

AMENDED AND RESTATED DEVELOPMENT AGREEMENT

THIS AMENDED AND RESTATED DEVELOPMENT AGREEMENT (this “**Agreement**”) is made as of the ___ day of _____, 2023 (the “**Effective Date**”) by and between the **CITY OF INDEPENDENCE MISSOURI**, a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri (the “**City**”) and **NORTHPOINT DEVELOPMENT, LLC**, a Missouri limited liability company, and its successors, assigns and affiliated entities (the “**Company**”).

RECITALS

A. The City and the Company entered into that certain Development Agreement with an Effective Date of May 25, 2022 (“**Original Development Agreement**”).

B. The City and the Company agree to amend and restate the Original Development Agreement and replace the Original Development Agreement with this Agreement.

C. The City is authorized and empowered pursuant to the provisions of Article VI, Section 27(b) of the Missouri Constitution and Sections 100.010 through 100.200, inclusive, of the Revised Statutes of Missouri, as amended (“**Chapter 100**”), to purchase, construct, extend and improve certain projects and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, research and development, warehousing, distribution and industrial development purposes upon such terms and conditions as the City shall deem advisable.

D. The Company proposes a project for industrial development under Chapter 100, consisting of the purchase of certain real property comprising approximately 1,262 acres located along Little Blue Parkway, in the City of Independence, Jackson County, Missouri, which is legally described in **Exhibit A** attached hereto and incorporated herein (the “**Project Site**”), and the purchase of construction materials and other personal property to be incorporated into the Commercial Facility (defined below) necessary for the construction and improvement of the Commercial Facility (defined below) on the Project Site (collectively, the “**Project**”) depicted in **Exhibit B**.

E. The City finds that the Project serves a public purpose in that it will promote economic development in the City and serve as a catalyst for additional investment and development.

F. The Company submitted an application for incentives to the City dated January 27, 2022 (the “**Application**”) with respect to the Project.

G. March 23, 2022, the Independence Economic Development and Incentives Commission recommended approval by City Council of the Application by unanimous vote.

H. By Ordinance No. 19329 passed on May 2, 2022 the City Council has authorized the City's execution of this Agreement.

I. The City and the Company intend to enter into the IPL Public Improvements Agreement (as defined herein) to set out the rights and obligations of the City and the Company with respect to certain electric supply public improvements necessitated by and/or relating to the Project.

J. The parties desire to enter into this Agreement for the purpose of setting forth the covenants, agreements and obligations of the City and the Company with respect to the Project.

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties to this Agreement hereby agree as follows:

ARTICLE I Definitions and Construction

1.1 Definitions. Unless the context or use clearly indicates another or a different meaning or intent, for purposes of this Agreement the following definitions shall apply to the following capitalized word or phrase:

(a) **“Agreement”** means this Amended and Restated Development Agreement.

(b) **“Bonds”** means industrial development revenue bonds in one or more series issued by the City pursuant to Chapter 100 in order to allow the Project to be exempt from ad valorem real property taxes (subject to the payment of PILOTs, as described in Section 3.2) and to cause all purchases of construction materials for the Project to be exempt from all state and local sales taxes.

(c) **“Chapter 100”** has the meaning given in Recital C.

(d) **“Chapter 100 Plan”** means one or more Chapter 100 plans for the Project and the issuance of the Bonds.

(e) **“City”** means the City of Independence, Missouri, a constitutional charter city and municipal corporation duly organized and existing under the laws of the State of Missouri.

(f) **“City Manager”** means the City Manager or Manager of the City.

(g) **“City Code”** means the Unified Development Ordinance of the City and all other applicable laws and regulations of the City.

(h) **“City Council”** means the governing body of the City.

(i) **“Closing”** shall have the meaning set forth in Section 4.1.

(j) **“Commercial Facility”** means a facility, or multiple facilities, developed in phases and comprised of rentable space operated for profit by the Company in accordance with this Agreement, including, but not limited to, industrial development and associated uses. The term includes the shell of the facility and related site improvements but excludes any build-out performed by tenants. Notwithstanding the exclusion of tenant performed build-out from the definition of Commercial Facility, the sales tax exemption certificates contemplated herein, may be used by the Company for sales tax exemption on construction materials for any tenant improvements in any Commercial Facility within the Project, to the extent of the applicable bonding capacity.

(k) **“Company”** means NorthPoint Development, LLC, a Missouri limited liability company, and its successors, assigns and affiliated entities.

(l) **“County”** means Jackson County, Missouri.

(m) **“Development Plan”** shall have the meaning set forth in Section 2.1.

(n) **“Effective Date”** means the date given in the introductory paragraph of this Agreement.

(o) **“Latest Permissible Closing Date”** shall have the meaning set forth in Section 4.1.

(p) **“Lease”** means one or more lease agreements entered into between City, as landlord, and the Company, as tenant, which lease agreements shall be substantially in the form of the agreement in the Model Bond Documents (as defined below in Section 3.1(e)).

(q) **“Project”** has the meaning given in Recital D.

(r) **“Project Site”** means the property legally described in **Exhibit A** attached hereto.

(s) **“IPL Public Improvements Agreement”** means an agreement entered into by the City and the Company relating to the IPL Public Improvements (as defined herein).

1.2 **Construction.** As used herein, words of any gender shall be deemed and construed to include correlative words of each other gender, and unless the context otherwise requires, the singular shall include the plural and vice-versa.

ARTICLE II The Project

2.1 **Description of Project.** The Project consists of the construction and improvement of the Commercial Facility and the purchase of construction materials and fixtures for the construction and operation of the Commercial Facility financed by the Bonds. The Company contemplates that the Project will be designed, developed and constructed as an industrial development consisting of multiple buildings and associated parking developed in phases, paving and traffic circulation and the potential of regional stormwater detention facilities. The Company shall have the sole right to plan, design and carry out the Project in such manner as the Company shall determine to be necessary or desirable, provided, however, that the Project is in substantial compliance with a preliminary plat and preliminary plan, and a final plat and final development plans, for each building approved by the City's Planning Commission and the City Council (the **"Development Plan"**). With the exception of the Project Public Improvements (defined below) and the Adjacent Public Improvements (defined below), the Company shall not be required to pay prevailing wage and/or adhere to any prevailing wage requirements in connection with the development, design and construction of the Project, or any part thereof, including, but not limited to, the development, design and construction of any Commercial Facility.

2.2 **Acquisition or Eminent Domain for Public Improvements.** In the event that (i) the acquisition or termination of any real property rights from any third parties is necessary for the acquisition, construction, installation and maintenance of any public street right of way or public utility easements and (ii) Company is unable, after good faith negotiations, to acquire or terminate such property rights through private agreement, then, upon notice from the Company to the City that Company is unable to acquire or terminate such property rights, City agrees to consider the use of its power of eminent domain to acquire or terminate such property rights and, further, the City will consider the utilization of its power of eminent domain unless an alternative solution for acquisition of the applicable property rights, acceptable to both the City and Company, is agreed upon by the City and Company within a reasonable time period (not to exceed sixty (60) days).

2.3 **Development Schedule.** To be determined.

2.4 INTENTIONALLY BLANK.

2.5 **Career Development Space.** No later than two (2) years after completion of construction of the second Commercial Facility in the Project (as evidenced by a City issued certificate of occupancy), and in the event the City is the fee simple owner of the second Commercial Facility constructed as part of the Project and the Company is paying PILOT Payments as contemplated by this Agreement, the Company will ensure that a Commercial Facility

within the Project contains approximately 20,000 square feet of Career Development Space (the “**Career Development Space**”) to be utilized by an entity or entities acceptable to Company in Company’s reasonable judgment including, but not limited to, the school districts located within the Property (the “**Tenant**” or “**Tenants**”) for the remaining term of this Agreement. The location of the Career Development Space within the Project shall be at the sole discretion of the Company and the Career Development Space shall be designed, constructed and finished to the specifications required by the Company and at the cost of Company and, further, the Tenant or Tenants occupying the Career Development Space shall be under no obligation to pay rent to Company or any other party for the term of such Tenant’s or Tenants’ occupancy of the Career Development Space as determined by Company; however, the Career Development Space shall be separately sub-metered for utilities (as applicable) and the Tenant or Tenants occupying the Career Development Space shall, at all times, be responsible for providing proof of insurance coverage acceptable to Company (and naming Company as an additionally insured party) and, further, for paying utility costs and fees for the occupancy of the Career Development Space including, but not limited to, costs and fees for electric, gas, water, sewer, trash, internet, and television. The insurance coverage required by Company and the payment of the separately sub-metered utilities, by the Tenant or Tenants, shall be memorialized by a written agreement acceptable to the Company in Company’s sole discretion prior to any occupancy of the Career Development Space by any Tenant or Tenants.

2.6 Public Improvements. The development of the Project shall require construction of various public improvements throughout the Project (“Project Public Improvements”), construction of various public improvements outside of the Project and adjacent to the Project (“Adjacent Public Improvements”), certain public improvements to the City’s electric system (“IPL Public Improvements”) and certain improvements to Little Blue Parkway to the south of the Project (the “LBP Mill and Overlay Improvements”). The Project Public Improvements are described on **Exhibit G**. The Adjacent Public Improvements are described on **Exhibit H**. The IPL Public Improvements are described on **Exhibit I**. The LBP Mill and Overlay Improvements are described on **Exhibit J**. The Company shall be responsible for the costs of the Project Public Improvements and the Adjacent Public Improvements and shall complete the Project Public Improvements and the Adjacent Public Improvements in a method, manner and timeframe as determined by Company and in accordance with all applicable laws, rules and regulations, provided that the Project Public Improvements shall be completed no later than the timeframes set forth in **Exhibit G** and the Adjacent Public Improvements shall be completed no later than the timeframes set forth in **Exhibit H**. The City shall be responsible for the costs of the IPL Public Improvements, which shall be constructed in accordance with the IPL Public Improvements Agreement. The Company shall be entitled to reimbursement of one hundred percent (100%) of the Project Public Improvements costs and the Adjacent Public Improvements costs (the “Project Public Improvements Reimbursement” and “Adjacent Public Improvements Reimbursement,” respectively), but solely from the sources described in the following sentences. Additionally, the City shall be entitled to reimbursement of one hundred percent (100%) of the costs of the IPL Public Improvements (the “IPL Public Improvements Reimbursement”) but solely from the sources described in the following sentences. The Project Public Improvements Reimbursement shall be paid to the Company from CID Sales Tax Revenues as described below in Section 3.4 and

the IPL Public Improvements Reimbursement shall be paid to the City from CID Sales Tax Revenues as described below in Section 3.4. The Adjacent Public Improvements Reimbursement shall be paid to the Company via discounted construction and/or building permits issued to the Company or its affiliates. Specifically, each construction and/or building permit and all impact credits/fees. issued to the Company or its affiliates for each Commercial Facility shall be discounted, by the City (or at the direction of the City), by fifty percent (50%) until such time as Company has been fully reimbursed for the costs of the Adjacent Public Improvements as certified to the City by Company.

