

**AMERICAN ROYAL  
DEVELOPMENT AGREEMENT**

**THIS AMERICAN ROYAL DEVELOPMENT AGREEMENT** (this "Agreement") is made as of the \_\_\_\_ day of \_\_\_\_\_, 2017 (the "Effective Date") between the Unified Government of Wyandotte County/Kansas City, Kansas (the "UG") and the American Royal Association, a Missouri not-for-profit corporation ("Developer").

**RECITALS:**

A. On December 15, 2016, pursuant to the STAR Bond Act, K.S.A. 12-17,160 *et seq.*, as amended (the "STAR Bond Act"), the UG approved a STAR Bond project district (the "STAR Bond District") and identified a general development plan for the STAR Bond District (the "STAR Bond District Plan") by passage of Ordinance No. O-75-16, which STAR Bond District encompasses approximately five hundred fifty (550) acres of real property generally located at the southwest and northeast corners of the intersection of North 110<sup>th</sup> Street and Parallel Parkway in Wyandotte County, Kansas, which property is legally described on Exhibit 1 and generally depicted on Exhibit 2 attached hereto.

B. In accordance with the terms and conditions set forth herein, Developer proposes to design, develop, construct, complete and operate a major commercial entertainment and tourism destination within the STAR Bond District consisting of at least the following uses: first class livestock expo arenas and facilities (the "Core Royal"), a first class agricultural education center and museum (the "Agricultural Education Center"), certain barbecue-related uses for the American Royal barbecue contest (the "BBQ Uses"), and other family recreational tourism activities or compatible, related or appurtenant uses (collectively, the "Project"). The Project will be located on a portion of the real property within the STAR Bond District legally described on Exhibit 3 and generally depicted on Exhibit 4 attached hereto (the "Site").

C. On June 15, 2017, pursuant to the STAR Bond Act, the UG held a public hearing to consider the Northwest Speedway STAR Bond District STAR Bond Financing Project Plan (the "Project Plan"), and following the hearing, the UG approved and adopted the Project Plan by Ordinance No. O-\_\_-17 on October 26, 2017.

D. In order to pay for certain costs associated with the design, development and construction of the Project, Developer has requested additional public incentive financing from the UG. Specifically, Developer intends to submit a petition (the "CID Petition") to the UG requesting the formation of a community improvement district ("CID") to be imposed on certain real property generally depicted on Exhibit 5 on a portion of the STAR Bond District.

E. The UG has the authority to create a CID pursuant to K.S.A. 12-6a26 *et seq.*, as amended (the "CID Act") for the purpose of financing certain economic development related projects. Under the CID Act, the owners of fifty-five percent (55%) of the land (by land area and assessed value) within the boundaries of a proposed CID may petition the UG to request the creation of a CID and to impose an additional CID sales tax on the sale of tangible personal property at retail or the rendering or furnishing of services which are taxable within the boundaries of the CID in order to pay for or reimburse the costs of a portion of a CID project.

F. Upon submission of the CID Petition, the UG shall consider the creation of the CID through passage of an ordinance (the "CID Ordinance") pursuant to the CID Act; and if approved by the UG's Commission in its sole discretion, the legal description of the CID will be attached hereto as Exhibit 6. As contemplated in the CID Petition, the CID Ordinance, if approved, would call for the imposition of a CID sales tax of one percent (1%) within the CID (the "CID Sales Tax") to be used to pay for or reimburse certain CID Eligible Expenses (defined in Section 4.3 below) related to the CID.

G. If the UG's Commission shall approve the issuance of STAR Bonds for the Project (the "STAR Bonds"), then the UG and Developer will mutually cooperate to obtain the authorization of the Secretary to issue STAR Bonds for the Project in an amount sufficient to render Eighty Million Dollars (\$80,000,000) in net STAR Bond Proceeds within eighteen (18) months of the Effective Date (the "Bond Closing"), as the Bond Closing is further described in Section 5.1.

H. The parties agree that the Project is not financially feasible without the public-private partnership as set forth in this Agreement, and therefore the parties wish to enter into this Agreement to formalize their respective rights and obligations in regard to the Project.

## **AGREEMENT**

NOW, THEREFORE, in consideration of the agreements provided for herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the UG and Developer hereby agree as follows:

### **ARTICLE 1. DEFINITIONS AND INTERPRETATIONS**

1.1 Interpretation. In this Agreement, unless a clear contrary intention appears:

- (a) the singular number includes the plural number and vice versa;
- (b) reference to any Person includes such Person's successors and assigns but, if applicable, only if such successors and assigns are permitted by this Agreement, and reference to a Person in a particular capacity excludes such Person in any other capacity or individually;
- (c) reference to any gender includes each other gender;
- (d) reference to any agreement, document or instrument means such agreement, document or instrument as amended or modified and in effect from time to time in accordance with the terms thereof;
- (e) reference in this Agreement to any article, section, appendix, annex, schedule or exhibit means such article or section thereof or appendix, annex, schedule or exhibit thereto;
- (f) each of the items or agreements identified on the attached Index of Exhibits are deemed part of this Agreement to the same extent as if set forth herein;
- (g) "hereunder", "hereof", "hereto" and words of similar import shall be deemed references to this Agreement as a whole and not to any particular article, section or other provision thereof;
- (h) "including" (and with correlative meaning "include") means including without limiting the generality of any description preceding such term; and
- (i) relative to the determination of any period of time, "from" means "from and including" and "to" means "to but excluding."

1.2 Accounting Terms. Unless expressly otherwise provided, accounting terms shall be construed and interpreted, and accounting determination and computations shall be made, in accordance with GAAP.

1.3 Legal Representation of the Parties. This Agreement was negotiated by the parties hereto with the benefit of legal representation and any rules of construction or interpretation otherwise requiring this Agreement to be construed or interpreted against any party shall not apply to any construction or interpretation hereof or thereof.

1.4 Definitions. All capitalized terms used in this Agreement shall have the meanings ascribed to them in Annex 1 attached hereto and made a part hereof, or as otherwise provided herein.

**ARTICLE 2.**  
**APPOINTMENT OF DEVELOPER**  
**GENERAL AGREEMENT – UNDERTAKINGS OF DEVELOPER –**  
**DEVELOPMENT PLAN**

2.1 Undertaking of Developer. Developer hereby agrees, subject to the terms and conditions hereinafter provided, including, without limitation, those certain conditions set forth in Section 3.1 below, to develop, construct, complete, and operate the Project. The performance of all activities by Developer shall not be as an agent of the UG in any way, nor create a partnership or joint venture with the UG.

2.2 Development Plan. The UG and Developer hereby agree that the "Development Plan" for the Project shall be as described below in this Section 2.2, which is consistent with the STAR Bond District Plan, and, for purposes of an illustrative example only, as set forth on the site plan attached as Exhibit 7 hereto and made a part hereof. Exhibit 7 shall be updated by Developer at the time of the Bond Closing and from time to time thereafter for modifications to the Development Plan in accordance with Section 2.2(i). Subject to the terms and conditions of this Agreement (including, without limitation, Section 3.1(a) below), Developer covenants and agrees that all buildings, parking structures, and other improvements constituting the Project shall be developed, constructed, completed, and operated on the Site in substantial accordance and compliance with the terms and conditions of this Section 2.2 and the Development Plan, as it may be amended by Developer from time to time in accordance with Section 2.2(i) below. On and subject to the terms and provisions set forth in this Agreement (including, without limitation, the conditions set forth in Section 3.1(a) below), Developer shall have the sole right to, and shall be responsible for, design, construction, equipment, and completion of the Project, and shall operate and use (or cause to be operated and used) the Project in the manner described herein, all in substantial accordance with the terms of this Section 2.2 and all other Applicable Laws and Requirements. Subject to the terms and conditions of this Agreement, the parties further agree as follows:

(a) The Core Royal shall be developed, designed and constructed to include the following improvements, without limitation (the "Core Royal Improvements"):

(i) A first class main show arena with at least 164,000 square feet and approximately 5,000 permanent seats and another approximately 3,200 temporary seats for a variety of events which shall include livestock exhibitions, rodeos, prestigious horse shows, and horse competitions, and which may also be used for additional events, programming, sports, and other recreational and entertainment activities;

(ii) A first class livestock exhibition hall with at least 250,000 square feet of Improvements, including pens for approximately 2,000 animals for events which may include a ten (10) day livestock show in October of each year and similar events throughout the balance of the year; and

(iii) Approximately 5,000 square feet of office space, including a headquarters location for corporate offices of the American Royal.

(b) The Agricultural Education Center shall be developed, designed and constructed with at least 6,500 square feet of Improvements (which may be integrated within the Core Royal Improvements) for a first class agricultural museum that features indoor and outdoor exhibits, which shall be regularly updated in accordance with best industry standards and practices, an interactive museum-based learning environment, and meeting and professional training space (the "Agricultural Education Center Improvements"). The Agricultural Education Center will offer a unique, state-of-the-art, interactive food and agricultural learning experience to instill a higher level of knowledge about, and trust of, modern food processing and agricultural practices while honoring the rich history of food and agriculture in the U.S. and around the world.

(c) Developer also anticipates that the Project will provide excess land for contemplated future construction of an agricultural headquarters facility and potential expansion of the Core Royal, along with various retail and restaurant uses (the "Excess Land"); provided, however, that all such future construction and expansion on the Excess Land shall be: (i) contingent upon obtaining adequate financing and other feasibility measures, as determined by Developer in Developer's sole discretion; and (ii) in accordance with Section 2.2(i) below.

(d) The Project shall include surface parking Improvements located on the Site, and potentially outside of the Site, to provide parking necessary and in compliance with Applicable Laws and Requirements (the "Parking Improvements").

(e) Developer recognizes, stipulates and agrees that its exterior signage for the Site shall be subject to all Applicable Laws and Requirements, including any lighting and signage guidelines of the UG and any special use permit(s) granted by the UG's Board of Commissioners.

(i) The UG hereby agrees that it will, to the extent possible, expedite the consideration of Developer's proposed on-Site and off-Site signage and cooperate with Developer to reasonably accommodate Developer's signage requirements for the Site.

(ii) Subject to Applicable Laws and Requirements as set forth above, Developer shall have the right to: (x) sell, install and maintain in and on the interior (which interior signs will not require additional sign permit approvals) of the Core Royal and the Agricultural Education Center advertising panels, banners, flags, signs (including electronic signs) and other advertising; and (y) create, erect and maintain additional informational and directional signs of a non-advertising nature (collectively, the "Signs"); provided, however, that the Signs shall not advertise or include any illegal, immoral or overtly religious items or themes, or any references to sex or the sex industry (e.g., pornographic materials or media or condoms or other contraceptives), and the Signs may not advertise tobacco products or personal feminine hygiene products of any kind (e.g., sanitary napkins or tampons).

(f) Developer's plans for landscaping on the Site shall be considered in accordance with all Applicable Laws and Requirements.

(g) Developer's design, development and construction of the Project hereunder shall in all respects comply with the Plans and Specifications (as defined in Section 6.2).

(h) In addition, the Construction Documents and any other contracts for the design, development, acquisition, construction and completion of the Improvements, as well as all other contracts or agreements respecting the Project, shall comply and conform with the Transaction Documents (as defined in Annex 1) and all Applicable Laws and Requirements.

(i) The Development Plan described in this Section 2.2 and attached hereto as **Exhibit 7** shall not be amended or modified by Developer without the prior written consent of the UG, in the UG's sole discretion.

2.3 General Agreements. Subject to the terms and conditions of this Agreement, including (without limitation) the conditions set forth in Section 3.1(a) below, Developer agrees to promptly and completely perform each and all of its duties and obligations under this Agreement and the other Transaction Documents. The UG agrees to promptly and completely perform each and all of its duties and obligations under this Agreement and the other Transaction Documents.

### **ARTICLE 3. CONDITIONS**

#### 3.1 Conditions.

(a) Conditions. Neither party shall be obligated to proceed to the Bond Closing unless and until each of the following conditions and requirements has been satisfied in full:

(i) Due Diligence. The parties acknowledge that the financing and Development Plan for the Project are not final as of the Effective Date. Therefore, Developer shall have eighteen (18) months following the Effective Date in order to secure all necessary financing for the Project and (subject always to the terms of Section 2.2(i) above) to finalize the Development Plan (the "Due Diligence Period"). If Developer is not satisfied in all respects as to the financing and final Development Plan on or prior to the expiration of the Due Diligence Period, then Developer shall have the right, exercisable by written notice to the UG on or before the date which is thirty (30) days following the expiration of the Due Diligence Period, to terminate this Agreement.

