missouri Pension Fund For the Blind	\$9,722
Jackson County, Missouri (PILOTS)	\$162,844
Jackson County, Missouri (EATS)	\$166,027
Kansas City Public Schools	\$1,607,345
Kansas City Library District	\$160,090
Zoological Tax District	\$24,929
M&M Replacement Tax	\$465,686

(b) The aggregate amount of the Existing Surplus Funds estimated to be distributed to the City is approximately \$2,250,520 (the "**City's Existing Distributable Surplus Amount**"). The City, within thirty (30) days of the Governmental Approvals, agrees to direct the

Commission to transfer the portion of the City's Existing Distributable Surplus Amount, together with accrued interest related thereto, to the County for distribution to the Non-City Affected Taxing Districts in the same proportion as the most recent distribution by the County's Collector to such Non-City Affected Taxing Districts of real property taxes for real property located in the Redevelopment Area described by the Plan.

(c) Subject to **Section 3.01(a)**, the Commission will pay Additional Surplus Funds (as hereafter defined) it receives from to time to time to the County for distribution such that (i) economic activity taxes shall be distributed to the Non-City Affected Taxing Districts on a basis that is proportional to the amount of such economic activity taxes the taxing district would have received from the redevelopment area had tax increment financing not been adopted and (ii) payments in lieu of taxes shall be distributed to the Non-City Affected Taxing Districts in the same proportion as the most recent distribution by the County's Collector to such Non-City Affected Taxing Districts of real property taxes for real property located in the Redevelopment Area described by the Plan. The Commission shall not require a vote or any other process before sending the Additional Surplus Funds to the County.

ARTICLE III COVENANTS OF THE CITY

3.01 City Written Direction Regarding Future Share of Surplus Amount.

(a) Subject to the completion of the Governmental Approvals, the City agrees that upon deposit of additional payments in lieu of taxes and economic activity taxes into the Special Allocation Fund that are in excess of the Existing Surplus Funds ("**Additional Surplus Funds**"), if and when the City's portion of such Additional Surplus Funds equals \$1,361,704 (the "**City's Distributable Share of Future Surplus Funds**"), the City hereby directs the Commission (i) to pay \$45,345 of the City's Distributable Share of Future Surplus Funds to the County, (ii) to pay \$6,809 of the City's Distributable Share of Future Surplus Funds to the County for distribution to the Zoological Taxing District and (iii) to pay \$1,309,551 of the City's Distributable Share of Future Surplus Funds to the County for distribution to Non-City Taxing Districts in the same proportion as the most recent distribution by the County's Collector to such Non-City Affected Taxing Districts of real property taxes for real property located in the Redevelopment Area described by the Plan.

(b) The City agrees that upon the payment of the City's Distributable Share of Future Surplus Funds and the reimbursement of the Fifth Amendment Costs, which have been certified, together with any additional administrative costs necessary to provide for the termination of the Plan and each Redevelopment Project described therein, to introduce an Ordinance to dissolve the Special Allocation Fund and to terminate the designation of each Redevelopment Project Area described by the Plan.

ARTICLE IV COVENANTS OF THE COUNTY

4.01 Distribution of Surplus Funds.

(a) Within thirty (30) days of the County's receipt of the Non-City Existing Distributable Surplus Amount, the County shall distribute \$2,735,278, together with any Additional Surplus Funds generated prior to the date of distribution, to the Non-City Affected Taxing Districts in the same proportion as the most recent distribution by the County's Collector to such Non-City Affected Taxing Districts of real property taxes for real property located in the Redevelopment Area described by the Plan, less all amounts unavailable for distribution due to protest or challenge. Notwithstanding the estimates set forth in **Section 2.01(a)**, the County shall have the sole discretion to determine the amount and proper distribution from the County to the Non-City Affected Taxing Districts of the Non-City Existing Distributable Surplus Amount or any portion thereof received by the County.