2.7 LBP Mill and Overlay Improvements. The parties recognize that, as of execution of this Agreement, Little Blue Parkway is in disrepair and, further, that Little Blue Parkway will be affected substantially by the Project, resulting in the need for the LBP Mill and Overlay Improvements. The parties further recognize that funding for the LBP Mill and Overlay Improvements will not be available immediately from the revenues of the CID. To that end, the Company agrees to deposit \$450,000 (the “**LBP Mill and Overlay Improvements Contribution**”) with the City on the date that Bonds are issued for the first building that is part of the Project. The City shall use these funds, together with other funds available to the City for such purpose, to provide road surface stabilization for the portions of Little Blue Parkway designated on **Exhibit J** for the LBP Mill and Overlay Improvements. The implementation and scope of such stabilization project shall be in the discretion of the City. When, in the discretion of the City, CID revenues (after application to the priorities set out in Section 3.4) are available for the LBP Mill and Overlay Improvements in a sufficient amount for the City to undertake the LBP Mill and Overlay Improvements, the City shall complete the LBP Mill and Overlay Improvements. The City shall be under no obligation to undertake the LBP Mill and Overlay Improvements until such time. Notwithstanding the foregoing, in the event the LBP Mill and Overlay Improvements are not complete by December 31, 2028, the Company may, upon providing written notice to the City, complete the LBP Mill and Overlay Improvements to a scope and specifications mutually agreeable to the Company and the City (the “**Company LBP Mill and Overlay Improvements Election**”) and, in the event the Company elects to complete the LBP Mill and Overlay Improvements, the Company shall be reimbursed for all Company costs associated with the LBP Mill and Overlay Improvements from the CID Special Assessment Revenues as set out in Section 3.4; however, the Company shall not be entitled to reimbursement of the LBP Mill and Overlay Improvements Contribution.

2.8 Grants for Public Improvements. The parties shall cooperate in the application for any grant of funds or cost sharing agreement (each a “**Grant**”) under which an outside party (governmental, charitable or otherwise) would agree to pay all or a portion of the costs of the Project Public Improvements, the Adjacent Public Improvements or the IPL Public Improvements, as applicable. Company agrees to reimburse the City (i) for reasonable documented costs of third-party grant writers, as agreed to by the parties in advance of each new application, and incurred by the City in pursuit of a Grant, and other reasonable payments made by the City in pursuit of a Grant, and (ii) for any reasonable documented cost share payments made by the City with respect to any Grants providing funding for Project Public Improvements and/or Adjacent Public Improvements; in each case within forty-five (45) days of receipt from the City of an itemized

statement detailing such costs and requesting reimbursement. If such funds are not so received by the City or disputed in good faith by the Company, the unpaid balance shall be subject to a penalty of 2% per month until paid. The proceeds of any Grant shall be deposited with the City and applied to the payment of Project Public Improvements Reimbursement, Adjacent Public Improvements Reimbursement, and/ or IPL Public Improvements Reimbursement, as applicable. Payment of any Grant proceeds towards such reimbursable costs shall reduce the amounts payable for such reimbursable costs pursuant to Section 2.6 on a dollar for dollar basis. By way of example, if Grant proceeds are utilized for Project Public Improvements Reimbursement, the amount due and allocated for Project Public Improvements Reimbursement shall reduce on a dollar for dollar basis.

2.9 Parkland Dedication. The area within the Project known as the parkland is depicted in **Exhibit K** attached hereto (the “**Parkland**”). Upon completion of phase 2 as depicted in Exhibit B attached hereto, the City shall accept dedication/public dedication of the Parkland and the parties shall cooperate to execute any and all documentation associated with such dedication and/or necessary to effectuate such dedication.

2.10 Streams and Stream Buffer Mitigation. Notwithstanding anything in the City Code to the contrary, any stream(s) within the Project (as identified on any City stream/stream buffer map) deemed and/or identified as non-jurisdictional or deemed and/or identified to be non-stream wetland areas with a valid jurisdictional determination issued by the Army Corp of Engineers and/or the Missouri Department of Natural Resources shall not be subject to the any City stream regulations and/or mitigation requirements. Further, Company may, if applicable, comply with any applicable City stream or stream buffer alternative compliance requirements by (i) relocating such streams and/or stream buffer within the Project without regard to the phase of the Project; and/or (ii) constructing, relocating, or upgrading ponds, wetland, detention areas, etc. within the Project without regard to the phase of the Project.

2.11 Floodplain Management. Notwithstanding anything in the City Code to the contrary, for any Project development located within a mapped/certified flood zone, such development shall be subject to, and permitted to proceed in accordance with, that certain Memorandum of Understanding dated January 3, 2023 by and between Company and the City including, but not limited to, the following: (i) the City will issue a floodplain development permit (or similarly titled permit) for construction of any portion of the Project (and any building withing the Project) within a mapped/certified floodplain area consistent with the approved drainage study and Chapter 17 Article 7 “Floodplain Management Ordinance”; (ii) the Company shall submit a “No Rise Certification” for any and all areas of construction that fall within the floodway area; (iii) following completion of the slab and adjacent grading for each building within the Project, Company shall submit an elevation certificate for each building to the City’s floodplain administrator; (iv) Company shall obtain as-built surveys of the buildings within the Project for purposes of confirming the floor elevations and the low adjacent grade for each building; (v) the Company shall submit a Letter of Map Revisions Based on Fill (“**LOMR-F**”) to the City for review; and (vi) following review and approval of the LOMR-F, the City’s floodplain administrator shall sign and issue a MT-1 Form 3 to the Company for the Company’s submission to the Federal Emergency Management Agency (FEMA).

ARTICLE III
Obligations of the City

3.1 **Bonds.** Subject to compliance with the requirements of Chapter 100 and approval by the City Council of a Chapter 100 Plan for the Project and of the issuance of the Bonds (and within the parameters of the approval provided by the Independence Economic Development and Incentives Commission), the City shall issue the Bonds as follows:

(a) The Bonds shall be sized based on the costs of acquisition of the Project Site, the development costs of the Project and any phase and building thereof, and the costs of construction materials purchased by the Company on behalf of the City as part of the Project and any phase and building thereof;

(b) The Bonds shall be issued for any purpose permitted under Chapter 100 and contained in the Company's Chapter 100 Plan approved by the City;

(c) The City shall approve a principal amount for each series of Bonds. The aggregate maximum total principal amount of the Bonds shall not exceed the cost of the land plus the construction and development costs for the Project. The Bonds may be issued in separate series associated with different Project phases and buildings, and for each Series, the Company may be subject to the associated level of PILOT amounts per Section 3.2 and **Exhibit D**;

(d) The Bonds shall be issued in accordance with Chapter 100 and be revenue bonds secured and repaid solely from rents payable by the Company under the Lease and shall not constitute a debt or obligation of the City. The Bonds and the interest thereon shall not constitute general obligations of the City, the State or any political subdivision thereof, and neither the City, the State or related political subdivision thereof shall be liable thereon; and

(e) The Bond documentation (the "Bond Documents") shall be substantially in the form of the standard bond documents entered into by City for Chapter 100 projects of this type (the "Model Bond Documents"), provided, however, that the Bond Documents may differ from the Model Bond Documents by containing terms and conditions reasonably acceptable to City and Company.

(f) The Company will be directly responsible for payment of all of the City's reasonable costs and expenses in approving and administering the Chapter 100 Plan and issuing the Bonds, including the City's bond counsel. The fee schedule/fee calculation schedule for each Bond issue is attached hereto as **Exhibit E**.

(g) The Company, upon entering into a Lease relating to a series of Bonds, will agree to purchase such series of Bonds which may be assigned as collateral to the

lessee's or Company's lender. Further, the aforementioned purchase rights of Company may be assigned to Company's lender.

(h) The Company will comply with the provisions of Section 107.170 of the Revised Statutes of Missouri, as amended, to the extent applicable to the construction of the Project and the associated Chapter 100 bond transactions. Company may comply with the provisions of Section 107.170 of the Revised Statutes of Missouri, as amended, by (i) obtaining and providing to the City a payment bond in a form and substance agreeable to the Company and the City; (ii) obtaining and providing a payment bond/guaranty in a form and substance agreeable to the Company and the City (the "**Payment Bond/Guaranty**"); or (iii) reaching an agreement with the City for compliance via an alternative method agreeable to the Company and the City. The Company's utilization of the Payment Bond/Guaranty shall require payment of the Payment Bond/Guaranty Premium as defined in **Exhibit F**.

(i) On the date that Bonds are issued for the third building that is part of the Project, Company shall pay the City a one-time payment of \$120,000.00 for the Company's utilization of the Payment Bond/Guaranty in connection with the first two buildings and first two Chapter 100 bond transactions in the Project (the applicable Chapter 100 bond transactions closed in May 2023).

3.2 Property Tax Exemption.

(a) So long as the City owns title to the Project or any portion thereof, the City expects that the Project, including all real property and each building constructed as part of the Project, will be exempt from ad valorem property taxes. For each building constructed as part of the Project, the first year of the exemption period for purposes of this Agreement shall begin in the calendar year following the calendar year in which the respective property, improved or unimproved, is transferred to the City provided that, as noted above, the property may be transferred on a phased basis as the development of the Project progresses. For the year in which the respective property, improved or unimproved, is transferred to the City, the Company shall make an ad valorem property tax payment/PILOT payment in an amount equal to the ad valorem property tax paid, for the respective property, in the year prior to the transfer (as noted below, nothing in this Agreement shall be construed to require the Company to make duplicate tax payments). The Company covenants and agrees that during each year the Project, or a building and associated real property thereof, is exempt from ad valorem taxes due to the City's ownership, the Company will make an annual payment(s) in lieu of taxes to the City (each such payment, a "**PILOT**") as described in Section 3.2(b). The City and the Company hereby agree that the tax abatement provided by this Agreement shall only apply to property financed with the proceeds of the Bonds (i.e., property constituting a part of the Project) and shall not apply to property not financed with proceeds of the Bonds.