(ii) Financing Plan. Reference is hereby made to the plan for financing of the Project (the "Financing Plan"), which Financing Plan is attached hereto as **Exhibit 8**, and which **Exhibit 8** includes – among other things – Developer's securing and providing evidence of immediately available private funds which, when added to the net STAR Bond Proceeds, are sufficient to complete the Project in accordance with the Total Project Budget. Developer shall provide evidence of such private funds in form and substance verifiable and approved by the UG's County Administrator in his reasonable discretion, in the form of: (a) cash funds held in a bank account; or (b) private equity, received charitable contributions (not pledges), grants and/or a closed loan from a financial institution that is ready, willing and able to provide construction draws for the Project, subject only to normal and customary draw conditions that are reasonably approved by the UG. The Financing Plan, as described herein and on **Exhibit 8** attached hereto, is hereby approved by the UG; provided, however, that any changes to the Financing Plan must be approved by the UG in writing and, in the event of any changes to the Financing Plan, such written approval of the UG shall be a condition precedent to the printing or distribution of any type offering statement or placement memorandum for the issuance of STAR Bonds.

(iii) STAR Bond Approval. In accordance with the STAR Bond Act, the STAR Bonds described herein must be authorized and approved by the applicable Government Authorities, including the Secretary of Commerce ("Secretary") for the State of Kansas (the "State"), which shall have approved the Total Project Budget (attached hereto as **Exhibit 9**), including the line items set forth therein and any other items required to be approved by the Secretary pursuant to the STAR Bond Act. Further, Developer must be satisfied that the amount of STAR Bonds issued will be in an amount sufficient to render Eighty Million Dollars (\$80,000,000) in net STAR Bond

Proceeds for deposit into the project account, or such lesser amount as Developer may decide is acceptable to Developer in its sole discretion.

(iv) Bond Counsel Opinions. The UG's bond counsel shall have issued a legal opinion in connection with the issuance, sale and delivery of the STAR Bonds contemplated herein.

(v) CID Approval. The governing body of the UG shall have approved the CID by approval of the CID Ordinance described in Recital F above, or Developer shall have waived this requirement.

(vi) Planning and Zoning. Developer, in its sole discretion, shall have satisfied itself as to the legal description of the Site and all planning and zoning aspects thereof and all costs of constructing the Project contemplated herein after accounting for the UG's planning and zoning requirements. Developer's satisfaction shall be based upon the approvals (if applicable), responses, and interpretations of the various codes and requirements of the various UG departments after such departments review the Plans and Specifications for the Core Royal and Agricultural Education Center submitted to such departments by Developer.

(vii) Industrial Revenue Bonds. Developer shall have satisfied itself that it will have an appropriate sales tax exemption for construction materials used in connection with construction of the Project through the issuance of industrial revenue bonds ("IRBs") as set forth in Section 4.7 below.

(viii) Property Tax Exemption. Developer shall have satisfied itself that the Site will be exempted from real property taxation either through ownership by Developer as a not-for-profit entity or transfer to an Affiliate that is also a not-for-profit entity, or through the issuance of IRBs, as set forth in Section 7.6 below.

(ix) Acquisition of the Site. Developer shall purchase and close on acquisition of the Site prior to or contemporaneous with the Bond Closing (provided that the property closing may occur in escrow, with only recording to follow on the following business day after the Bond Closing).

(x) Wyandotte County Exclusivity. Prior to the printing or distribution of any type offering statement or placement memorandum for the issuance of STAR Bonds, Developer shall enter into an agreement with the UG related to the barbecue competition hosted annually by Developer (the "BBQ Competition"), which agreement will provide that the BBQ Competition will be held exclusively in Wyandotte County, Kansas during the Term of this Agreement. The terms of the agreement regarding the BBQ Competition shall be incorporated into this Agreement by reference as set forth in Section 8.1(f) below.

(xi) Wyandotte County Fair Association Agreement. Prior to the printing or distribution of any type offering statement or placement memorandum for the issuance of STAR Bonds, Developer shall enter into a separate agreement with the Wyandotte County Fair Association (the "Fair") to allow the Fair to use the Core Royal and Agricultural Education Center Improvements for Fair events for several weeks each year, including without limitation, one (1) week between June 1<sup>st</sup> and August 31<sup>st</sup> for the Fair's primary event. The agreement between Developer and the Fair described in this subsection (a)(xi) shall specify the mechanics for scheduling the Fair's events at the Project, including the relative priority given to Developer's events, and such agreement shall provide that the Fair's use of the Core Royal and Agricultural Education Center Improvements shall be without payment of any rent, license fees or other fees or

charges for using the facilities, but may require the Fair to pay Developer's reasonable out-of-pocket costs incurred as a result of the Fair's use. The UG shall have a right to review and approve the agreement between Developer and the Fair prior to the printing or distribution of any type offering statement or placement memorandum for the issuance of STAR Bonds.

(xii) Wyandotte County School System Agreement. Prior to the printing or distribution of any type offering statement or placement memorandum for the issuance of STAR Bonds, Developer shall enter into a separate agreement with the Wyandotte County school system (the "Schools") to allow the Schools to use the Core Royal and Agricultural Education Center Improvements for training and events for several times each year (the specific number of times shall be agreed upon and memorialized in the agreement). The agreement between Developer and the Schools described in this subsection (a)(xii) shall specify the mechanics for scheduling the Schools' events at the Project, including the relative priority given to the Developer's events, and such agreement shall provide that the Schools' use of the Core Royal and Agricultural Education Center Improvements shall be without payment of any rent, license fees or other fees or charges for using the facilities, or any charges or fees to the Schools' students, but may require the Schools to pay Developer's reasonable out-of-pocket costs incurred as a result of the Schools' use. The UG shall have a right to review and approve the agreement between Developer and the Schools prior to the printing or distribution of any type offering statement or placement memorandum for the issuance of STAR Bonds.

(xiii) Agreement for UG Events. Prior to the printing or distribution of any type offering statement or placement memorandum for the issuance of STAR Bonds, Developer shall enter into a separate agreement with the UG to allow the UG to use the Core Royal and Agricultural Education Center Improvements for certain events during the Term of this Agreement. The separate agreement between Developer and the UG described in this subsection (a)(xiii) shall specify the mechanics for scheduling the UG's events at the Project, including the relative priority given to the Developer's events, and such agreement shall provide that the UG's use of the Core Royal and Agricultural Education Center Improvements shall be without payment of any rent, license fees or other fees or charges for using the facilities, but may require the UG to pay Developer's reasonable out-of-pocket costs incurred as a result of the UG's use.

(xiv) BPU. Prior to the printing or distribution of any type offering statement or placement memorandum for the issuance of STAR Bonds, Developer shall enter into a separate agreement with the Kansas City Board of Public Utilities (the "BPU") for utility rates for the Project and any incentives, which agreement shall be acceptable to the Developer in its sole discretion.

**(b)** Approval of the UG. Where approval of the UG is required for the various conditions set forth above in Section 3.1(a), such approval shall be granted or withheld by the County Administrator.

3.2 Termination. Upon Developer's termination of this Agreement pursuant to Section 3.1(a), this Agreement shall terminate, and, except for those provisions that are specifically set forth herein to survive termination of this Agreement, the parties hereto shall have no further duty or obligation hereunder. Without limiting the generality of the foregoing, Developer shall be solely liable and responsible for all costs and expenses incurred by it with respect to this Agreement and the transactions contemplated hereby, and except for the fees and expenses of the UG to be paid for by Developer pursuant to that certain Funding Agreement dated as of February 28, 2017 (the "Funding Agreement") and incurred by the UG as of the date of Developer's termination of this Agreement, the UG shall be solely liable and responsible for all costs and expenses incurred by it with respect to this Agreement and the transactions contemplated hereby.



3.3 Waiver of Conditions. If any of the conditions set forth in Section 3.1(a) are not satisfied and the UG and Developer nonetheless proceed with the Bond Closing as set forth in Section 5.1, both the UG and Developer shall be deemed to be satisfied as to the conditions in Section 3.1(a) and shall be deemed to have waived the same.

## **ARTICLE 4.**

### **FINANCING — SOURCE OF FUNDS**

4.1 Source of Funds. The Project will be funded in part by public incentives, including the STAR Bonds and CID Sales Tax Proceeds, as well as the Private Contribution (as defined in Section 4.8 below) and/or other private financing sources. Reference is hereby made to the Total Project Costs and the Total Project Budget attached hereto as **Exhibit 9**, and by this reference made a part hereof. The Total Project Costs shall be paid in accordance with the procedures and requirements set forth herein, subject to the terms and conditions hereof.

4.2 STAR Bonds. The parties hereby agree as follows:

(a) Amount of STAR Bonds. The Bond Closing shall yield an amount equal to Eighty Million Dollars (\$80,000,000) of net STAR Bond Proceeds, or a lesser amount which may be approved by Developer in its discretion, which STAR Bond Proceeds shall be disbursed to Developer pursuant to the terms of Section 4.5 below to pay for STAR Bond Costs incurred in connection with the Project. An aggregate amount equal to Eighty Million Dollars (\$80,000,000), or such lesser amount as may be approved by Developer in Developer's sole discretion, shall be disbursed to Developer pursuant to the terms of Section 4.5 below and **Exhibit 9** hereof and the STAR Bond Indenture to pay for eligible and legally permissible STAR Bond Costs agreed upon by the parties and identified on **Exhibit 9** hereof. Notwithstanding anything set forth herein to the contrary, Developer's approval of an amount of net STAR Bond Proceeds which is less than Eighty Million Dollars (\$80,000,000) shall be subject to, and conditioned upon Developer providing the UG with evidence of private financing to make up for any such shortfall, which evidence of private financing shall be provided to the UG in the same manner set forth in Section 3.1(a)(ii) above.

(b) Collection of Incremental Tax Revenues.

(i) Generally. The STAR Bonds shall be paid from the following revenues collected within the STAR Bond District, for a period of twenty (20) years commencing on [REDACTED], 2017 when the ordinance approving the Project Plan was adopted by the governing body of the UG, to the extent that such revenues annually exceed the Base Year Revenues (as defined below): (1) incremental State sales and use taxes which are imposed pursuant to K.S.A. 79-3601 *et seq.* and 79-3701 *et seq.* (the "State Collection"); and (2) subject to the limitations set forth in subsection (b)(ii) below, incremental local sales and use taxes received by the UG, which are imposed pursuant to K.S.A. 12-187 *et seq.*, limited to 1% of the current City of Kansas City sales tax rate of 1.625% (excluding the 0.25% UG EMS sales tax and the 0.375% UG public safety and neighborhood infrastructure tax) and the UG's share of the current County's 1% sales tax, which is currently 93.84% (with such 1% UG sales tax and the UG's share of the County's 1% sales tax referred to as the "Local Collection"); and (3) as applicable, and subject to the limitations set forth in subsection (b)(ii) below, proceeds from transient guest taxes levied within the STAR Bond District (the "TGT Collection") (the State Collection, the Local Collection, and the TGT Collection are collectively referred to herein as the "Incremental Tax Revenues"). For purposes hereof, the term "Base Year Revenues" means the aggregate amount of the State Collection, the Local Collection and the TGT Collection for the twelve (12) month period preceding December 1, 2016.

(ii) Limitations. The State Collection shall include revenues received from all taxpayers within the STAR Bond District, but notwithstanding anything set forth herein to the contrary: (A) the Local Collection shall be limited to only the revenues received from the Core Royal, the Agricultural Education Center, the BBQ Uses (if and to the extent that the BBQ Uses or sales are located within the boundaries of the STAR Bond District or as otherwise permitted by the appropriate Government Authorities and all Applicable Laws and Requirements), and from any and all prospective development on the real property within the STAR Bond District having a tax roll description of Wyandotte County Parcel No. 949106 (the "KS&F Property"); and (B) the TGT Collection shall exclude revenues received from any hotels within the STAR Bond District located north of Parallel Parkway (in the portion of the STAR Bond District shaded in yellow on Exhibit 2), and shall also exclude the revenues received from any convention center hotel and related facilities (if any) constructed within the STAR Bond District. The term "related facilities" as it pertains to the convention center hotel in the prior sentence, shall be deemed to mean hotel and convention center uses and other uses that are related or ancillary to the convention center, including without limitation, exhibition and auditorium space, hotels (including extended stay hotels) and normal hotel services, related food and beverage uses and ancillary retail supporting those uses (which may be located in one building or multiple buildings), but not including unrelated retail or restaurant uses on adjacent or nearby sites within the STAR Bond District.