(b) Within thirty (30) days of the County's receipt of the City's Existing Distributable Surplus Amount, the County shall distribute \$2,250,520 to the Non-City Affected Taxing Districts in the same proportion as the most recent distribution by the County's Collector to such Non-City Affected Taxing Districts of real property taxes for real property located in the Redevelopment Area described by the Plan, less all amounts unavailable for distribution due to protest or challenge. The County shall have the sole discretion to determine the amount and proper distribution from the County to the Non-City Affected Taxing Districts of the City's Existing Distributable Surplus Amount or any portion thereof received by the County.

(c) Within thirty (30) days of the County's receipt of City's Distributable Share of Future Surplus Funds, the County (i) shall pay \$6,809 of the City's Distributable Share of Future Surplus Funds to the Zoological Taxing District and shall pay \$1,309,551 to Non-City Taxing Districts in the same proportion as the most recent distribution by the County's Collector to such Non-City Affected Taxing Districts of real property taxes for real property located in the Redevelopment Area described by the Plan..

ARTICLE V MISCELLANEOUS

5.01 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.

5.02 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 23 rd Floor, City Hall 414 E. 12th Street Kansas City, Missouri 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 3800 One Kansas City Place 1200 Main Street Kansas City, Missouri 64105 816-391-7667 Fax: 816-855-3667
County	County Executive Jackson County Courthouse, 2nd Floor 415 E. 12th Street Kansas City, MO 64106

5.03 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.

5.04 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.

5.05 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.

5.06 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.

5.07 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.

5.08 Entire Agreement; Written Modifications Only. This Agreement constitutes 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.

5.09 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.

5.10 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.

5.11 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.

5.12 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.

5.13 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.

[Remainder of page left intentionally blank. Signatures follow.]

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

CITY OF KANSAS CITY, MISSOURI

By: Attached
Troy Schulte, City Manager

Attest: Attached
Name: _____
Title: City Clerk

Approved as to form and legality:

By: Attached
Brian T. Rabineau, Assistant City Attorney

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

By: Attached
Cynthia M. Circo, Chair

JACKSON COUNTY, MISSOURI

By: Attached
Frank White Jr., Jackson Count Executive

APPROVED TO FORM:
By: W. Stephen Nixon
W. Stephen Nixon

ATTEST:
By: Mary Jo Spino
Mary Jo Spino, Clerk of the Legislature

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

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

ATTEST:

By: [Signature]
Heather A. Brown, Secretary

By: [Signature]
Cynthia M. Circo, Chair

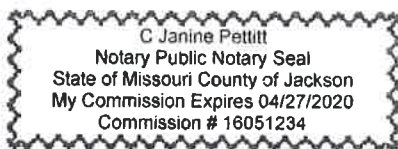
Approved as to form:

By: [Signature]
Wesley O. Fields, Counsel to the Commission

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

On this 16 day of November, 2017, before me, the undersigned a Notary Public in and for the County and State aforesaid, came Cynthia M. Circo, the Chair of the Tax Increment Financing Commission of Kansas City, Missouri, a commission duly organized, incorporated and existing under and by virtue of the laws of the State of Missouri, who is personally known to me to be the same person who executed, as such official, the within instrument on behalf of said commission, and such person duly acknowledged the execution of the same to be the act and deed of said commission.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my official seal, the day and year last above written.



[Signature]
Signature of Notary Public

My Commission Expires:

April 27, 2020

CITY OF KANSAS CITY, MISSOURI

By: Troy M. Schulte
Troy Schulte, City Manager

ATTEST:

Marilyn Sanden
Name: Marilyn Sanden
Title: City Clerk

Approved as to form and legality:

By: Brian T. Rabineau
Brian T. Rabineau, Assistant City Attorney

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

On this 13 day of November, 2017, before me, a Notary Public in and for the state and county aforesaid, appeared Troy Schulte, to me personally known, and who being by me duly sworn, did say that he is the City Manager of the City of Kansas City, Missouri, and, as such official, executed the within instrument on behalf of the City of Kansas City, Missouri, and such person duly acknowledged the execution of the same to be the act and deed of the City of Kansas City, Missouri.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal in my office the day and year last above written.

Terrie L. Smidt
Signature of Notary Public

My Commission Expires:

JAN 12, 2018