(b) The Bond Documents will provide for the Company to make annual PILOT payments to the City on or before each December 31st (subject to the exemption/abatement period commencement provisions contained in Section 3.2(a) above), in the amounts corresponding with the PILOT schedule as set forth in **Exhibit D** attached hereto. For purposes of clarification, Year 1 in Exhibit D, and the PILOT payment associated therewith, corresponds to the first year of ad valorem property tax exemption for the first building completed and said exemption shall commence the calendar year following the calendar year in which the first building completed is transferred to the City and continue for twenty (20) years thereafter. For example, if the first building completed is transferred to the City in 2022, Year 1 in Exhibit D shall correspond to calendar year 2023 and the real estate tax/ad valorem tax exemption and corresponding PILOT payments/PILOT payment schedule shall continue for twenty (20) years thereafter. For any subsequent building completed as part of the Project, the first year of ad valorem property tax exemption, and the requirement to make PILOT payments associated with the completed building, shall commence the calendar year following the calendar year in which the building is transferred to the City. Notwithstanding the foregoing, the PILOT payment schedule (i.e. the PILOT payment amount due and owing) for any and all buildings constructed and transferred to the City within the Project, shall commence with/be equal to year 1 of the Exhibit D PILOT Schedule (i.e. the first year shall equal \$0.14 (Fourteen cents) per square foot of the constructed building (as noted in Exhibit D), the second year shall equal \$0.14 (Fourteen cents) per square foot of the constructed building (as noted in Exhibit D), the third year shall equal \$0.14 (fourteen cents) per square foot of the constructed building (as noted in Exhibit D), etc.). For example, if a building is completed and transferred to the City in 2025, Year 1 in Exhibit D shall correspond to calendar year 2026 and the real estate tax/ad valorem tax exemption and corresponding PILOT payments/PILOT payment schedule shall continue for twenty (20) years thereafter. The PILOT payments shall be distributed by the City to the taxing jurisdictions in proportion to the amount of taxes which would have been paid in each year had the Project not been exempt from taxation pursuant the issuance of the Bonds in accordance with Chapter 100.

(c) If the Company fails to operate, or cause the operation of, a building within the Project, other than temporary closures customary in the applicable industry, then in addition to any other remedies that may be available to the City under the Lease or hereunder, the PILOTS required by this Section 3.2, for the applicable building only, shall be increased to an amount equal to 100% of the ad valorem taxes that would otherwise have been due for the applicable building during each year in which the failure continues to occur, and during which the applicable building is exempt from ad valorem property taxes as provided herein.

(d) Nothing in this Agreement shall be construed to require the Company to make duplicate tax payments. The Company shall receive a credit hereunder to such extent it has made any payment for ad valorem taxes on the Project, or any portion of a phase thereof, to the County and/or any other applicable governmental or quasi-

governmental entity, for years in which a PILOT payment is due and owing in accordance with this Agreement.

(e) The City and the Company hereby agree that the property tax exemptions described in this Agreement shall not apply to special assessments and shall not serve to reduce or eliminate any other licenses or fees (unrelated to property tax) owing to the City or any other taxing jurisdiction with respect to the Project. The Company hereby agrees to make payments, or cause payments to be made, with respect to all special assessments, licenses and fees which would otherwise be due with respect to the Project if such Project was not owned by the City.

3.3 Sales Tax Exemption.

(a) At the Company's expense, the City will cooperate with the Company and will assist the Company as it seeks all approvals and authorizations required to cause all purchases of construction materials financed by the Bonds to be purchased and titled in such a fashion as to be exempt from all state and local sales taxes.

(b) The City will issue one or more City sales tax exemption certificates for construction materials financed with the Bonds, including, but not limited to, construction materials relating to the construction of any Commercial Facility within the Project and any tenant improvements therein, and the City shall provide such other documentation as may be necessary from time to time to effect said sales tax exemption, including, but not limited to, one or more temporary sales tax exemption certificates (or similar documents) for the purchase of construction materials prior to the execution of Bond Documents in connection with the Project or any phase of the Project provided that the Company executes a Sales Tax Exemption Agreement substantially in the form attached as **Exhibit E** hereto and incorporated herein by reference. If the Bonds are not issued, there shall be no sales tax exemption, and sales taxes will be due and owing on any construction materials purchased as part of the Project. Any sales taxes assessed against such construction materials shall be paid by Company.

(c) The City shall upon issuance of the Bonds and at the request of the Company issue a permanent (for the duration of the construction period) sales tax exemption certificate for construction materials to be incorporated into the Project including, but not limited to, construction materials relating to the construction of any Commercial Facility within the Project and any tenant improvements therein. The Company shall use the exemption certificate only for the purposes specified in the exemption certificate and shall not use the exemption certificate for the purchase of any personal property other than construction materials. The Company hereby agrees to immediately pay to the Missouri Department of Revenue all sales taxes that otherwise would have been due with respect to such construction materials for the Project, or a phase thereof, and the associated public improvements, if applicable, (such payment being referred to as the "**Sales Tax Payments**") if the Closing does not

occur on or prior to the dates agreed to by the City and the Company. The Company shall indemnify and defend the City and its respective officers, employees and agents against and from any and all causes of action or actions in law or equity, liens, claims damages, loss, costs or expenses of any nature whatsoever by any person or entity, arising out of the City's furnishing of the exemption certificate to or at the request of the Company.

3.4 Community Improvement District Sales Tax and Special Assessments. The Company and the City will cooperate in the creation of a Community Improvement District ("CID") that will (i) impose an additional sales tax (at a percentage equal to one percent (1.00%)) over the Project area for the purpose of providing revenue to be applied as described in this Section; and (ii) impose a special assessment in the amount of five cents (\$0.05) per square foot on all constructed and occupiable buildings located within the Project (the "CID Special Assessment") for the purpose of providing additional revenue to be applied as described in this Section; *provided that* ultimate approval of CID formation will be subject to the legislative discretion of City Council, and subject to all other legal requirements for CID formation, including review by the City's Economic Development and Incentives Commission (if applicable under the City's enactments at the time of consideration). The amount of the CID Special Assessment (i.e. five cents (\$0.05) per square foot on all constructed and occupiable buildings located within the Project) shall remain unchanged for period commencing on January 1st of the calendar year following the calendar year in which the first building of the Project is complete (as evidenced by an occupancy permit) and ending/expiring at the end of the fourth calendar year thereafter (the "CID Special Assessment Initial Period"). In the calendar year following the end of the CID Special Assessment Initial Period, the CID board of directors may adjust the CID Special Assessment by an amount not less than zero percent (0.00%) and not greater than five percent (5.00%), which adjustment shall apply to the fifth calendar year period in accordance with the formula hereafter set forth. In applying the formula, the following definitions shall apply: (i) "Bureau" means the United States Department of Labor, Bureau of Labor Statistics, or any successor agency that shall issue the indices or data referred to in (ii) below; (ii) "Price Index" means the Consumer Price Index, All Urban Consumers, issued from time to time by the Bureau, or any other measures hereafter employed by the Bureau in lieu of such Price Index which measures changes in the cost of living; (iii) "Average Price Index" for any yearly period means the average of the Price Indexes issued in the twelve months prior to the last day of that particular calendar year period (in calculating the Average Price Index, there shall be excluded any index which itself is an average (i.e., there shall be no averaging of averages)); and (iv) The "Issue" of a Price Index means the release to the public of the Price Index, and the date of issue shall be the date it is so released whether or not the issued index is for the current month or period in which the release occurs or for a prior month or period. The formula for adjusting the CID Special Assessment is as follows: (x) if the Average Price Index for the last calendar year of the CID Special Assessment Initial Period is greater than the Average Price Index for the immediately preceding calendar year, the CID Special Assessment for the first year *after* the CID Special Assessment Initial Period shall adjust by the percentage difference between the respective Average Price Indexes; however, in no event shall the adjustment to the CID Special Assessment, on an annual basis, be by an amount less than zero percent (0.00%) or greater than five percent (5.00%); and (y) for each calendar year thereafter, if the Average Price Index for the calendar year prior to such year is greater than the Average Price Index for the 2nd calendar year prior to such year, the CID Special Assessment shall adjust by the percentage difference between

the respective Average Price Indexes; however, in no event shall the adjustment to the CID Special Assessment, on an annual basis, be by an amount less than zero percent (0.00%) or greater than five percent (5.00%).

The board of directors of the CID shall be appointed by the City and the City shall have the right to appoint a majority of the board of directors from its own staff and officials. The City shall be responsible for receipt and application of the revenues from the sales tax and special assessments described in this section (the "CID Sales Tax Revenues," and "CID Special Assessment Revenues") and shall disburse CID Sales Tax Revenues and CID Special Assessment Revenues for payment of eligible costs certified to the CID and the City. The Company shall be responsible for the formation costs and to lead the formation efforts for the CID, including preparation and circulation for signature of a CID petition consistent with this Agreement and drafting a cooperative agreement, with assistance of counsel to the City, setting out specifics relating to the operation and administration of the CID. The Company shall reimburse the City for any CID formation costs incurred by the City (including the costs of the City's consultants) within 45 business days after receipt from the City of an itemized statement detailing such costs and requesting reimbursement. If such funds are not so received by the City, the unpaid balance shall be subject to a penalty of 2% per month until paid. The CID Sales Tax Revenues shall be applied as follows (except that the following shall be automatically amended by the priority for payment of CID Sales Tax Revenues included in any cooperative agreement executed by the City, the CID and the Company or an affiliate of the Company, to the extent of any inconsistency):

First to pay or reimburse the City for the costs of administration of the CID and of the collection and application of the CID Sales Tax Revenues;

Second to reimburse the Company for costs incurred in formation of the CID (including amounts paid as reimbursement to the City for such costs);

Third to pay IPL Public Improvements Reimbursement to the City and Project Public Improvements Reimbursement to the Company on a basis proportional to the respective amounts at such time that have been certified to the CID and the City but remain unpaid (meaning that if certified IPL Public Improvements Reimbursement amounts are outstanding at \$8 Million and certified Project Public Improvements Reimbursement amounts are outstanding at \$4 Million, the City would get 2/3 of such distributions and the Company would receive 1/3 until both are fully paid); and

Fourth to pay costs of maintaining public streets within the Project (including the LBP Mill and Overlay Improvements), offsetting any costs incurred by the City in connection with the Project Public Improvements, and/or reimbursing the City for any other eligible costs relating to the Project.