(c) STAR Bond Revenue Fund; Disbursements. The UG shall collaborate with the State and the STAR Bond Trustee to establish and maintain a separate fund and account which will be described and defined in the indenture and other documents related to the issuance of STAR Bonds (the "Bond Documents") and which, for purposes of this Agreement, shall be referred to as the "STAR Bond Revenue Fund." All Incremental Tax Revenues collected in the STAR Bond District in the manner described above in Section 4.2(b) shall be deposited into the STAR Bond Revenue Fund. Following the Bond Closing, disbursements from the STAR Bond Revenue Fund shall be as set forth in this Agreement, and subject to the terms and conditions set forth in the Bond Documents.

(d) The 50% Limitation. Developer hereby understands and agrees that, in accordance with K.S.A. 12-17,164(b), in no event shall STAR Bond Proceeds be disbursed to Developer in an amount greater than fifty percent (50%) of the total cost of the Project. Developer and the UG hereby agree that the STAR Bond Proceeds available for disbursement to Developer to pay for STAR Bond Costs at any given time shall be limited to an amount which is equal to the amount of Total Project Costs which have been paid by Developer for the Project from the Private Contribution, excluding the costs for land, legal fees, soft costs and/or construction period interest. In other words, the Total Project Costs are to be paid on a 50/50 basis between Developer's Private Contribution and the available STAR Bond Proceeds, and there shall not at any time during the Term be more Total Project Costs paid with STAR Bond Proceeds than the amount of Total Project Costs paid by Developer's Private Contribution (the "50/50 Limitation"). By way of illustrative example of the 50/50 Limitation, if at a given point in time, Developer has incurred Total Project Costs (including any STAR Bond Costs) to date of \$200, then Developer's maximum disbursement from STAR Bond Proceeds may not exceed \$100. However, the parties further understand and agree that if at a given point in time, Developer has incurred \$225 of Total Project Costs, of which \$125 are STAR Bond Costs and \$100 are paid from the Private Contribution, then (i) at that particular time, no more than \$100 of STAR Bond Proceeds may be disbursed to Developer to pay for STAR Bond Costs, but (ii) if Developer later incurs an additional \$25 of Total Project Costs which are paid with the Private Contribution, then \$25 of additional STAR Bond Proceeds may be disbursed to Developer to pay for the remaining \$25 of STAR Bond Costs. Payment of Total Project Costs from the Private Contribution shall be evidenced to the UG as set forth in Section 4.5. Notwithstanding the exclusion of the costs for land, legal fees, soft costs and/or construction period interest from the Private Contribution as set forth above, if and to the extent that the exclusion of such items results in a final budget for Total Project Costs at Bond

Closing that does not have at least Eighty Million Dollars (\$80,000,000) of private costs (so that the 50/50 Limitation would necessarily result in Developer's receipt of less than Eighty Million Dollars (\$80,000,000) of STAR Bond Proceeds), then the UG and Developer will agree upon a proportionate amount of such (otherwise) excluded costs to be included for purposes of the 50/50 analysis contemplated herein.

(e) Shortfalls. Provided that a Bond Closing occurs as described herein, Developer hereby understands and agrees that all other costs of the Developer in performing under this Agreement shall be the sole responsibility of the Developer and such costs will be funded as and when needed by the Developer. In the event that Pay-As-You-Go CID Financing (defined below in Section 4.3(c)) and the net STAR Bond Proceeds are in any way insufficient in any respect to pay all CID Costs and STAR Bond Costs, and to complete any of the Improvements included therein, lien free, then Developer agrees that it will, from time to time as necessary, pay (or cause to be paid) any and all costs of said Improvements, free of mechanics liens.

(f) Excess STAR Bond Proceeds. In the event that the STAR Bond Proceeds allocated by the Total Project Budget for payment of the Developer's STAR Bond Costs (a) exceed the legally eligible STAR Bond Costs, or (b) are equal to or greater than fifty percent (50%) of the Private Contribution, and the Improvements included therein have been certified as fully completed and paid for, free of mechanics liens, such excess shall be held and applied pursuant to the STAR Bond Indenture.

(g) Costs Required to be STAR Bond Eligible. Notwithstanding anything in this Agreement to the contrary, in all events when this Agreement shall provide for the payment or reimbursement of any cost with STAR Bond Proceeds, such payment or reimbursement shall be conditioned upon such costs being (i) STAR Bond Costs, and (ii) legally permissible pursuant to the terms and conditions of the STAR Bond Act.

(h) Statutory STAR Bond Requirements. Developer and the UG agree that they will comply with all reasonable requirements including any statutory requirements, associated with the issuance, sale, purchase and delivery of the STAR Bonds and shall cooperate with one another to fully effectuate the terms, distributions, and payments as detailed herein and in the Financing Plan, incorporating the Total Project Budget. Developer further understands and agrees that there is a statutory cap on STAR Bond interest rates, which shall apply to the STAR Bonds described by this Agreement and the Indenture.

(i) Costs of Issuance. The parties agree that the principal amount of the STAR Bonds actually issued may be more than the amounts stated in the Total Project Budget to cover other costs and expenses related to the issuance of the STAR Bonds, including but not limited to costs of issuance and capitalized interest, and that, subject to Applicable Laws and Requirements and this Agreement, STAR Bonds will be issued in an amount to render Eighty Million Dollars (\$80,000,000) in net STAR Bond Proceeds for deposit into the STAR Bond Revenue Fund to pay for STAR Bond Costs incurred by Developer in connection with the Project, or such lesser amount as may be approved by Developer in its sole discretion.

(j) Prepayment of the STAR Bonds. The STAR Bonds may be prepaid pursuant to prepayment provisions to be established in the Bond Documents and which are satisfactory to the UG in its sole discretion.

(k) STAR Bond Payment Applications. Notwithstanding anything herein to the contrary, the signature of both the Developer and the UG shall be required on all pay applications submitted by the Developer to the STAR Bond Trustee for any payment from the STAR Bond Proceeds. All disbursements of the STAR Bond Proceeds shall be pursuant to the Transaction Documents.

(l) Issuance of Obligations. The terms and conditions of this Section 4.2(l) (including the conditions set forth in subsection (iv) below) shall govern and control the issuance of the STAR Bonds.

(i) Terms and Interest Rate. The UG hereby agrees to consult with the Developer regarding the amount of STAR Bonds to be issued, and the terms and interest rate or rates determined by market conditions at the time of issuance, particularly if the marketing conditions are projected to render an amount less than Eighty Million Dollars (\$80,000,000) in net STAR Bond Proceeds. Ultimately, however, any such STAR Bonds shall be issued in an amount, on terms and at an interest rate or rates determined by market conditions at the time of issuance and under terms and conditions deemed acceptable by the UG in its sole discretion, and approved by the Secretary; provided, however, that, notwithstanding the foregoing or anything in this Agreement to the contrary, if the Developer is not satisfied in all respects as to the amount of STAR Bonds to be issued, and the terms and interest rate or rates of the STAR Bonds to be issued, then Developer may, prior to the Bond Closing, terminate this Agreement upon written notice to the UG. Upon the Developer's termination of this Agreement pursuant to this Section 4.2(l)(i), this Agreement shall terminate, and, except for those provisions that are specifically set forth herein to survive termination of this Agreement, the parties hereto shall have no further duty or obligation hereunder.

(ii) Underwriters. The underwriter(s) for any STAR Bonds shall be selected by the UG. The UG shall solicit input from Developer as it relates to all components of the issuance of STAR Bonds in an effort to maximize the size of the issuance, but the UG shall have the right, power and authority, to determine the amount, terms, interest rate or rates and other terms and conditions of the STAR Bonds, subject to the approval of the Secretary and Section 4.2(l)(i) above.

(iii) No Guaranty or Credit Enhancement. The UG shall not be required, in any way, to guaranty or lend its credit to secure the STAR Bonds.

(iv) Conditions for Issuance. Issuance of any STAR Bonds shall be conditioned upon Developer complying with the terms of this Agreement and each of the following conditions:

(1) Developer shall provide such documentation to the UG as is required by the underwriter to demonstrate that the Incremental Tax Revenues contemplated herein are sufficient to pay debt service on the STAR Bonds amortized through the Term of this Agreement with a coverage factor that the underwriter determines is necessary and that is agreed to by Developer and the UG.

(2) The terms of the STAR Bonds, including but not limited to limitations on sales and transfers to sophisticated investors only, shall be acceptable to the UG in its sole discretion.

(3) The underwriter shall hold the STAR Bonds in its own account or be responsible for marketing and selling the STAR Bonds, and the UG shall be under no obligation to issue STAR Bonds if such STAR Bonds are not marketable after reasonable effort by the underwriter.

(4) The Kansas Attorney General shall approve the transcript of proceedings relating to the STAR Bonds as required by Applicable Laws and Requirements.

(5) Bond counsel selected by the UG shall provide to the UG an opinion to the effect that the STAR Bonds have been validly issued under Kansas law and, if

applicable, the interest on the STAR Bonds is exempt from Kansas and federal income taxation, subject to the standard exceptions.

(v) Bond Requirements. Developer and the UG agree that they will comply with all reasonable requirements, including any statutory requirements, associated with the issuance, sale, purchase and delivery of any STAR Bonds. Without limiting the generality of the foregoing, the parties hereby recognize and agree that K.S.A. 12-17,176 of the STAR Bond Act requires an annual audit by a certified public accountant of the use of the STAR Bond Proceeds by the UG. Developer hereby agrees that it shall cooperate with any such annual audit (and with one (1) comprehensive audit following completion of construction of the Project if and to the extent required by the UG) and Developer shall reimburse the UG for all of the costs and expenses associated with such audits.

(vi) Discretion of the UG's Board of Commissioners. Developer understands and agrees that the UG cannot bind governing bodies of the UG regarding the authorization, issuance, sale or delivery of STAR Bonds and that nothing contained herein or in the Financing Plan shall in any way bind the UG's Board of Commissioners to accept or reject any proposal to authorize, issue, sell, deliver, or refinance the STAR Bonds, which decision shall unconditionally remain with such Board of Commissioners in accordance with Applicable Laws and Requirements. Among other things, Developer hereby understands and agrees that the UG shall have the right to approve the interest rate and the other terms of the STAR Bonds.

(vii) Placement of STAR Bonds. The parties agree that, subject to the approval of the UG, the STAR Bonds may be publicly or privately placed and sold only to (i) "qualified institutional buyers," or (ii) "accredited investors" as such terms are defined by the Securities Exchange Commission ("Qualified Third Parties") who execute and deliver investor letters in the form required by the STAR Bond Indenture.

4.3 CID. It is contemplated by the parties that the Project shall be funded in part by CID Sales Tax Proceeds. Developer has identified certain Project Costs which may be reimbursed with CID Sales Tax Proceeds if and to the extent that such Project Costs are agreed-upon by the parties and identified on **Exhibit 9** attached hereto (the "CID Eligible Expenses") and eligible for payment or reimbursement pursuant to the CID Act. In connection with the CID Sales Tax, the Parties hereby agree as follows:

(a) CID Sales Tax. The UG hereby agrees that the CID Eligible Expenses may be financed and reimbursed with Pay-As-You-Go CID Financing (defined below in Section 4.3(c)) from the imposition of the CID Sales Tax in the amount of one percent (1%) on the sale of tangible personal property at retail or rendering or furnishing of services which are taxable pursuant to the Kansas Retailers' Sales Tax Act (K.S.A. 79-3601 *et seq.*) from only those revenues received from the Core Royal, the Agricultural Education Center, and the BBQ Uses (if and to the extent that the BBQ Uses are located within the CID or as otherwise permitted by the appropriate Government Authorities and all Applicable Laws and Requirements). Developer agrees to provide to the DOR a list of tenants within the CID within the timeframes required by the DOR, so that the DOR can notify tenants within the CID of their requirement to collect a CID Sales Tax. At the time the list of tenants is provided to the DOR, Developer shall also provide a copy to the UG.

(b) CID Sales Tax Fund. During the Term, all CID Sales Tax Proceeds generated within the CID and received by the UG from the DOR shall be deposited into the CID Sales Tax Fund, which shall be established and administered by the UG in compliance with the laws of the State and this Agreement.