The CID Special Assessment Revenues shall be applied as follows (except that the following shall be automatically amended by the priority for payment of CID Special

Assessment Revenues included in any cooperative agreement executed by the City, the CID and the Company or an affiliate of the Company, to the extent of any inconsistency):

First to pay or reimburse the City for the costs of administration of the CID and of the collection and application of the CID Special Assessment Revenues; and

Second if the Company LBP Mill and Overlay Improvements Election is elected by the Company pursuant to Section 2.7 above, 80% of the available CID Special Assessment Revenues shall be utilized to pay or reimburse the Company for the costs of LBP Mill and Overlay Improvements; however, the Company shall not be entitled to payment for/reimbursement of the LBP Mill and Overlay Improvements Contribution.

Third to pay costs of maintaining public streets within the Project (including the LBP Mill and Overlay Improvements), offsetting any costs incurred by the City in connection with the Project Public Improvements, and/or reimbursing the City for any other eligible costs relating to the Project.

3.50 Permitting and Approval Assistance. From and after the Effective Date of this Agreement, the City shall assist and support the Company in obtaining all permits and approvals that are sought by the Company in connection with the Project that may be available to the Company in connection with the Project. To the extent the Project specifications contained in this Agreement conflict with the Development Plan, the Development Plan shall control. The City will not unreasonably withhold any consent or approval required by any City ordinance, code, regulation or any other governmental approval required by law related to the Project; *provided that* nothing herein shall be construed to obligate the City, acting as a party hereto, to grant permits or other approvals the City would not be obligated to grant, acting as a political subdivision, absent this Agreement.

ARTICLE IV Closing

4.1 Closing. The closing and issuance of the Bonds and delivery of the Bond Documents (the “**Closing**”) for the last component of the Project shall occur on or before December 31, 2037 (the “**Latest Permissible Closing Date**”).

4.2 Bond Issuance. At the Closing, City and the Company agree to proceed with an initial advance of principal of the Bonds for the purchase of the Project Site, development costs and for the construction materials and as identified in the Bond Documents acquired or incurred by the Company prior to Closing.

4.3 Delivery of Documents by the City at Closing. The City shall deliver the following documents to the Company and the trustee under the Bond Documents at Closing:

(a) The Lease and other Bond Documents; and

(b) The City's permanent (for the applicable construction period) sales tax exemption certificate relating to the construction materials to be incorporated into the Project or a phase thereof.

4.4 **Delivery of Documents by the Company.** The Company shall deliver the following documents to the City and the trustee under the Bond Documents at Closing:

(a) Special Warranty Deed conveying the applicable portion of the Project Site to the City;

(b) The Lease and other Bond Documents; and

(c) Such closing certificates and proof of due organization, corporate good standing, authorization by the governing body of the Company, insurance coverage, evidence of payment bonds as required by law and compliance with other covenants of the Bond Documents as the City customarily requires in connection with the execution of Model Bond Documents.

4.50 **Contingencies.** Notwithstanding any other provision of this Agreement, the obligations of the City and Company as set forth herein, and the execution and delivery of any of the Bond Documents are subject to the following conditions precedent:

(a) Approval by the City Council, in its sole discretion, of (i) a Chapter 100 Plan for the Project, phase, or building in question, as applicable, and (ii) fulfillment of all reasonable and customary terms and conditions required by bond counsel of the City's selection ("**Bond Counsel**") in order for the purchase and delivery of the Bonds to be consummated;

(b) Obtaining, by the Company, of any necessary governmental licenses, permits and approvals, including passage of any required approving ordinances by the City Council;

(c) The Company closing on the acquisition of the Project Site, obtaining the necessary financing to construct the Project, as determined by the Company in its sole and absolute discretion.

(d) Agreement by the City, the Company and the Bond purchasers upon (i) mutually acceptable terms for the Bonds and the sale and delivery thereof and (ii) mutually acceptable terms and conditions of any documents related to the issuances of the Bonds and the Project; and

(e) Issuance of an opinion from Bond Counsel that the Bonds constitute valid and legally binding special obligations of the City and issuance of an opinion

from Company counsel relating to the organization and existence of the Company, the execution of the Bond Documents by the Company as valid and binding agreements of the Company, and certain other matters customarily required by the City in connection with the execution of Model Bond Documents; *provided that* all such conditions shall be deemed to have occurred upon the execution and delivery by the City and the Company of the Bond Documents and the issuance of the Bonds by the City; *and, further provided* that the Company's payment obligations under Section 3.2(a) are conditioned solely upon the Company closing on the acquisition of the Project Site.

ARTICLE V

Company Obligations, Representations, And Warranties

5.1 **Project Operation and Maintenance.** Company shall be responsible for the operation and maintenance of the Project, and the City shall have no operation or maintenance obligations for the Project with the exception of maintaining public streets within the Project.

5.2 **Company Authorization.** Company makes the following representations and warranties to the City:

(a) Company is a limited liability company existing under the laws of the State of Missouri, is authorized to do business in Missouri, has lawfully executed and delivered this Agreement acting by and through its manager, members or managing member, has received all approvals necessary for it to enter into this Agreement and to effectuate the purposes of this Agreement with respect to the Project, and the person executing this Agreement on behalf of Company is authorized to execute and deliver the same.

(b) There are no statutes, regulations or other laws which prevent Company from entering into this Agreement or to perform or observe its obligations or undertakings contained herein.

(c) There are no agreements or other undertakings to which Company is a party, or for which it is bound, which prevent or impair Company's execution of this Agreement or to perform and observe its obligations contained herein.

ARTICLE VI

Miscellaneous

6.1 **Notices.** All notices shall be sent either by certified mail, return receipt requested, personal messenger or overnight delivery via a reputable overnight delivery service. Any notice sent by (a) certified mail, return receipt requested shall be deemed delivered two (2) days after deposited in the United States Mail; (b) personal messenger shall be deemed delivered when actually received; and (c) an overnight delivery service shall be deemed delivered on the business day following the date the notice is deposited with the overnight delivery service addressed as specified below:

If to City: City Manager
City of Independence, Missouri
111 E. Maple Ave.
Independence, MO, 64050

With a copy to Gilmore & Bell, PC
Attn: David Martin
2405 Grand Boulevard, Suite 1100
Kansas City, Missouri 64108

If to the Company: NorthPoint Development, LLC
Attn: Brent Miles
3315 North Oak Trafficway
Kansas City, Missouri 64116

With a copy to: Levy Craig Law Firm
Attn: Scott Seitter
4520 Main Street, Suite 1600
Kansas City, Missouri 64111

Such address may be changed by a party by giving the other party five (5) days' notice of such change in writing.

6.2 **Severability.** If any term, covenant, condition, or provision of this Agreement, or the application to any person or circumstance shall, at any time or to any extent be invalid or unenforceable, the remainder of this Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall (except to the extent such result is clearly unreasonable) not be affected thereby, and under such circumstances each term, covenant, condition, and provision of this Agreement shall be valid and enforced to the fullest extent permitted by law, insofar as such enforcement is not clearly unreasonable. In case any provision in this Agreement shall be invalid, illegal or unenforceable, the validity, legality and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. Notwithstanding the above, the City or the Company shall have the right to terminate this Agreement in the event that a material provision of this Agreement has been declared invalid or unenforceable. The provisions of this Section 6.2 shall survive the termination of this Agreement.

6.3 **Assignment.** Subject to the provisions of the Lease and the other Bond Documents, the Company may freely sell and assign, to any other person or entity, any or all of the Project, or any portion thereof, and the Company's rights, duties, and obligations under this Agreement, the Bond Documents and the Lease, provided that the Company provides written notice to the City prior to the sale or assignment. The Company shall be released of all obligations hereunder upon such assignment(s) provided written notice of the assignment is provided to the City. The Parties agree to work in good faith to enable the assignment and

transfer of the Bonds, Bond Documents, the Lease, by the Company to any subsequent purchaser or assignee and all applicable agreements related thereto in order to promptly and expeditiously enable any such assignment or sale by the Company. Notwithstanding the foregoing, any affiliate of the Company may undertake the development of any portion of the Project, or any obligations under this Agreement, and shall be entitled to all rights of the Company contained in this Agreement, without obtaining the consent of the City. Notwithstanding anything in this Section to the contrary, the Company may not assign or be released of its obligations with respect to the Project Public Improvements, the Adjacent Public Improvements or the CID without the prior written consent of the City, which may be conditioned upon demonstration to the City's reasonable satisfaction, that the assignee has sufficient financial, management, property ownership and operational capabilities to carry out the Project and such obligations.

6.4 **Counterparts.** This Agreement may be executed in one or more counterparts, each of which shall constitute an original and all of which, when taken together, shall constitute one agreement.

6.5 **Survival.** The terms and covenants contained in this Agreement shall not be deemed to have merged at Closing but will be deemed to survive Closing until the expiration of the term of the Lease.

6.6 **Consents and Approvals.** The City and Company commit to work harmoniously with each other, and except in instances where a consent or approval is specified to be within the sole discretion of either party, any consent or approval contemplated under this Agreement shall not be unreasonably withheld, conditioned or delayed, except that the Company acknowledges that this covenant does not apply to permits required from the City in connection with the Project. Nothing herein shall be deemed to usurp the governmental authority or police powers of the City. The parties agree that the decision to approve the issuance of the Bonds is within the sole discretion of the City Council.

6.7 **Entire Agreement.** This Agreement incorporates all prior negotiations and discussions between the parties regarding its subject matter and represents the entire agreement of the City and Company for the Project. This Agreement may only be modified by written instrument executed by the parties.

6.8 **Headings.** The captions and section headings contained in this Agreement are for convenience of reference only and shall not be considered in any interpretation of the provisions of this Agreement.

6.9 **Negation of Partnership.** It is mutually understood and agreed that nothing contained in this Agreement is intended or shall be construed in any manner or under any circumstances whatsoever as creating or establishing the relationship of co-partners or creating or establishing the relationship of a joint venture between the City and Company or as constituting the Company as the agent or representative of the City for any purpose or in

any manner under this Agreement, it being understood that the Company is an independent contractor hereunder.

6.10 Representatives Not Individually Liable. No member, official, representative or employee of the City shall be personally liable to the Company or any successor in interest in the event of any default or breach by the City for any amount which may become due to the Company or successor or on any obligations under the terms of the Agreement. No partner, member, representative or employee of the Company or any of its shareholders, directors, officers, employees or representatives shall be personally liable to the City in the event any default or breach by the Company for any amount which may become due to the City or on any obligations under the terms of this Agreement.

6.11 Ancillary Documents. The City and Company hereby agree that all other agreements and other documents to be executed by the parties to effectuate the transactions contemplated in this Agreement shall be consistent with the terms and conditions of this Agreement.

6.12 Breach. In the event of any breach by the Parties of any provision, covenant, agreement, restriction, or regulation contained in this Agreement (with the exception of the obligation of the Company to make the payments required under Section 3.2) or in the Development Plan, as may be amended from time to time, the defaulting party shall have ninety (90) days after receipt of written notice of such breach to cure the same. In the event the Company shall have defaulted herein as is undertaken the curing of such breach within ninety (90) days after receipt of such notice and are diligently pursuing the same and said breach cannot be reasonably cured within such timeframe, then the Company shall have one hundred eighty (180) days to cure said breach.

6.13 Remedies Upon Breach. In the event that the Company fails to make any payments required under Section 3.2 hereof within 30 days after written notice and demand by the City, (1) the City may terminate this Agreement and (2) the City and/or any taxing jurisdictions that would benefit from such payments due and owing under this Agreement may bring an action for specific performance to enforce such payments. In the event that any other breach of the Agreement or the IPL Public Improvements Agreement by the Company remains uncured after the pertinent cure period, the City may terminate this Agreement and, if the breach involves any indemnity obligation owed to the City, pursue other remedies available to it by law. In the event that any breach of this Agreement by the City remains uncured after the applicable cure period, the Company shall have the right to either terminate this Agreement or file proceedings to compel specific performance by the City of its obligations hereunder.

6.14 Payment or Performance on Saturday, Sunday or Holiday. Whenever the provisions of this Agreement call for any payment or the performance of any act on or by a date that is a Saturday, Sunday, or legal holiday of the State of Missouri, then such payment or such performance shall be required on or by the immediately succeeding day that is not a Saturday, Sunday, or legal holiday of the State of Missouri.

6.15 **Incorporation of Recitals and Exhibits.** The recitals set forth above are true and correct and are incorporated herein by reference and made a part of this Agreement. Unless otherwise provided herein, all exhibits attached hereto are incorporated herein by reference.

6.16 **Conflict of Terms.** It is the intention of the City and Company that if any provision of this Agreement is capable of two constructions, one of which would render this provision valid and enforceable, then the provision shall have the meaning which renders it valid and enforceable.

6.17 **No Waiver.** No failure on the part of the City or Company to enforce any covenant or provision contained in the Agreement nor any waiver of any right under this Agreement shall discharge or invalidate such covenant or provision or affect the right of the other party to enforce the same in the event of any subsequent default.

6.18 **No Tax Representations or Warranties.** The parties hereby agree that neither the City nor Company is making any representations or warranties to the others about the tax treatment, implications or treatment of the transactions contemplated in this Agreement. The City does not agree to offset, credit or pay to the Company any amount for any loss of benefit anticipated by the Company in the event that any tax exemptions are denied by third parties or by an order of a court. In such event, the Company agrees to pay all taxes finally determined to be due and owing along with any applicable interest and penalties.

6.19 **Costs and Expenses; Costs of Issuance.** In consideration of this Agreement, and the City's agreements and covenants set forth herein, the Company hereby agrees to pay, concurrently with and contingent upon the issuance of the Bonds, the City's actual costs and expenses in connection with the issuance of the Bonds in accordance with the fee schedule/fee calculation schedule attached hereto as **Exhibit F**.

6.20 **Company Lender.** The parties hereto acknowledge that a third-party lender may provide Company capital for the transaction contemplated herein through purchasing the Bonds or, alternatively, providing financing to Company for Company's purchase of the Bonds. In such event, the City and Company each agree to work in good faith to structure the transactions contemplated herein to include such third-party lender in a manner and in a capacity not inconsistent with the terms of this Agreement.

6.21 **Termination.**

(a) At any time, the Company may, by giving written notice to the City, abandon the Project and terminate this Agreement if the Company determines in its sole and absolute discretion that the Project is no longer economically feasible.

(b) The City or the Company may terminate this Agreement in accordance with the provisions of Section 6.12 and Section 6.13 hereof.

(c) If termination of this Agreement occurs while the Project or any portion thereof is exempt from ad valorem taxes, within thirty (30) days of said termination and upon written notice of the amount(s) due, the Company shall make a PILOT payment to the City equal to (i) the pro rata amount payable pursuant to Section 3.2 hereof from January 1 of the year in question through the effective date of termination, plus (ii) the pro rata amount of taxes that would be due for the remaining portion of the year assuming the Project was placed on the tax rolls effective on the date of termination through December 31 of that year. Upon any termination of this Agreement by reason of Company default, the Company agrees to pay interest and penalties on all amounts due hereunder to the same extent as if such payments were taxes under Missouri law. Prior to termination of this Agreement, Company shall be responsible for all of City's reasonable fees and expenses, including reasonable attorneys' fees.

(d) Upon termination of this Agreement, the parties shall have no further rights or obligations hereunder except as are described in this Section 6.21 and except as may expressly survive termination, and the parties agree to work in good faith to unwind and terminate any prior agreements related to the Project, including any Bond Documents (in accordance with the terms of the Bond Documents). If this Agreement has been terminated and the Company fails to exercise its option to purchase the Project under the Lease prior to the end of the calendar year in which this Agreement is terminated, then, in addition to the amounts due to the City under Section 6.21 (c), the Company shall pay to the City on December 31 of each year subsequent to such termination in which the Project is, on January 1 of such year, still titled in the name of the City, the amount of taxes that would be due for such year assuming the Project was placed on the tax rolls effective on the date of termination.

6.22 Force Majeure. Notwithstanding any other provision of this Agreement to the contrary, neither the City nor the Company, as the case may be, nor any successor in interest, shall be considered in breach of or default in any of its obligations, including, but not limited to, the beginning and completion of construction, or progress in respect thereto, in the event of enforced delay in the performance of such obligations due to causes beyond its control, including but not limited to, strikes, lockouts, actions of labor unions, riots, storms, floods, litigation, explosions, acts of God or of the public enemy, acts of government, pandemic, infectious disease, insurrection, mob violence, civil commotion, sabotage, malicious mischief, vandalism, inability (notwithstanding good faith and diligent efforts) to procure, or general shortage of, labor, equipment, facilities, materials, or supplies in the open market, defaults of independent contractors or subcontractors (provided that remedies are being diligently pursued against the same), failures of transportation, fires, other casualties, epidemics, quarantine restrictions, freight embargoes, severe weather, inability (notwithstanding good faith and diligent efforts) to obtain governmental permits or approvals, or delays of subcontractors due to such causes, it being the purpose and intent of this section that in the event of the occurrence of any such enforced delays, the time or times for the performance of the covenants, provisions, and agreements of this Agreement shall be extended for the period

of the enforced delay (including any time reasonably required to recommence performance due to such enforced delay). This Section shall not apply to the obligation of the Company to make PILOT payments.

6.23. Insurance and Indemnification.

(a) Company releases the City and its redevelopment agencies (including its officials, officers, agents, and employees) from, and agrees that the City shall not be liable for, and indemnifies the City against, any liabilities, losses, damages (including attorneys' fees), causes of action, suits, claims, costs and expenses, demands and judgments of any nature imposed upon or asserted against the City or any of their officials, officers, agents, and employees disputing the representation and warranties made by Company in this Agreement.

(b) Company releases the City and its redevelopment agencies (including its officials, officers, agents, and employees) from, and agrees that the City shall not be liable for, and indemnifies the City against, any liabilities, losses, personal injuries, damages (including attorneys' fees), causes of action, suits, claims, costs and expenses, demands and judgments of any nature imposed upon or assessed against the City or any of their officials, officers, agents, and employees alleged to have occurred on the Project or associated with the design, development, construction or maintenance and operation of the Project.

(c) So long as the Project is owned by the City or the Company, all risk of loss with respect to the Project shall be borne by the Company.

(d) Company shall and shall also cause its contractors to maintain adequate general liability insurance and shall name the City as an additional insured under this insurance policy. The Company shall also, at its expense, maintain or cause to be maintained a policy of all risk casualty insurance insuring the Project owned by the City. Such policies of insurance shall name the City and such other persons designated by the City as additional insureds and shall each contain a provision that such insurance may not be canceled without at least thirty (30) days' advance written notice to the City. Duplicate copies or certificates of such policies bearing notations evidencing payment of premiums or other evidence of such payment shall be furnished to the City.

(e) Notwithstanding anything herein to the contrary, the Company's obligations set forth in this Section 6.23 shall not apply to any public improvements after such improvements are constructed and accepted by the City.

6.24. Governing Law. This Agreement shall be construed in accordance with and governed by the laws of the State of Missouri.

6.25. **Waiver.** The City and the Company acknowledge and agree that the amounts payable to the City hereunder shall constitute payments due the City under the Lease. The Company shall not be entitled to any extension of payment of such amounts as a result of a filing by or against the Company in any bankruptcy court.

6.26. **Electronic Storage of Documents.** The City and the Company agree that the transaction described herein may be conducted and related documents may be stored by electronic means.