(c) Pay-As-You-Go CID Financing. The Parties hereby agree that the proceeds from the CID Sales Tax shall be disbursed by the UG to Developer quarterly from the CID Sales Tax Fund on a pay-as-

you-go basis ("Pay-As-You-Go CID Financing") to reimburse Developer for the CID Eligible Expenses, if and to the extent that: (1) there are CID Sales Tax Proceeds in the CID Sales Tax Fund, (2) Developer has fully satisfied all of the conditions as set forth in Section 4.4 below, and (3) the Term has not yet expired. The Parties further agree as follows:

(i) The CID Sales Tax available to Developer for reimbursement of CID Eligible Expenses identified on Exhibit 9 shall be limited as follows: the amount of CID Eligible Expenses reimbursed to Developer from the CID Sales Tax through Pay-As-You-Go CID Financing shall, when added to the net STAR Bond Proceeds, in no event exceed Eighty Million Dollars (\$80,000,000) (the "CID Cap"). The CID Cap shall, for all purposes set forth herein, operate as a cap on the use of CID Sales Tax for reimbursement of the CID Eligible Expenses for the initial construction of the Project as described on Exhibit 9, including without limitation, any construction period interest and financing costs – which amounts, if any, shall effectively reduce the CID Cap. However, the parties agree that notwithstanding the CID Cap, Developer may nonetheless receive Pay-As-You-Go CID Financing beyond the CID Cap for the Term of this Agreement for ongoing maintenance and operation of the Project if and to the extent such maintenance and operation expenses are approved and eligible under Section 12-6a27(m) of the CID Act.

(ii) The CID Sales Tax shall be collected within the CID for a period that commences on the date that the CID Sales Tax is first imposed within the CID up to and concluding upon that date which is twenty-two (22) years from the date that the CID Sales Tax is first imposed (the "CID Collection Period"). At the end of the CID Collection Period, the parties understand and agree that the CID shall thereafter terminate, the CID Sales Tax shall terminate and no longer be levied or collected within the CID, and the UG shall promptly take any action required to so terminate the CID and the CID Sales Tax.

(iii) Developer shall not receive any reimbursements from Pay-As-You-Go CID Financing unless and until the conditions precedent set forth in Section 4.4 have been fully satisfied or waived by the UG, upon which satisfaction or waiver Developer shall be reimbursed from Pay-As-You-Go CID Financing as provided in this Agreement.

(d) CID Bonds. Developer hereby understands and agrees that nothing in this Agreement shall in any way obligate the UG to issue CID bonds or other CID obligations to reimburse Developer for the CID Eligible Expenses; provided, however, that the Developer may request, and the UG will consider, in its sole and absolute discretion: (i) the issuance of special obligation bonds to reimburse the Developer for CID Eligible Expenses for the initial construction of the Project as described on Exhibit 9 up to an amount equal to the CID Cap; and/or (ii) a pledge of the CID Sales Tax Proceeds as an additional source of revenues to pay the STAR Bonds up to an amount equal to the CID Cap.

(e) Payment of CID Administrative Fee. A portion of CID Sales Tax from the CID shall be used to pay an administrative fee in an amount equal to one percent (1.0%) of the CID Sales Tax Proceeds actually received by the UG from the DOR (the "CID Administrative Fee"), and Developer hereby understands and agrees that such CID Administrative Fee shall be withheld by the UG prior to depositing the balance of the CID Sales Tax Proceeds into the CID Sales Tax Fund. As and when there are sufficient CID Sales Tax revenues from the CID to pay the CID Administrative Fee, such CID Administrative Fee shall have first priority to available CID Sales Tax Proceeds.

4.4 Conditions Precedent to Payment or Reimbursement from STAR Bonds or Pay-As-You-Go CID Financing. Developer hereby understands and agrees that it shall not receive any payments or

reimbursements for Project Costs from STAR Bonds or Pay-As-You-Go CID Financing, unless and until the conditions precedent set forth below have been fully satisfied or waived by the UG in its sole discretion:

- (a) The Bond Closing has occurred;
- (b) In accordance with Section 4.5 hereof, the UG has approved the Certificate of Expenditure for the Project Costs sought to be reimbursed;
- (c) Developer shall be in full compliance with the terms and conditions of this Agreement and shall not be in default hereunder, nor shall there be conditions, actions or omissions of Developer which will, with the passage of time, become occurrences of default hereunder; and
- (d) With respect to reimbursements from Pay-As-You-Go CID Financing only (and not for reimbursements or payments from STAR Bonds, including any CID Sales Tax Proceeds pledged to the STAR Bond issuance pursuant to Section 4.3(d) above), the Core Royal Improvements and the Agricultural Education Center shall be Substantially Completed.

4.5 Certificates of Expenditure for Reimbursement from Net STAR Bond Proceeds and CID Sales Tax Proceeds. The parties hereby agree as follows:

(a) Certificate of Expenditure. In order to receive payment or reimbursement for Project Costs from net STAR Bond Proceeds or Pay-As-You-Go CID Financing, Developer shall submit a certificate of expenditure in the form attached hereto as **Exhibit 10** (each, a “Certificate of Expenditure”) attesting to the expenditure of the Project Costs in accordance with the procedure set forth below. Developer may submit a separate Certificate of Expenditure each month, but no more than one time per month, for each of the STAR Bond Revenue Fund and CID Sales Tax Fund. Additionally, Developer shall require that no transferee, purchaser, or lessee of any portion of the Site otherwise provide Certificate(s) of Expenditure to the UG, except through Developer or except as otherwise approved by the UG and Developer.

(b) Procedures for Certification of Expenditures. The UG or a representative of the UG shall review the Certificate(s) of Expenditure to be made in connection with the Project Costs for approval or denial of the same as follows:

(i) Developer shall submit to the UG a Certificate of Expenditure setting forth the amount for which certification is sought and identification of the relevant Project Costs and the appropriate source of public financing proceeds (STAR Bond Revenue Fund or CID Sales Tax Fund) for payment of such Project Costs. Developer shall certify to the UG that it shall only use the STAR Bond Proceeds and/or the CID Sales Tax Proceeds for the designated Project Costs described in the Certificate of Expenditure and that such proceeds shall not be commingled with other sources or uses.

(ii) The Certificate of Expenditure shall be accompanied by an accounting of the Private Contribution made to date, along with supporting documentation therefor, and the amount of all STAR Bond Proceeds and CID Sales Tax Proceeds received by Developer to date.

(iii) The Certificate of Expenditure shall be accompanied by bills, contracts, invoices, lien waivers and such other evidence as the UG may require to document appropriate payment or pending payment.

(iv) The Certificate of Expenditure shall be accompanied by a report regarding any LBE/MBE/WBE participation associated with the costs requested for payment or reimbursement in the Certificate of Expenditure.

(v) The UG reserves the right to have its engineer or other agents, consultants or employees inspect all the items set forth in subsection (ii) above as reasonably necessary to determine that the expenses therein are valid, eligible and properly incurred and constitute STAR Bond Costs and/or CID Eligible Expenses (as the case may be).

(vi) The UG shall have sixty (60) calendar days after receipt of any Certificate of Expenditure from the Developer (except for a Certificate of Expenditure that includes the last five percent (5%) of the STAR Bond Proceeds, which may take as long as reasonably necessary to verify compliance with LBE/MBE/WBE participation as described in Section 8.2 and **Exhibit 13** hereof) to review and respond by written notice to Developer. If the UG disapproves of the Certificate of Expenditure, the UG shall notify the Developer in writing of the reason for such disapproval within such sixty (60) day period, in which event the Developer shall have the right to revise and re-submit the Certificate of Expenditure to address the UG's reason for disapproval, and the UG will review and approve the revised Certificate of Expenditure within thirty (30) calendar days after receipt of the re-submitted Certificate of Expenditure. Approval of any Certificate of Expenditure will not be unreasonably withheld, conditioned, or delayed.

(c) **Third Party Oversight/Management.** The parties hereby understand and agree that the process to approve Certificates of Expenditure and properly disburse the STAR Bond Proceeds and CID Sales Tax Proceeds is important to the State, the UG and the Developer for various reasons. Accordingly, the parties hereby understand and agree that the UG may retain outside third party representatives to manage and/or provide oversight to this process, with the prior written approval of Developer, which approval shall not be unreasonably withheld, conditioned or delayed, following Developer's receipt of a cost proposal from such outside third party representatives, and Developer hereby agrees to fully cooperate with any such third party representatives in this process and to pay the UG's costs for retaining such third parties.

4.6 **Line Items.** The parties hereby agree that any increase in line item amounts in the columns labeled "STAR Bond Costs" or "CID Eligible Expenses" in the Total Project Budget as set forth on **Exhibit 9** may be made by Developer as long as: (a) no such increase represents more than twelve percent (12%) change per line item, and (b) Developer provides the County Administrator's office with prior written notice of such change. No increase will be effective without such notice to the County Administrator's office and a modified Total Project Budget reflecting such change. The parties further agree that no changes shall be permitted within any of the "Soft Costs" or "Contingency" line items in the STAR Bond Costs or CID Eligible Expenses columns on the Total Project Budget set forth on **Exhibit 9**.

4.7 **IRBs.** Subject to all Applicable Laws and Requirements and subject further to compliance by Developer with the UG policy for the issuance of industrial revenue bonds ("**IRBs**"), the parties hereby agree that the Developer may use IRB financing to obtain an exemption on sales taxes for construction materials, equipment and furnishing for the Project. The parties hereby understand and specifically agree that such IRB financing shall not be used for abatement of ad valorem taxes, unless and except for the particular circumstances specifically provided for in Section 7.6 of this Agreement and subject to a vote of the UG's Board of Commissioners in their sole discretion. Further, Developer understands and agrees that any such IRBs for a particular component of the Project shall be redeemed and paid in full within twelve (12) months of the completion of such Project component's construction. Unless otherwise agreed by the parties, no IRBs for the Project pursuant to this Section 4.7 shall be issued more than three (3) years after the Effective Date. Developer shall pay all costs in connection with the issuance of the IRB financing, including without limitation, any IRB fees and costs of issuance.



4.8 Private Contribution. Developer shall contribute, or procure through third party partnerships, no less than Eighty Million Dollars (\$80,000,000) of private capital to construct the Project (the "Private Contribution"). The parties acknowledge and agree that the Private Contribution may be phased, but such phasing may limit the availability of STAR Bond Proceeds and/or CID Sales Tax Proceeds to Developer from time to time as set forth in Section 4.2(d) above. In the event that the STAR Bond Proceeds and CID Sales Tax Proceeds contemplated by the Total Project Budget for payment of the Total Project Costs are in any way insufficient in any respect to pay all such Total Project Costs, then Developer agrees that it will, from time to time as necessary, pay any and all of such shortfall and will complete the Improvements, lien free.

4.9 Reimbursement Priority. All payments or reimbursements of whatever kind from the UG to the Developer under this Agreement shall be made in the following priority:

(a) First, to the UG, to the extent permitted by Applicable Laws and Requirements, for: (i) all amounts due or owing (including all taxes, fees, or fines), including any interest and penalty thereon, by the Developer to the UG under this Agreement, under any other agreement with the UG, or under any Applicable Laws and Requirements; (ii) all costs incurred (and any interest or penalty thereon) by the UG in entering into, operating under, or enforcing this Agreement, including without limitation the CID Administrative Fee, and all costs of pursuit of Developer; and (iii) indemnification of the UG for any indemnity obligation owed by Developer to the UG, and any interest or penalty thereon; and

(b) Second, to the Developer for actual amounts to which the Developer is entitled by the other provisions of this Agreement.

## **ARTICLE 5. CLOSING**

5.1 Bond Closing. The term "Bond Closing" as used in this Agreement shall mean the date on which the STAR Bonds are issued, sold, and delivered publicly or privately. Developer shall provide written notice to the UG prior to the proposed Bond Closing date, and shall use commercially reasonable efforts to do so at least three (3) weeks in advance thereof. It is hereby recognized, stipulated and agreed by Developer and the UG that neither party shall have any duty to proceed with the Bond Closing or to do or perform any of the duties or obligations to be performed at the Bond Closing unless and until each and all of the conditions described in Article 3 have either been satisfied or waived in accordance with the applicable provisions of Article 3. Notwithstanding anything herein to the contrary, the Bond Closing must occur on or before that date which is eighteen (18) months from the Effective Date (the "Drop Dead Date"), or either party shall have the right to terminate this Agreement upon written notice delivered to the other party.

## **ARTICLE 6. CONSTRUCTION OF IMPROVEMENTS AND INFRASTRUCTURE IMPROVEMENTS**

6.1 Architect. Developer shall select such architects, engineers and other design professionals and consultants as are necessary, in Developer's sole discretion, to provide construction documents and construction oversight services for the Core Royal Improvements, Agricultural Education Center Improvements, and Parking Improvements, along with the associated signage and landscaping (collectively, the "Improvements"). All agreements respecting architectural and engineering services shall be between Developer and such Persons, and a copy of each such agreement shall be timely provided to the UG upon a request for the same.