6.27. **Employee Verification.** The Company will comply with and satisfy the requirements of RSMo 285.530, as amended, which requires (1) any business entity receiving tax abatement to, by sworn affidavit and provision of documentation, annually affirm its enrollment and participation in a federal work authorization program with respect to the employees working in connection with the business entity receiving tax abatement, and (2) every such business entity to annually sign an affidavit affirming that it does not knowingly employ any person who is an unauthorized alien in connection with the entity receiving tax abatement. The Company shall provide such affidavits and documentation to the City on the date of the Closing and at such times thereafter as required by the Bond Documents.

[Remainder of Page Intentionally Blank]

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

CITY OF INDEPENDENCE, MISSOURI

By: _____

Name: Zachary Walker

Title: City Manager

[SEAL]

ATTEST:

By: _____

Name: Rebecca Behrens

Title: City Clerk

**NORTHPOINT DEVELOPMENT, LLC,
a Missouri limited liability company**

By: _____

Name: Nathaniel Hagedorn

Title: Manager

EXHIBIT A

**PROJECT SITE
LEGAL DESCRIPTION**

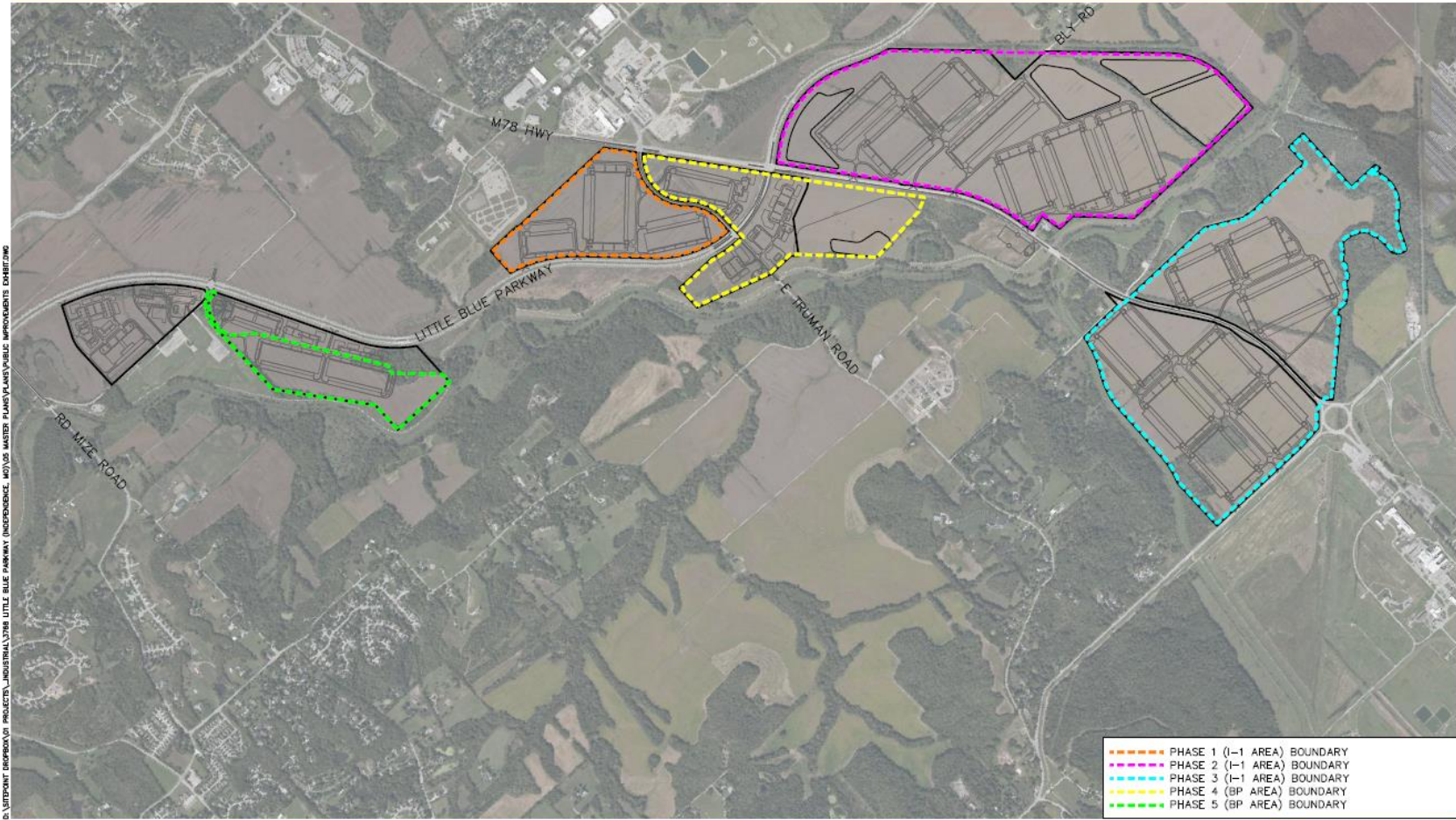
*The Project Site includes the property
identified by the following tax parcels:*

EXHIBIT B

MAP OF BUILDINGS AND PHASES

See following page

[**WILL THIS EXHIBIT BE
UPDATED TO ACCOUNT
FOR CHANGES DISCUSSED
WITH CITY?**)]



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EXHIBIT C

Intentionally Deleted

EXHIBIT D

PILOT SCHEDULE

	PILOT Payment Required Per Square Foot Per Building
Year 1	\$0.14
Year 2	\$0.14
Year 3	\$0.14
Year 4	\$0.14
Year 5	\$0.14
Year 6	\$0.14
Year 7	\$0.14
Year 8	\$0.14
Year 9	\$0.14
Year 10	\$0.14
Year 11	\$0.14
Year 12	\$0.14
Year 13	\$0.18
Year 14	\$0.23
Year 15	\$0.29
Year 16	\$0.38
Year 17	\$0.48
Year 18	\$0.62
Year 19	\$0.79
Year 20	\$1.01

*Each building in the Project shall be subject to PILOT payments in accordance with Section 3.2 of this Agreement. By way of example, the PILOT payment for a 200,000 square foot building – in Year 1 of the above schedule – equals \$28,000.

For all buildings for which Year 1 is 2026 or later, the PILOT payment shown for each year above shall be increased by 1.0% for each year after 2025. The percentage increase shall be applied independently to each line shown above in the PILOT Schedule to calculate the new amount for each such year, meaning that the increases do not compound from year to year. For example, a building for which Year 1 is 2028 would have a PILOT schedule with the PILOT payment for each year shown above increased by 3.0% and the PILOT Payment for Year 1 through Year 12 would be increased to \$0.1442, the PILOT Payment for Year 13 would be increased to \$0.1854, the PILOT Payment for Year 14 would be increased to \$0.2369, etc.

EXHIBIT E

SALES TAX EXEMPTION AGREEMENT

THIS SALES TAX EXEMPTION AGREEMENT (this “**Agreement**”) is entered into as of _____, 20__ by and between the **CITY OF INDEPENDENCE, MISSOURI**, a constitutional charter city and political subdivision duly organized and existing under the laws of the State of Missouri (the “**City**”) and [**COMPANY**], a _____ corporation (the “**Company**”).

RECITALS

WHEREAS, the City is authorized under the provisions of Article VI, Section 27 of the Missouri Constitution, as amended, and Sections 100.010 to 100.200, inclusive, of the Revised Statutes of Missouri, as amended (collectively, the “**Act**”), to purchase, construct, extend and improve certain projects (as defined in the Act) for the purposes set forth in the Act and to issue industrial development revenue bonds for the purpose of providing funds to pay the costs of such projects and to lease or otherwise dispose of such projects to private persons or corporations for manufacturing, commercial, warehousing and industrial development purposes upon such terms and conditions as the City shall deem advisable; and

WHEREAS, the City, in accordance with Section 100.050 of the Act, has prepared and approved a plan for industrial development (the “**Plan**”) for the Company, or an affiliate or affiliates thereof, with respect to a project consisting of acquiring, constructing, improving, equipping and installing _____ on approximately _____ acres of land in _____, Missouri located at _____, [CITY], Missouri (the “**Project**”); and

WHEREAS, the City intends to issue industrial development revenue bonds (the “**Bonds**”) for the purpose of financing the Project, which Bonds will be payable solely out of payments, revenues and receipts derived by the City from the lease of the Project to the Company, or an or an affiliate or affiliates thereof, from no other source; and

WHEREAS, the City has determined that it is desirable in connection with approval of the Plan to comply with the Company’s request to provide a project exemption certificate to the Company allowing the Company to acquire construction materials prior to the issuance of such Bonds on a basis exempt from sales and use tax; and

WHEREAS, the City and the Company desire to enter into this Agreement to describe the terms and conditions under which the project exemption certificate may be used by the Company;

NOW THEREFORE, for good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the parties to this Agreement hereby agree as follows:

SECTION 1. Exemption for Construction Materials. In order to obtain an exemption from state and local sales and use taxes for construction materials incorporated into the Project, the City will provide one or more project exemption certificates to or at the direction of the Company in connection with the acquisition of construction materials for the Project. Such project exemption certificates for construction materials shall not be used in connection with the acquisition of personal property other than construction materials. The Company agrees to immediately pay to the Missouri Department of Revenue all sales and use tax that otherwise would have been due with respect to the Project if the Bonds are not issued by _____, 20__ [Insert date no later than 3 months after the date of this Agreement.] (subject to any extension granted by the City in its sole discretion).

SECTION 2. Liability for Sales Determined to be Taxable. Upon a determination by the Missouri Department of Revenue that any purchase made using a project exemption certificate described herein was not exempt from sales or use tax, the Company shall pay to the Missouri Department of Revenue all sales or use taxes so determined to be due (whether by virtue of failure of the Company to comply with the terms of this Agreement or otherwise). The Company shall indemnify and defend the City and its respective officers, employees and agents against and from any and all causes of action or actions in law or equity, liens, claims damages, loss, costs or expenses of any nature whatsoever by any person or entity, arising out of the City's furnishing of the project exemption certificate to or at the direction of the Company. There shall be no reduction in payments in lieu of taxes relating to the issuance of Bonds for the Project for any sales or use taxes paid by the Company in connection with the Project.

SECTION 3. Enforcement. In addition to other remedies allowed by law or in equity, the City may bring an action for specific performance to enforce the provisions of this Agreement. In the event of litigation pertaining to the enforcement of this Agreement, the losing party shall pay all costs of litigation, including reasonable attorneys' fees.

[remainder of page intentionally left blank]

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

CITY OF INDEPENDENCE, MISSOURI

By: _____
Name:
Title: City Manager

[SEAL]

ATTEST:

By: _____
Name:
Title: City Clerk

[COMPANY],
a _____ corporation

By:

Name:

Title:

EXHIBIT F

BOND FEE SCHEDULE/FEE CALCULATION SCHEDULE

City Issuance Fee

Principal Amount of Bond Issue	Fee
Under \$1,000,000	\$4,000
\$1,000,000 to \$5,000,000	\$4,000 plus \$1 per \$1,000 over \$1,000,000
\$5,000,000 to \$10,000,000	\$8,000 plus \$0.75 per \$1,000 over \$5,000,000
\$10,000,000 to \$50,000,000	\$11,750 plus \$0.25 per \$1,000 over \$10,000,000
Over \$50,000,000	\$21,750 plus \$0.15 per \$1,000 over \$50,000,000

Bond Counsel Fee

Principal Amount of Bond Issue	Fee
Up to \$10 Million	0.35% of principal amount
\$10 to \$20 Million	\$35,000 plus 0.2% of principal amount over \$10 Million
\$20 to \$50 Million	\$55,000 plus 0.0333335% of principal amount over \$20 Million
\$50 to \$150 Million	\$65,000 plus 0.02% of principal amount over \$50 Million
\$150 Million and up	\$85,000 plus 0.0125% of principal amount over \$150 Million

The “**Payment Bond/Guaranty Premium**” shall equal 0.22% of the principal amount of the bond issue. The Payment Bond/Guaranty Premium shall only be payable in the event the Company elects to utilize the Payment Bond/Guaranty (as defined in Section 3.1(h) of this Agreement) for purposes of compliance with the provisions of Section 107.170 of the Revised Statutes of Missouri, as amended, to the extent applicable to the construction of the Project and the associated Chapter 100 bond transactions. If payable, the Payment Bond/Guaranty Premium shall be in addition to any applicable City issuance fees, bond counsel fees, and trustee fees as described in this Exhibit F.

Trustee Fees

As negotiated by the Company.

EXHIBIT G

PROJECT PUBLIC IMPROVEMENTS

In addition to the descriptions and timing set out below, all Project Public Improvements shall be constructed in compliance with the then-current City Code.

Phase 1 (to be completed prior to occupancy permit being granted for the first building in Phase 1)

1A - Full access intersection on Little Blue Parkway with permanent traffic signal per MoDOT EPG Section 902 and right and left turn lanes per MoDOT EPG 940.9.9 and 940.9.6 respectively. Materials per City of Independence specifications, geometrics per MoDOT EPG 200 and AASHTO Geometric Design.

1B – Right and left turn lanes on Truman Road at main entrance to Phase 1 per MoDOT EPG 940.9.9 and 940.9.6 Respectively. Materials per City of Independence specifications, geometrics per MoDOT EPG 200 and AASHTO Geometric Design.

Phase 2 (to be completed prior to occupancy permit being granted for the 7th or final building in Phase 2)

2A – Reconstruction of Bly Road to a 36 ft. wide collector street to align perpendicular to M78 Hwy per City of Independence standard details. Materials per City of Independence specifications, geometrics per MoDOT EPG 200 and AASHTO Geometric Design.

2B – Per MoDOT approval, Full access intersection on M78. Permanent signal type per MoDOT EPG section 902. Right and left turn lanes per MoDOT EPG 940.9.9 and 940.9.6 respectively.

2C – Full access intersection to be included and warranted in the Eastgate Commerce Center Traffic Impact Analysis. Permanent signal type per MoDOT EPG Section 902 and right and left turn lanes per MoDOT EPG 940.9.9 and 940.9.6 respectively. All existing nearby access points shall be removed. Materials per City of Independence specifications, geometrics per MoDOT EPG 200 and AASHTO Geometric Design.

2D – Per MoDOT approval, restripe M78 Hwy to accommodate dual west bound left turn lanes and modify traffic signal per MoDOT EPG 900. Material per MoDOT EPG 1000, 400, and 500.

2E – Per MoDOT approval, permanent full access intersection on M78 Hwy per MoDOT EPG Section 902 with right and left turn lanes per MoDOT EPG 940.9.9 and 940.9.6 respectively.

2F – Construction of a dog park with associated parking lot with necessary facilities such as water, power, lighting and fencing meeting applicable City of Independence Code. Full access points shall be aligned on both sides of roadway with no offsets or with MoDOT approved distance from full access point.

2G – Construction of a multi-use trail from Little Blue Trace Trail to Little Blue Parkway built per Jackson County Little Blue Trace specifications. Trail crossing at Bly Road shall have flashing warnings with Type 2 crosswalk per AASHTO Guide for the Planning, Design, and Operation of Pedestrian Facilities.

Phase 3 (to be completed prior to occupancy permit being granted for the 8th or final building in Phase 3)

3A - Per MoDOT approval, permanent full access intersection on M78 Hwy per MoDOT EPG Section 902 with right and left turn lanes per MoDOT EPG 940.9.9 and 940.9.6 respectively.

3B – Extension of a 12” water main from Little Blue River to M7 Hwy per City of Independence Water Department Standard Drawings.

North BP Phase (to be completed within one year following the completion of 250,000 square feet of building/Commercial Facility square footage in Phase 4 of the Project)

BP2A – Widening of Truman Road to five (5) 12 ft lanes with curb and gutter and match the surrounding pedestrian facilities with a 10-foot multi-use trail on the north and 5-foot sidewalk on the south. Materials per City of Independence specifications, geometrics per MoDOT EPG 200 and AASHTO Geometric Design.

BP2B – Per MoDOT approval, permanent traffic signal installation per MoDOT EPG Section 902 at M78 Hwy and Truman Road. Materials per MoDOT EPG 1000, geometrics per MoDOT EPG 200 and AASHTO Geometric Design.

BP2C – RESERVED.

BP2D - Widening of Truman Road from Little Blue Parkway to Truman Road bridge to five (5) 12 ft lanes with curb and gutter and match the surrounding pedestrian facilities with a 10-foot multi-use trail on the north and 5-foot sidewalk on the south. Materials per City of Independence specifications, geometrics per MoDOT EPG 200 and AASHTO Geometric Design.

South BP Phase (to be completed prior to occupancy permit being granted for the second building in Phase 5)

BP1A – Right turn lane added at Necessary Road and Little Blue Parkway intersection per MoDOT EPG 940.9.9 with materials per City of Independence specifications, geometrics per MoDOT EPG 200 and AASHTO Geometric Design.

BP1B – Right turn lane Per MoDOT EPG 940.9.9 with material per City of Independence specifications, geometrics per MoDOT EPG 200 and AASHTO Geometric Design.

BP1C – Necessary Road Overlay and stripping, materials per City of Independence specifications.

SEE MAP BELOW FOR DEPICTION OF PHASING AND IMPROVEMENT LOCATIONS



EXHIBIT H

ADJACENT PUBLIC IMPROVEMENTS

All Adjacent Public Improvements shall be completed in compliance with the then-current City Code.

Phase 1 (Little Blue/Jackson Drive) (construction shall commence prior to occupancy permit being granted for the first building in Phase 1)

1 – Relocation of southbound through lane from north of Jackson Drive to the north of I-70. Material per City of Independence specifications, geometrics per MoDOT EPG 200 and AASHTO Geometric Design. Traffic control per MoDOT EPG 900.

2A – Per MoDOT approval, full width right turn lane with shoulder. Material per MoDOT EPG 1000, 400, 500, geometrics per MoDOT EPG 200 and AASHTO Geometric Design. Traffic control per MoDOT EPG 900.

Phase 2 (I-70 Ramps and Access Control) (to be completed prior to occupancy permit being granted for the 7th or final building in Phase 2)

2B – Per MoDOT approval, dual left turn lanes by removing median and narrowing lanes. Material per MoDOT EPG 1000, 400, 500, geometrics per MoDOT EPG 200 and AASHTO Geometric Design. Traffic control per MoDOT EPG 900.

2C – Per MoDOT approval, ramp widening to receive southbound dual left turn. Material per MoDOT EPG 1000, 400, 500, geometrics per MoDOT EPG 200 and AASHTO Geometric Design. Traffic control per MoDOT EPG 900.

2D – Per MoDOT approval, full width dual left turn lane with shoulders and extend right turn lane with shoulder. Material per MoDOT EPG 1000, 400, 500, geometrics per MoDOT EPG 200 and AASHTO Geometric Design. Traffic control per MoDOT EPG 900.