6.2 Design and Plans and Specifications. Developer shall, during the Due Diligence Period, provide the UG with plans and specifications for the Improvements (collectively, the "Plans and Specifications"), which Plans and Specifications shall include cost estimates for the Improvements, and detailed specifications of materials, all in accordance with applicable UG zoning and building regulations, and the Plans and Specifications shall be compatible with the Development Plan (as the same may be modified pursuant to Section 2.2(i) hereof), and in compliance with all Applicable Laws and Requirements. Developer recognizes, stipulates and agrees that the Plans and Specifications, once finalized by Developer and upon proper application therefor, will be subject to the UG's planning and zoning approval process, and the Plans and Specifications will be presented to and subject to approval by the UG in accordance with the same. Without the prior written approval of the appropriate Government Authorities, there shall be no Material Changes to the Plans and Specifications subsequent to the initial approval.

(a) Developer shall, during the Due Diligence Period and pursuant to applicable UG zoning and building regulations, provide the UG with design criteria, which set forth the preliminary architectural design of the Improvements and the building materials to be used in the construction thereof (the "Design Criteria"). The Design Criteria, once finalized by Developer, must be approved by the UG in its reasonable discretion, and upon such approval, shall be attached to this Agreement as Exhibit 11.

(b) Developer shall, during the Due Diligence Period and pursuant to applicable UG zoning and building regulations, provide the UG with a landscape plan, which sets forth a detailed plan for landscaping of the Site (the "Landscape Plan"). The Landscape Plan, once finalized by Developer, must be approved by the UG in its reasonable discretion, and upon such approval, shall be attached to this Agreement as Exhibit 12.

6.3 General Contractor and Construction Documents. Developer shall select one or more general contractors (collectively, the "General Contractor") for the Improvements, in Developer's sole discretion; provided, however, that each such General Contractor must have experience in projects of similar scope and nature in the Kansas City metropolitan area, including experience working with union labor and meeting LBE/MBE/WBE goals. Developer represents that its construction documents relative to the Improvements (the "Construction Documents") will require and provide for: (a) the design, development, construction, equipping and completion of the Improvements in accordance with the Development Plan, the Plans and Specifications and all Applicable Laws and Requirements; (b) a guaranteed maximum price, or other commercially reasonable payment structure acceptable to the UG and Developer; (c) guaranteed Substantial Completion not later than the Completion Date for each respective Improvement as set forth in Section 6.10 (with such penalties for nonperformance as the UG and Developer deem necessary); and (d) surety of performance and labor and material payment bonds as set forth in Section 6.6 below. Developer shall, as soon as practicable, provide the UG with a copy of the Construction Documents.

6.4 Changes or Amendments. Developer shall promptly deliver to the UG copies of all change orders or other Material Changes to the Construction Documents. Developer agrees with the UG that, subject to the terms and conditions of this Agreement, it will: (a) perform its duties and obligations under the Construction Documents, and (b) enforce the obligations of all other parties thereunder.

6.5 Responsibility for Design and Construction. Developer shall, subject to the terms of this Agreement, the other Transaction Documents, and the Development Plan, have the sole right and the responsibility to design, manage, operate and construct the Project. Developer shall receive no separate fee from the UG, STAR Bond Proceeds, or CID Sales Tax Proceeds for acting as construction manager or developer of the Project. Notwithstanding anything set forth herein to the contrary, the Plans and Specifications shall be sealed by the principal architect and shall require that the principal architect render a certificate upon the completion of the work required thereby that said work has been completed in accordance with all Applicable Laws and Requirements.

6.6 Payment and Performance Bonds. The General Contractor shall be required under the Construction Documents to furnish and maintain in full force and effect performance and labor and material payment bonds in the full amount of the project cost, as set forth in the Construction Documents. The bonds shall be in form and substance and issued by a corporate surety satisfactory to Developer and the UG. The bonds shall be in favor of the UG, Developer, the Permitted Mortgagee, and such other parties as are required in connection with the issuance of the STAR Bonds; provided, however, that the General Contractor shall not be required to provide such bonds if the County Administrator agrees in its discretion to waive such requirement in writing after review and approval of the General Contractor's financial statements.

6.7 Permits and Reviews. Developer hereby recognizes, stipulates and agrees: (a) that in the design, construction, completion, use or operation of the Improvements, Developer, or its General Contractor, shall procure and pay for (or cause to be procured and paid for) any and all permits, licenses or other forms of authorizations that are, from time to time, required by Applicable Laws and Requirements; and (b) that nothing herein shall be construed as any release by the UG of the responsibility of Developer to comply with, and satisfy the requirements of, all Applicable Laws and Requirements; the UG agreeing, however, that it will, to the extent possible, expedite all plan review and permitting in connection with the design and construction of the Improvements, and that, subject to this Agreement and Applicable Laws and Requirements, including without limitation the CID Act and the STAR Bond Act, the costs of procuring any and all permits, licenses or other forms of authorizations may be paid for and/or reimbursed, as the case may be, with STAR Bond Proceeds or CID Sales Tax Proceeds.

6.8 Cost Verification. During construction of the Improvements, the UG and Developer shall establish appropriate review procedures whereunder the UG and/or its representatives can inspect and review costs (which may include an audit of records to verify the STAR Bond Costs, CID Costs and Private Contribution which are incurred and paid in accordance with the Development Plan) and to verify that construction is proceeding in accordance with the Development Plan, the Plans and Specifications and all Applicable Laws and Requirements. Developer will cooperate with the UG in such review and, subject to Section 4.5(c) above, the costs and expenses for such review shall be paid by Developer and if such costs are eligible, the same may be reimbursed with STAR Bond Proceeds and/or CID Sales Tax Proceeds, subject to compliance with the CID Act and the STAR Bond Act (as applicable). All disbursements of STAR Bond Proceeds and CID Sales Tax Proceeds shall be subject to the written approval of the UG in accordance with this Agreement, which approval will not be unreasonably delayed, conditioned or withheld.

6.9 Periodic Meetings with the UG. From the Effective Date until Substantial Completion of the Improvements, Developer hereby agrees to meet with the UG and/or its representatives at such intervals as Developer, the UG and any such designee shall mutually agree or reasonably request, but not more frequently than monthly, to review and discuss the design, development and construction of the Improvements and the Project.

6.10 Commencement and Completion of Improvements. Subject to satisfaction or waiver of the conditions set forth in Section 3.1(a) above, and subject to Force Majeure, Developer hereby agrees that it shall commence and complete the Improvements on or before the dates set forth as follows:

(a) The Core Royal Improvements. Commencement of construction of the Core Royal Improvements shall occur on or before that date which is six (6) months after the Bond Closing, and the Developer further agrees that the Core Royal Improvements, associated Parking Improvements, signage, and landscaping shall be Substantially Completed and opened no later than that date which is two (2) years after the Bond Closing.

(b) The Agricultural Education Center Improvements. Commencement of construction of the Agricultural Education Center Improvements shall occur on or before that date which is eighteen (18)

months after the Bond Closing, and the Developer further agrees that the Agricultural Education Center Improvements, associated Parking Improvements, signage, and landscaping shall be Substantially Completed and opened no later than that date which is three (3) years after the Bond Closing.

## **ARTICLE 7. USE AND OPERATION**

7.1 Term. The Term of this Agreement shall commence on the Effective Date and, unless earlier terminated as specifically provided in Sections 3.1(a), 4.2(l), 5.1 or 7.10(c) herein, shall expire on that date which is the later of: (i) twenty (20) years after the date that the Project Plan is approved, or (ii) twenty-two (22) years after the date that the CID Sales Tax is first collected (the "Term").

7.2 Use and Operation. Developer covenants that at all times during the Term, it will:

(a) Use the Project only for a major commercial entertainment and tourism development consisting of the following uses: first class livestock expo arena and other agricultural-related uses, first class education and conference center, first class entertainment complexes, and other related retail, restaurant, office, multi-use, exhibition, meeting, conference, and sporting and recreational uses (the "Permitted Uses").

(b) Conduct its business at all times in a dignified and quality manner and in conformity with the highest industry standards and in such manner as to help establish and maintain a strong reputation for the Project.

(c) Maintain the Project in substantial compliance with the Landscape Plan and at all times trimmed and well-maintained.

(d) Provide security for the Project in accordance with industry standards for similarly situated projects of similar scope and nature, including crowd control and management, traffic control and first aid before, during and after events at the Project, including the BBQ Competition.

(e) Perform its duties to repair, restore and replace the Improvements as set forth in Sections 7.4 and 7.10 hereof; provided, however, that notwithstanding anything herein to the contrary, nothing in this Agreement shall require Developer to make renovations or upgrades to the Improvements beyond what is set forth in the Plans and Specifications.

(f) Additionally, Developer and the UG hereby agree that the following uses shall be prohibited on or about the Site during the Term, except as otherwise provided herein or with the prior written approval of the UG:

(i) Any use which is unreasonably offensive (meaning not in compliance with commercially reasonable standards for projects of similar scope and nature) by reason of odor, fumes, dust, smoke, noise, or pollution, or which constitutes a nuisance, or is hazardous, by reason of fire or explosion, or which is objectively injurious to the reputation of the Project; provided, however, that the UG understands and agrees that the Project includes uses that are agricultural- and entertainment-related in nature, and as such, the noise and odor that accompany such uses shall not be prohibited by the foregoing restriction, but the same shall be subject to the terms of subsection (g) below. No oil, gasoline or flammable liquid shall be stored in bulk other than allowed pursuant to Applicable Laws and Requirements.

(ii) A gas station, or car wash facility, open to the public.

(iii) A facility primarily used as a storage warehouse operation, mini-warehouse, or freight terminal; provided, however, that the foregoing restriction shall not in any way prohibit the operation of a small warehouse or mini-warehouse if operated in connection with and ancillary to the Permitted Uses.

(iv) A facility for the assembling, manufacturing, refining, or smelting, drilling, mining, exploring or the producing of oil, gases or other minerals.

(v) Any use, other than for educational purposes, which involves the long-term raising, breeding, and keeping of any animals or poultry; provided, however, that such educational uses shall: (1) never exceed more than twenty (20) animals at one time, and (2) always be subject to Applicable Laws and Requirements. However, the UG understands and agrees that portions of the Site may be used on a temporary basis for the keeping and selling of livestock and other animals at auction in connection with events for the Core Royal and the Agricultural Education Center, and Developer agrees that in each such case, such areas are to be cleaned and maintained in accordance with best industry standards for similar facilities.

(vi) Salvage or reclamation yards and the storage of inoperative vehicles.

(vii) Any pawn shop or "second hand" store; provided, however, that the foregoing restriction shall not in any way prohibit the operation of high quality antique or so-called vintage stores.

(viii) Any mobile home park, camp ground, trailer court, or labor camp; provided, however, that the foregoing restriction shall not be applicable to: (1) the temporary use of construction trailers during periods of construction, reconstruction or maintenance; or (2) trailers, delivery trucks or recreational vehicles of invitees, guests, and participants of the Project.

(ix) Any dumping, disposing, incineration or reduction of garbage; provided, however, that this prohibition shall not be applicable to garbage compactors located near the rear of any building on the Site, or elsewhere on the Site subject to the approved final Development Plan and in compliance with all Applicable Laws and Requirements.

(x) Any fire sale, bankruptcy sale (unless pursuant to a court order) or use primarily as an auction house operation.

(xi) Any central laundry or laundromat as a primary use.

(xii) Any automobile, truck or equipment dealerships of any kind, including without limitation, facilities with permanent sales, leasing or displays of any automobile, truck, trailer or recreational vehicle, except for in conjunction with promotions, displays, and other marketing activities (subject to Applicable Laws and Requirements); provided, however, that the foregoing restriction shall not in any manner restrict: (1) temporary sales of automobiles, trucks, trailers, or recreational vehicles during events at the Core Royal and the Agricultural Education Center; or (2) permanent automobile, truck, trailer, or recreational vehicle displays by sponsors.

(xiii) Any body shop repair operation, engine repair or vehicle repair facility for all vehicles, including motorcycles, including a quick service facility, except as operated in connection with and ancillary to the Permitted Uses.

(xiv) Any mortuary or funeral home.

(xv) Any establishment selling or exhibiting pornographic materials or which sells drug-related paraphernalia or which exhibits either live or by other means to any degree, nude or partially clothed dancers or wait staff and/or any massage parlors or similar establishments; except that this provision shall not be deemed to preclude the operation in the Site of either a nationally or regionally recognized high-quality book store, or a drug store or pharmacy, or a department within a retail store offering for sale its usual or customary inventory of books, magazines and/or related pharmaceutical materials.