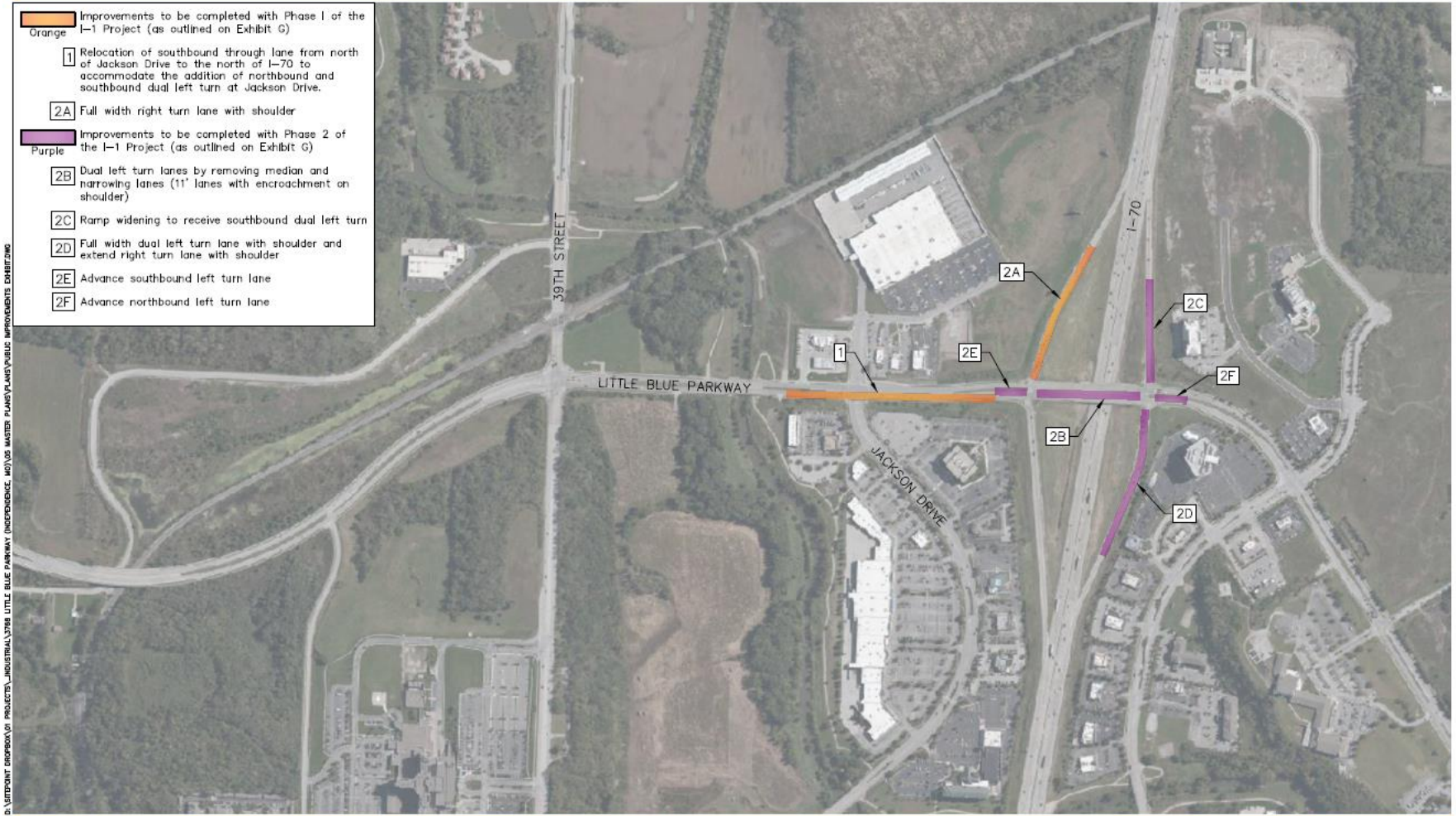
2E – Per MoDOT approval, advance southbound left turn lane. Material per MoDOT EPG 1000, 400, 500, geometrics per MoDOT EPG 200 and AASHTO Geometric Design. Traffic control per MoDOT EPG 900.

2F – Per MoDOT approval, northbound left turn lane. Material per MoDOT EPG 1000, 400, 500, geometrics per MoDOT EPG 200 and AASHTO Geometric Design. Traffic control per MoDOT EPG 900.

SEE MAP BELOW FOR DEPICTION OF IMPROVEMENT LOCATIONS

EXHIBIT H ADJACENT PUBLIC IMPROVEMENTS

2022.04.04
SCALE 1:500



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EXHIBIT I

IPL PUBLIC IMPROVEMENTS

The improvements will consist of one of the following two options, chosen in the discretion of the City, and subject to final approval and recommendations from the Southwest Power Pool as tapping the 161 kV falls within SPP's control and jurisdiction.

161 kV Substation (Standard Transformers)

This substation would consist of a single line, single breaker with a tie breaker arrangement for the 161 kV and a four-position ring bus configuration on the 69 kV. The 13.2 kV would be feed out from a switchgear lineup. The substation equipment makeup for this arrangement would consist of the following:

- 1 - 161/69 kV 67.2/69.6/112 MVA stepdown
- 2 - 69/13.2 kV 20/26.8/33.6 MVA transformers
- 1 - Control Enclosure w/ relays, etc.
- 1 - 13.2 kV Sheltered Aisle Metalclad Switchgear w/ breakers and relays
- 5- 161 kV circuit breakers
- 4 - 69 kV circuit breakers
- 1 - lot 161 kV disconnect switches
- 1 - lot 69 kV disconnect switches
- 1 - lot 161 kV steel structures
- 1 - lot 69 kV steel structures
- 1 - lot 161 kV overhead tubular bus
- 1 - lot 69 kV overhead tubular bus
- 1 - lot concrete foundations
- 1 - lot conduit, manholes, cable trench, etc.
- 1 - substation site along with civil work (estimating 5+ acres)

161 kV Substation (Non-standard Transformer)

This substation would consist of a single line, single breaker with a tie breaker arrangement for the 161 kV. There is no 69 kV bus. The 13.2 kV would be feed out from a switchgear lineup. The substation equipment makeup for this arrangement would consist of the following:

- 2* - 161/13.2 kV 20/26.8/33.6 MVA transformers (*purchase of an additional transformer as the City doesn't have a spare transformer for replacement should one become non-usable; transformer MVA sizing could be increased)
- 1 - Control Enclosure w/ relays, etc.
- 1 - 13.2 kV Sheltered Aisle Metalclad Switchgear w/ breakers and relays
- 5 - 161 kV circuit breakers
- 1 - lot 161 kV disconnect switches
- 1 - lot 161 kV steel structures
- 1 - lot 161 kV overhead tubular bus
- 1 - lot concrete foundations
- 1 - lot conduit, manholes, cable trench, etc.
- 1 - substation site along with civil work (estimating 3 - 5 acres)

The 161 kV transmission line would also be extended to the new substation location.

EXHIBIT J

LBP MILL AND OVERLAY IMPROVEMENTS

Little Blue Parkway mill and overlay (to be completed at the City's discretion as CID revenues are available to the City to fund all or a portion of such improvements, or as otherwise described in the Development Agreement)

Little Blue Parkway mill and overlay from project 2C on Exhibit G to Necessary Road. Materials per City of Independence specifications.

Little Blue Parkway mill and overlay from Necessary Road to Selsa Road. Materials per City of Independence specifications.

Little Blue Parkway mill and overlay from Selsa Road to north limits of project 1 on Exhibit H. Materials per City of Independence specifications.

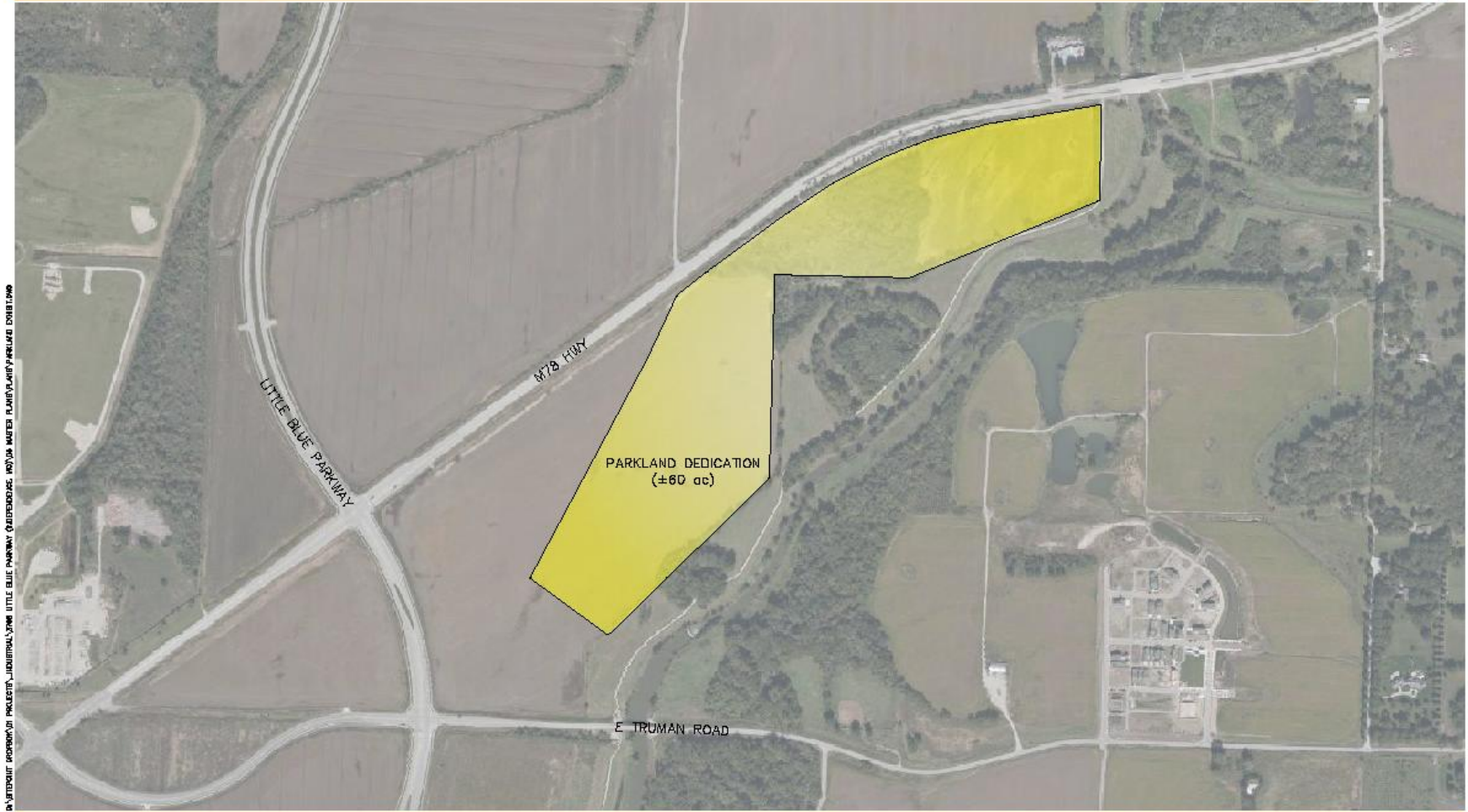
EXHIBIT K

PARKLAND

EXHIBIT K PARKLAND

EASTGATE COMMERCE CENTER

2022.04.27
SCALE 1:500



IN FUTURE PROPOSED PROJECTS, LITTLE BLUE PARKWAY (DEPENDS ON) MASTER PLANNING/PARKLAND DEDICATION