(xvi) A nightclub, which shall be deemed to mean any bar, restaurant, club or other establishment that derives seventy percent (70%) or more of its gross receipts from the sale of alcoholic beverages; provided, however, that the foregoing restriction shall not in any manner restrict: (1) a bar, restaurant, or similar establishment (regardless of the percentage of gross receipts received from the sale of alcoholic beverages) if such bar, restaurant, or similar establishment is located within, or contiguous to, the Core Royal or the Agricultural Education Center, and generally open for business only during events held at the Core Royal or the Agricultural Education Center; or (2) a single public-facing tavern-type establishment external to, or contiguous with, the Core Royal or the Agricultural Education Center, and open to the public.

(xvii) Any store selling discounted tobacco products, electronic or vapor cigarettes or other smoking devices or paraphernalia.

(xviii) Any hookah bars or other establishment with a primary focus on smoking.

(xix) Pay-day or title loan facilities.

(xx) Any precious metal facilities.

(xxi) A flea market; provided, however, that the foregoing restriction shall not in any way prohibit: (1) the operation of a "city market" or "farmers market" for the sale of fresh fruits, vegetables and other foods and flowers and other similar items; or (2) no more than six (6) times per year, a flea market that operates for less than four (4) consecutive calendar days.

The UG's Commission is hereby authorized to grant variances to the restrictions set forth in this Section 7.2(f) from time to time in its sole and absolute discretion. Prior to the Bond Closing, Developer and the UG shall execute a document which shall memorialize the restrictions set forth in this Section 7.2 and state that, to the parties' actual knowledge, there are no known violations of the restrictions within the STAR Bond District, and record the same against the real property within the STAR Bond District, which restrictions shall be effective and run with the land for the Term of this Agreement.

(g) Without limiting the generality of the restrictions set forth above, including without limitation, those set forth in subsections (f)(i) and (f)(v) above, Developer hereby covenants and agrees that it will use commercially reasonable efforts (meaning efforts comparable to commercially reasonable standards for similar first class show arenas and livestock exhibition halls in urban areas) to minimize and mitigate odors from animals and animal waste at the Project.

7.3 Development Plan. During the Term, Developer agrees that it shall perform and comply with each and all of the terms and provisions of the Development Plan and not suffer or permit any default or breach of any such terms or provisions of the Development Plan.

7.4 Maintenance and Use. During the Term, Developer shall cause the Project and all parts thereof, including the Site and all other of its property used or useful in the conduct of its business and operations on the Site, to be maintained, preserved and kept in good repair and working order and in good and safe condition, consistent with industry standards for similarly situated projects of similar scope and nature, and will maintain the improvements necessary for the safe, efficient, and advantageous conduct of its business and operations on the Site. Developer may make additions, alterations and changes to the Improvements so long as such additions, alterations and changes are made in compliance with all Applicable Laws and Requirements, are compatible with the Development Plan and subject to any applicable provisions of the Transaction Documents, and as long as the same do not materially adversely affect Developer's ability to perform its obligations under this Agreement. Developer agrees to set aside on its books commercially reasonable reserves for future maintenance and capital expenditures.

7.5 Compliance. Developer shall conduct its affairs and carry on its business and operations in such a manner as to comply with all Applicable Laws and Requirements, and to observe and conform to all valid orders, regulations or requirements (including, but not limited to, those relating to safety and health) of any Government Authorities applicable to the conduct of its business and operations and the ownership of the Project; provided, however, that nothing contained in this Agreement shall require Developer to comply with, observe and conform to any such law, order, regulation or requirement of any Government Authorities so long as the validity thereof shall be contested by Developer in good faith by appropriate proceedings, and provided that Developer shall have set aside on its books commercially reasonable reserves or secured adequate bonding with respect to such contest and such contest shall not materially impair the ability of Developer to meet its obligations under this Agreement. Developer agrees to promptly pay any and all fees and expenses associated with any safety, health or other inspections required under this Agreement or imposed by Applicable Laws and Requirements, unless contested in good faith with the assurances provided in the preceding sentence.

7.6 Payment of Taxes and Other Charges. Developer contemplates that the land and improvements that constitute the Core Royal Improvements and the Agricultural Education Center Improvements shall be one-hundred percent (100%) exempt from real property taxation because the same are to be owned by Developer as a not-for-profit entity or by an Affiliate that is also a not-for-profit entity. However, in the event of an adverse tax ruling under these conditions or other failure to obtain the foregoing real property tax exemption, the UG shall advance and consider, subject to a vote of the UG's Board of Commissioners in their sole discretion, the issuance of IRBs to facilitate: (a) a one-hundred percent (100%) tax abatement for a term of ten (10) years as provided by the laws of the State, and (b) subject to Applicable Laws and Requirements, at the end of the term of the IRBs, the UG will cooperate with Developer to find ways to either issue new IRBs or find alternative ways to abate the real property taxes for the Core Royal Improvements and the Agricultural Education Center Improvements until the end of the Term of this Agreement. Developer agrees that it shall pay (or cause to be paid) all ad valorem property taxes and other taxes on the Excess Land and other land or facilities that are not a part of the Core Royal Improvements and/or the Agricultural Education Center Improvements. Notwithstanding the foregoing, nothing contained in this Agreement shall prohibit Developer or its Affiliates from contesting the assessed value of the properties, Improvements or the taxes thereon in good faith by appropriate proceedings, provided that each such party shall pay (or cause to be paid) any and all amounts that are contested under protest while any such proceedings are pending. The parties further agree as follows:

(a) Developer and any other owners of real property within the Site shall promptly notify the UG in writing of a protest of real estate taxes or valuation of the Developer's or such other owners' property within the Site.

(b) Subject to the terms and conditions of this Agreement, including (without limitation) the Developer's right hereunder to receive reimbursement from STAR Bond Proceeds and CID Sales Tax

Proceeds, Developer shall not take any actions or adopt any practices or procedures which are designed to, or which may or will have the effect of, eliminating, reducing or diverting in any way any sales taxes, use taxes and/or transient guest taxes payable to the UG or the State in connection with sales made or services from, in or on and about the Site. In connection therewith, Developer recognizes, stipulates and agrees that such sales shall include ticket sales and concessions. Developer agrees that it will itself provide, and that it will use commercially reasonable efforts to, by appropriate agreement, require all parties holding or operating by, through or under it, or otherwise operating on or from the Site, to provide to the UG and the STAR Bond Trustee, true and correct copies of all sales tax, use tax, and transient guest tax returns filed with the State with respect to sales in, on or from the Site, the same to be provided simultaneously with or within ten (10) days after such filing. Developer agrees to use commercially reasonable efforts to include a provision to this effect in any purchase agreement, lease, license or other agreement with any party holding or operating by, through or under it, or otherwise operating on or from the Site, and Developer will use commercially reasonable efforts to enforce such provision. Developer shall, to the extent required by Applicable Laws and Requirements or upon reasonable notice, provide to the DOR and the STAR Bond Trustee the names of all vendors operating in, on or from the Site, their Kansas sales tax identification number(s) and their dates of operation.

(c) Developer has requested that the UG agree to work with Developer to explore solutions to the issues revolving around the fact that certain revenues may be produced outside of the STAR Bond District and CID, and whether or not it is legal (and without risk of liability to bondholders from other STAR Bond or other special taxing districts) for a “point of sale” to be established for such revenues inside of the STAR Bond District and/or CID. The UG has agreed to cooperate with Developer to explore such issues, but the UG has opined that the same may not be possible under Applicable Laws and Requirements, and Developer understands and agrees that: (i) the UG has not made any representations or warranties whatsoever to Developer about the possibility of capturing such revenues from outside the STAR Bond District and/or CID for financing the Project, and (ii) the UG is no way responsible for any adverse rulings or failure to find solutions acceptable to Developer in connection with the same.

7.7 Liens and Encumbrances. During the Term, except for a Permitted Mortgage, Developer shall not create or incur or permit to be created or incurred or to exist any mortgage, lien, security interest, charge or encumbrance upon the Project, or any part thereof, and shall promptly cause to be discharged or terminated all mortgages, liens, security interests, charges and encumbrances that are not Permitted Encumbrances or a Permitted Mortgage. For purposes hereof, the term "Permitted Mortgage" shall mean any security interest placed on the Site or any part thereof by Developer in connection with any construction or permanent financing of the Project. Notwithstanding the foregoing, any Permitted Mortgage shall be subject to the terms and conditions of this Agreement, including without limitation, Section 9.2 of this Agreement.

7.8 Licenses and Permits. During the Term, Developer shall procure and maintain all licenses and permits, and allow all inspections and/or investigations required by Applicable Laws and Requirements or otherwise necessary in the operation of its business and affairs in, on or about the Project; provided, however, that Developer shall not be required to procure or maintain in effect any right, license or accreditation that Developer and the UG have determined in good faith and subject to Applicable Laws and Requirements, is not in the best interests of Developer and is no longer necessary in the conduct of its business and that lack of such compliance will not materially impair the ability of Developer to perform its obligations under this Agreement.

7.9 Insurance. During the Term, Developer shall maintain or cause to be maintained insurance with respect to the Project and operations covering such risks that are of an insurable nature and of the character customarily insured against by organizations operating similar properties and engaged in similar operations (including but not limited to property and casualty, worker's compensation, general liability and employee dishonesty) and in such amounts as, in the reasonable judgment of Developer, are adequate to protect



Developer, the UG, and the Project, but in no event in an amount less than that required by the Insurance Specifications attached hereto as **Exhibit 13**, and made a part hereof, or as otherwise required by the terms of the Transaction Documents. Each policy or other contract for such insurance shall: (i) name the UG as an additional insured with respect to liability insurance (but only in an amount equal to Five Hundred Thousand Dollars (\$500,000)), and (ii) contain an agreement by the insurer that, notwithstanding any right of cancellation reserved to such insurer, such policy or contract shall continue in force for at least thirty (30) days after written notice of cancellation to Developer and each other insured, additional insured, loss payee, and mortgage payee named therein. Without limiting the general accuracy of the foregoing, Developer agrees to perform and comply with Section 8.3 of this Agreement. Throughout the Term, Developer shall ensure the UG is provided with a current and accurate certificate of insurance ("Certificate of Insurance") for each coverage applicable to the Project, the Site, and the Improvements, and for all coverages required herein. Each Certificate of Insurance shall be on ACORD forms or on other forms which the UG may approve in writing.

7.10 Damage, Destruction or Condemnation. The parties hereby agree as follows:

(a) In the event of damage to or destruction of any portion of the Improvements resulting from fire or other Casualty during the Term, or in the event any portion of the Improvements is condemned or taken for any public or quasi-public use or title thereto is found to be deficient during the Term, the net proceeds of any insurance relating to such damage or destruction, the net proceeds of such condemnation or taking, or the net proceeds of any realization on title insurance shall be paid into, and used in accordance with, a construction escrow agreement satisfactory to the UG, Developer and any Permitted Mortgagee ("Casualty Escrow").

(b) If, at any time during the Term, the Improvements or any part thereof shall be damaged or destroyed by a Casualty (the "Damaged Facilities"), Developer, to the extent insurance proceeds are made available to Developer and to the extent made possible with said proceeds shall proceed as promptly as possible to repair, restore and replace the Damaged Facilities as nearly as possible to their condition immediately prior to the Casualty and shall be entitled to draw upon the Casualty Escrow for payment of said costs.

(c) If at any time during the Term, title to the whole or substantially all of the Improvements shall be taken in condemnation proceedings or by right of eminent domain, Developer, at its sole discretion, may terminate this Agreement as of the date of such taking. For purposes of this Section 7.10(c), "substantially all of the Improvements" shall be deemed to have been taken if the UG and Developer, each acting reasonably and in good faith, determine that the untaken portion of the Project, including the Parking Improvements, cannot be practically and economically used by Developer for the purposes and at the times contemplated by this Agreement. In the event of condemnation of less than the whole or substantially all of the Improvements during the Term, Developer, to the extent made possible by the proceeds in the Casualty Escrow, shall commence and thereafter proceed as promptly as possible to repair, restore and replace the remaining part of the Project, as nearly as possible, to their former condition, and shall be entitled to draw upon the Casualty Escrow for payment of said costs.

7.11 Indemnity. Developer shall, in connection with the Site and the BBQ Competition (to the extent that the same is held outside the boundaries of the Site), pay and indemnify and save the UG and its governing body members, directors, officers, employees and agents harmless from and against all loss, liability, damage or expense arising out of: (a) the acquisition of the Site; (b) the design, construction and completion of the Improvements by Developer; (c) the use or occupation of the Improvements by Developer or anyone acting by, through or under it; (d) damage or injury, actual or claimed, of whatsoever kind or character occurring after the Bond Closing, to persons or property occurring or allegedly occurring in, on or about the Site and the site of the BBQ Competition; and (e) any breach, default or failure to perform by

Developer under this Agreement (except for and excluding claims of breaches, defaults, or failures by and between Developer and the UG which would more appropriately be brought in a breach of contract action). Developer shall also pay and indemnify and save the UG and its governing body members, directors, officers, employees and agents harmless of, from and against, all costs, reasonable counsel fees, expenses and liabilities incurred by them or by Developer in any action or proceeding brought by reason of any such claim, demand, expense, penalty or fine. If any action or proceeding is brought against the UG or its governing board members, directors, officers, employees or agents by reason of any such claim or demand, Developer, upon notice from the UG, covenants to resist and defend such action or proceeding on demand of the UG or its governing body members, directors, officers, employees or agents. Notwithstanding the foregoing, no party benefited by this indemnity shall be indemnified against: (i) liability for damage arising out of bodily injury to persons or damage to property caused by the UG's own willful and malicious acts or omissions or negligence; (ii) liability for losses, liability, damages or expenses resulting from any claims against the UG challenging the legality or validity of the approval processes of the UG with respect to any zoning, finance, or entitlement approvals in connection with the Project, this Agreement, or any of the terms or provisions hereof; or (iii) any claims, causes of action, or disputes between the UG and Developer arising out of or relating to this Agreement, which claims, causes of action, or disputes are based in breach of contract, or would more appropriately be brought in a breach of contract action. The foregoing covenants contained in this Section 7.11 shall be deemed continuing covenants, representations and warranties for the benefit of the UG and any successors and assigns of the UG, and shall survive the termination, satisfaction or release of this Agreement, or any other instrument.

7.12 Prohibition on Assignment; Sales and Leasing Permitted, Etc. During the Term, Developer shall not, without the prior written consent of the UG: (i) assign, sell, lease, mortgage or otherwise transfer the Site, the Improvements, or any equipment that comprise the Project or any part thereof or any interest therein; (ii) merge with or into another corporation or sell or transfer to another corporation substantially all of its assets; or (iii) assign this Agreement, or any of the rights, benefits or obligations hereunder. Any such assignment, sale, lease, mortgage, merger or other transfer which is consented to by the UG shall be an "Approved Assignment" and the assignee, purchaser, mortgagee or transferee shall be an "Assignee." The UG shall not unreasonably withhold, condition or delay its consent to any of the aforesaid, provided that Developer shall provide the UG with sufficient information to review and evaluate the proposed assignment, sale or other transfer. Notwithstanding the foregoing or anything in this Agreement to the contrary, Developer may, with prior written notice to the UG but without consent or approval from the UG, enter into: (a) a Permitted Mortgage (including, without limitation, collateral assignment of Developer's rights to reimbursement of STAR Bond Proceeds, CID Sales Tax Proceeds, and other reimbursement to Developer under this Agreement); (b) assignment to an Affiliate; (c) a sale, lease or transfer of the Excess Land, subject to the terms and conditions of this Agreement; and (d) a lease executed in the normal course of Developer's use and operation of the Project for a portion of the Site or the Project (but not including long-term ground leases). In the event of any Approved Assignment or any sale, lease, transfer or assignment pursuant to subsections (a) through (d) in the prior sentence, Developer shall nonetheless remain liable for performance of all of the Developer's obligations and duties set forth in this Agreement unless and to the extent that the UG shall, in its sole discretion, specifically agree to release such obligations and duties (or a portion thereof) in a written and executed agreement of the UG.

7.13 Utilities. During the Term, all utility and utility services used by Developer in, on or about the Project shall be paid (or caused to be paid) for by Developer, and Developer shall, at no cost to the UG, procure any and all permits, licenses or authorizations necessary in connection therewith; provided, however, that the parties will fully cooperate to ensure that the BPU provides utilities to the Project at rates which shall be negotiated pursuant to a separate agreement (as described in Section 3.1(a)(xiv)).

7.14 Access. During the Term, Developer hereby recognizes, acknowledges and agrees that the UG, and its duly authorized representatives and agents, shall have the right to enter the Project at reasonable

times and upon reasonable notice, to substantiate compliance with this Agreement. In exercising its rights hereunder, the UG shall use reasonable efforts to avoid unreasonable interference with the operation of the Project. Except as otherwise provided in this Agreement, the UG shall pay all costs it incurs under this provision. Nothing contained in this Section 7.14 shall limit the UG's powers under Section 7.16 below or otherwise restrict or impede the right of the UG to enter the Project pursuant to any Applicable Laws and Requirements.

7.15 Environmental Matters. Developer hereby agrees that Developer shall assume responsibility for the costs of any remediation of any environmental conditions upon the Site that are required to be incurred by Developer in accordance with Applicable Laws and Requirements. Further, Developer shall not store, locate, generate, produce, process, treat, transport, incorporate, discharge, emit, release, deposit or dispose of any Hazardous Substance in, upon, under, over or from the Project in violation of any Environmental Regulation; shall not permit any Hazardous Substance to be stored, located, generated, produced, processed, treated, transported, incorporated, discharged, emitted, released, deposited, disposed of or to escape therein, thereupon, thereunder, thereover or therefrom in violation of any Environmental Regulations; shall cause all Hazardous Substances which Developer knows or should know to be present on the Site to be properly removed therefrom and properly disposed of in accordance with all applicable Environmental Regulations; shall not install or permit to be installed any underground storage tank therein or thereunder in violation of any Environmental Regulation; and shall comply with all other Environmental Regulations which are applicable to the Project. Developer shall indemnify the UG against, shall hold the UG harmless from, and shall reimburse the UG for, any and all claims, demands, judgments, penalties, fines, liabilities, costs, damages and expenses, including court costs and reasonable attorneys' fees incurred by the UG (prior to trial, at trial and on appeal) in any action against or involving the UG, resulting from any breach of the foregoing covenants or from the discovery of any Hazardous Substance, in, upon, under or over, or emanating from, the Project, whether or not Developer is responsible therefor, it being the intent of Developer and the UG that the UG shall have no liability or responsibility for damage or injury to human health, the environment or natural resources caused by, for abatement and/or clean-up of, or otherwise with respect to, Hazardous Substances, which arises subsequent to the Effective Date. The foregoing covenants contained in this Section 7.15 shall be deemed continuing covenants, representations and warranties for the benefit of the UG and any successors and assigns of the UG, and shall survive the termination, satisfaction or release of this Agreement, or any other instrument.

7.16 Power of the UG. Notwithstanding anything set forth herein to the contrary, no provision contained herein shall in any manner diminish or usurp the inherent and lawful rights and powers of the UG to act in its capacity as a public body. Any such provision shall be deemed to be of no force or effect. Further, nothing herein shall relieve Developer from complying with all Applicable Laws and Requirements.

## **ARTICLE 8. SPECIAL PROVISIONS**

8.1 Special Agreements of Developer. During the Term of this Agreement:

(a) Developer shall use commercially reasonable efforts to actively market and advertise the Project on a regional and national basis.

(b) Developer shall maintain its headquarters, offices and primary operations within Wyandotte County, Kansas.

(c) Developer shall actively participate in the civic, charitable, educational, philanthropic and/or economic development of the Kansas City, Kansas/Wyandotte County community in activities of its choice.

(d) Developer agrees to work in good faith to accommodate the needs of the Fair with respect to the Fair's use of the Core Royal and Agricultural Education Center Improvements at reasonable times and at reasonable cost to the Fair. As a condition to proceeding to Bond Closing, Developer will enter into an agreement with the Fair as described in in Section 3.1(a)(xi) of this Agreement, which agreement shall memorialize the details of the Developer's relationship with the Fair.

(e) Developer shall allow the Core Royal and Agricultural Education Center to be used by the Schools/students for trainings and events, at reasonable times and at no admission cost to the Schools or students. As a condition to proceeding to Bond Closing, Developer will enter into an agreement with the Schools as described in in Section 3.1(a)(xii) of this Agreement, which agreement shall memorialize the details of the Developer's relationship with the Schools.

(f) Effective as of the Bond Closing, Developer shall affirmatively covenant and commit to the UG that the BBQ Competition hosted annually by Developer shall be held in Wyandotte County for the entire Term of this Agreement. As a condition to proceeding to Bond Closing, Developer will enter into an agreement with the UG to further memorialize the terms and conditions of these BBQ Competition obligations, which agreement, when executed by the Developer and the County Administrator, shall be attached hereto as Exhibit 15, and the terms of which shall be incorporated into this Agreement as though more fully set forth herein.

(g) Developer shall allow the Core Royal and Agricultural Education Center to be used from time to time for UG activities and events, at reasonable times and at no admission cost to the UG. As a condition to proceeding to Bond Closing, Developer will enter into a separate agreement with the UG as described in in Section 3.1(a)(xiii) of this Agreement, which agreement shall memorialize the details of the UG's use of the Core Royal and Agricultural Education Center for UG activities and events.

(h) Developer agrees to work in good faith to enter into a partnership with the Agricultural Hall of Fame.

(i) Developer shall provide up to twenty five (25) tickets to UG officials for premium seating and special access to VIP areas (including clubs and lounges, but excluding private suites) for primary events open to the public at the Core Royal, at no admission cost to the UG or such UG officials.

(j) Prior to the official naming and/or the execution of any naming rights agreements, the UG shall have the right to review and approve the name of the grounds for the Project, the main show arena described in Section 2.2(a)(i) and the exhibition hall described in Section 2.2(a)(ii) and any related common use nomenclature for the same, which approval shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, the UG shall not have any approval of any other naming rights in the Project, nor shall the UG have the right to approve other advertisements or sponsors within the Project. If, and only to the extent that, the official title of any Core Royal facility or event includes the phrase "Kansas City, Kansas" or the phrase "Wyandotte County", the UG shall have the right to review and approve the official title of said Core Royal facility or event, which approval shall not be unreasonably withheld, conditioned or delayed.

(k) Developer shall, upon written request from the UG, provide copies of audited financial statements for Developer and its Affiliates to the UG.

8.2 LBE/MBE/WBE Employment Opportunity Goals. Developer agrees to use its "best efforts" (as defined on Exhibit 13) to comply with the goals set forth on Exhibit 13, attached hereto and made a part hereof, in order to identify and provide employment opportunities for local businesses and contractors, women and local minority owned businesses.

8.3 Consultants. Developer shall cause the following written opinions to be provided to the UG:

(a) Prior to commencement of construction of the Improvements, a written opinion from the project engineer, mutually agreeable to the UG and Developer, stating that the Improvements' design is structurally sound.

(b) Prior to commencement of construction of the Improvements, a written opinion from an architect mutually agreeable to the UG and Developer stating that the Improvements' design meets all Applicable Laws and Requirements and that the Total Project Budget is reasonable.

(c) After the conclusion of construction of the Improvements, a written opinion that the Improvements were built substantially in accordance with the design referred to in Section 8.3(a) and (b) above.

## **ARTICLE 9. DEFAULT AND REMEDIES**

9.1 Default Provisions. Developer shall be in default under this Agreement if:

(a) Developer fails to make any of the payments of money required by the terms of this Agreement or any of the Transaction Documents, and Developer fails to cure or remedy the same within thirty (30) days after the UG has given Developer written notice specifying such default;

(b) Developer fails to keep or perform any covenant or obligation herein contained on Developer's part to be kept or performed, and Developer fails to remedy the same within sixty (60) days after the UG has given Developer written notice specifying such failure and requesting that it be remedied; provided, however, that if any event of default shall be such that it cannot be corrected within such period, it shall not constitute an event of default if corrective action is instituted by Developer within such period and diligently pursued until the default is corrected;

(c) Developer fails to keep or perform any covenant or obligation on Developer's part to be kept or performed in the Bond Documents;

(d) A default shall exist or occur with respect to any of the duties or obligations of Developer, or any Affiliates of Developer, under any of the Transaction Documents, and Developer fails to cure or remedy (or cause to be cured or remedied) the same within the period(s) provided under the Transaction Documents;

(e) Developer shall file a voluntary petition under any bankruptcy law or an involuntary petition under any bankruptcy law is filed against Developer in a court having jurisdiction and said petition is not dismissed within sixty (60) days; or Developer makes an assignment for the benefit of its creditors; or a custodian, trustee or receiver is appointed or retained to take charge of and manage any substantial part of the assets of Developer, and such appointment is not dismissed within sixty (60) days; or any execution or attachment shall issue against Developer whereupon the Project, or any part thereof, or any interest therein of Developer under this Agreement shall be taken and the same is not released prior to judicial sale thereunder (each of the events described in this subparagraph being deemed a default under the provisions of this Agreement); or

(f) Developer materially breaches the representations and warranties set forth in this Agreement and fails to cure or correct same within thirty (30) days following Developer's receipt of written notice from the UG.

9.2 Rights and Remedies. The rights and remedies reserved by the UG hereunder and those provided by law shall be construed as cumulative and continuing rights, no one of which shall be exhausted by the exercise of any one or more of such rights or remedies on any one or more occasions. Whenever any default by Developer shall have occurred and be continuing, subject to applicable cure periods as set forth above, the UG may: (i) refuse to approve any further Certificates of Expenditure and make any further disbursements of STAR Bond Proceeds and/or CID Sales Tax Proceeds unless and until such default is cured by the Developer; (ii) terminate the CID; (iii) terminate any IRB financing provided under this Agreement; (iv) terminate this Agreement; (v) exercise any remedies provided to the UG under the Bond Documents (if, and to the extent that, Developer is in default thereunder); (vi) set-off any amounts due or owing from the Developer to the UG (including without limitation any amounts under or referred-to in Section 4.9) against any payment(s) due or owing from the UG to the Developer; and/or (vii) any other rights or remedies available to the UG at law or equity. Without limiting the generality of the foregoing, the UG shall be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Agreement, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceeding in equity. The UG shall additionally be entitled to any right and remedy provided to it in the Transaction Documents; provided, however, that, notwithstanding the foregoing or anything in this Agreement to the contrary, under no circumstances shall Developer ever be liable for any punitive, remote or consequential damages, including without limitation, lost tax revenues, in connection with this Agreement. The rights and remedies reserved by the UG under this Section 9.2 shall be subject to the terms and conditions of Section 4.2(h) and (l)(v) hereof. Failure by the UG to enforce any such rights shall not be deemed a waiver thereof. Additionally, the UG shall be entitled to any right and remedy provided to it in the Transaction Documents, and the following specific remedies:

9.3 Interest on Late Payments. Any payment of the Developer to the UG which is required hereunder which is not received by the UG within the cure period set forth in Section 9.1(a) above shall bear interest from the date originally due at the Prime Rate plus two percent (2%), or, if less, the maximum rate permitted by law.

9.4 Enforcement. In the event of any default by Developer hereunder, the UG may take such actions, or pursue such remedies, as exist hereunder, under any of the other Transaction Documents, or at law or in equity; and if the UG is the prevailing party in an action to enforce its remedies hereunder or under any of the other Transaction Documents, the UG shall be entitled to reasonable costs and charges, including attorneys' fees, lawfully and reasonably incurred by or on behalf of the UG in connection with the enforcement of such actions or remedies.

9.5 Default by the UG. The UG shall be in default under this Agreement if the UG fails to keep or perform any covenant or obligation herein contained on the UG's part to be kept or performed, and the UG fails to remedy the same within thirty (30) days after Developer has given the UG written notice specifying such failure and requesting that it be remedied; provided, however, that if any event of default shall be such that it cannot be corrected within such period, it shall not constitute an event of default if corrective action is instituted by the UG within such period and diligently pursued until the default is corrected. If a default by the UG occurs under this Agreement and is continuing, Developer may take whatever action at law or in equity as may appear necessary or desirable to enforce performance and observance by the UG of any provision of this Agreement; provided, however, that the UG's liability for monetary amounts shall be limited to the actual amount, if any, in question, and under no circumstances shall the UG be liable for any special, punitive, remote or consequential damages. Without limiting the generality of the foregoing, the Developer shall be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Agreement, notwithstanding the availability of an adequate remedy at law, and each party hereby waives the right to raise such defense in any proceedings in equity. Developer shall additionally be entitled to any right or

remedy provided to it in the Transaction Documents; provided, however, that under no circumstances shall the UG ever be liable for remote or consequential damages. In the event of such default, Developer may take such actions, or pursue such remedies, as exist hereunder, under any of the other Transaction Documents, or at law or in equity. The rights and remedies reserved by Developer hereunder and those provided by law or equity shall be construed as cumulative and continuing rights, no one of which shall be exhausted by the exercise of any one or more of such rights or remedies on any one or more occasions. Failure by Developer to enforce any such rights shall not be deemed a waiver thereof.

## **ARTICLE 10. MISCELLANEOUS**

10.1 Waiver of Breach. No waiver of any breach of any covenant or agreement herein contained shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of a breach by either party of any covenant, agreement or undertaking, the non-defaulting party may nevertheless accept from the other any payment or payments or performance hereunder without in any way waiving its right to exercise any of its rights and remedies provided for herein or otherwise with respect to any such default or defaults which were in existence at the time such payment or payments or performance were accepted by it.

10.2 Force Majeure. In the event either party hereto shall be delayed or hindered in or prevented from the performance of any act required under this Agreement by reason of acts of God, strikes, lockouts, failure of power or other insufficient utility service, riots, insurrection, environmental remediation required by the appropriate Government Authorities, discovery of cultural, archeological or paleontological resources or endangered species, any lawsuit seeking to restrain, enjoin, challenge or delay construction, war, terrorism, labor difficulties (including jurisdictional labor disputes), judicial or administrative writ, order or decree, legislative decisions or actions, or delay by, applicable local, State or federal governments, casualties at the job site and resulting in direct physical damage to the Project, or occurring off-site and directly disrupting or delaying the supply of labor or materials to the Project, moratoria on the issuance of applicable permits or other governmental approvals, or other reason of a like nature not the fault of the party delayed in performing work or doing acts required under the terms of this Agreement ("Force Majeure"), then performance of such act shall be excused for the period of the delay, and the period for the performance of any such act shall be extended for a period equivalent to the period of such delay. The provisions of this Section 10.2 shall not be applicable to delays resulting from the inability of a party to obtain financing or to proceed with its obligations under this Agreement because of a lack of funds.

10.3 Covenants of Parties.

(a) Representations and Warranties of Developer. Developer represents and warrants to the UG as follows:

(i) Organization. Developer is a Missouri not-for-profit corporation duly formed and validly existing under the laws of the State of Missouri. Developer is, or will be as of the Bond Closing, duly authorized to conduct business in the State and each other jurisdiction in which the nature of its properties or its activities requires such authorization. Developer shall: (1) preserve and keep in full force and effect its corporate or other separate legal existence, and (2) following the Bond Closing, remain qualified to do business and conduct its affairs in the State.

(ii) Authority. The execution, delivery and performance by Developer of this Agreement are within Developer's powers and have been duly authorized by all necessary action of Developer.

(iii) No Conflicts. Neither the execution and delivery of this Agreement, nor the consummation of any of the transactions herein or therein contemplated, nor compliance with the terms and provisions hereof or thereof, will, to Developer's actual knowledge, contravene the organizational documents of Developer or any provision of law, statute, rule or regulation to which Developer is subject, or to any judgment, decree, license, order or permit applicable to Developer, or will conflict or be inconsistent with, or will result in any breach of any of the terms of the covenants, conditions or provisions of any indenture, mortgage, deed of trust, agreement or other instrument to which Developer is a party, by which Developer is bound, or to which Developer is subject.

(iv) No Consents. No consent, authorization, approval, order or other action by, and no notice to or filing with, any court or Government Authorities or regulatory body or third party is required for the due execution and delivery by Developer of this Agreement. No consent, authorization, approval, order or other action by, and no notice to or filing with, any court or Government Authorities or regulatory body or third party is required for the performance by Developer of this Agreement or the consummation of the transactions contemplated hereby except for zoning, building and other customary permits to be obtained from the UG or other governmental units, or as otherwise provided herein.

(v) Valid and Binding Obligation. This Agreement is the legal, valid and binding obligation of Developer, enforceable against Developer in accordance with the terms hereof.

**(b)** Representations and Warranties of the UG.

(i) Authority. The execution, delivery and performance by the UG of this Agreement are within its powers and have been duly authorized by all necessary action.

(ii) No Conflicts. Neither the execution and delivery of this Agreement, nor the consummation of any of the transactions herein or therein contemplated, nor compliance with the terms and provisions hereof or thereof, will contravene the ordinances, rules, regulations of the UG or the laws of the State nor result in a breach, conflict with or be inconsistent with any terms, covenants, conditions or provisions of any indenture, agreement or other instrument by which the UG is bound or to which the UG is subject.

(iii) No Consents. Except as set forth in Section 3.1(a)(iii) and (v) hereof, no consent, authorization, approval, order or other action by, and no notice to or filing with, any court or Government Authorities or regulatory body or third party is required for the due execution and delivery by the UG of this Agreement. No consent, authorization, approval, order or other action by, and no notice to or filing with, any court or Government Authorities or regulatory body or third party is required for the performance by the UG of this Agreement or the consummation of the transactions contemplated hereby.

(iv) Valid and Binding Obligation. This Agreement is the legal, valid and binding obligation of the UG enforceable against the UG in accordance with its terms.

10.4 Amendments. This Agreement may be amended, changed or modified only by a written agreement duly executed by the UG and Developer.

10.5 Construction and Enforcement. This Agreement shall be construed and enforced in accordance with the laws of the State.



10.6 Invalidity of Any Provisions. If for any reason any provision hereof shall be determined to be invalid or unenforceable, the validity and effect of the other provisions hereof shall not be affected thereby.

10.7 Headings. The Article and Section headings shall not be treated as a part of this Agreement or as affecting the true meaning of the provisions hereof.

10.8 Execution of Counterparts. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. Hand signatures transmitted by electronic mail in portable document format (PDF) or similar format are also permitted as binding signatures to this Agreement.

10.9 Time. Time is of the essence in this Agreement.

10.10 Consents and Approvals. Wherever in this Agreement it is provided that the UG or Developer shall, may or must give its approval or consent, the UG or Developer shall not, unless specifically herein provided otherwise, unreasonably withhold, condition, delay or refuse to give such approvals or consents. It is agreed, however, that the sole right and remedy for Developer or the UG in any action concerning the other's reasonableness will be action for declaratory judgment and/or specific performance, and in no event shall either such party be entitled to claim damages of any type or nature in any such action. Where consent or approval of the UG is required in this Agreement, the parties understand and agree that the County Administrator may approve or consent to logistical and/or administrative matters that are related to effectuating the terms and conditions of this Agreement as currently contemplated herein, but (except as otherwise provided in this Agreement) any other consents or approvals which affect the nature, substance or policy objectives of the Agreement, or result in any change in the agreements hereunder from the UG's perspective, shall be granted or withheld by the UG's governing body in its sole discretion.

10.11 Notices. All notices required or desired to be given hereunder shall be in writing and all such notices and other written documents required or desired to be given hereunder shall be deemed duly served and delivered for all purposes if: (i) delivered by nationally recognized overnight delivery service; (ii) delivered by electronic mail (with follow up within two (2) business days by United States Mail or by nationally recognized overnight delivery service); or (iii) delivered in person, in each case if addressed to the parties set forth below:

The Unified Government Clerk  
The Unified Government of Wyandotte County/Kansas City, Kansas  
701 North 7th Street, Suite 323  
Kansas City, Kansas 66101  
Telephone: 913-573-5260  
Email: bcobbins@wycokck.org

with a copy to:

Kenneth J. Moore, Esq.  
Chief Counsel  
The Unified Government of Wyandotte County/Kansas City, Kansas  
701 North 7th Street, Suite 961  
Kansas City, Kansas 66101  
Telephone: 913-573-5060  
Email: kjmoore@wycokck.org

and a copy to:

Douglas G. Bach  
County Administrator  
The Unified Government of Wyandotte County/Kansas City, Kansas  
701 North 7th Street, 9<sup>th</sup> Floor  
Kansas City, Kansas 66101  
Telephone: 913-573-5030  
Email: dbach@wycokck.org

and a copy to:

Todd A. LaSala, Esq.  
Stinson Leonard Street LLP  
1201 Walnut Street, Suite 2900  
Kansas City, Missouri 64106  
Telephone: 816-842-8600  
Email: todd.lasala@stinson.com

and a copy to:

Gary A. Anderson, Esq.  
Gilmore & Bell, P.C.  
2405 Grand Boulevard, Suite 1100  
Kansas City, Missouri 64108  
Telephone: 816-221-1000  
Email: ganderson@gilmorebell.com

and a copy to:

The STAR Bond Trustee  
Security Bank of Kansas City  
Attn: Corporate Trust Department  
701 Minnesota Avenue, Suite 206  
Kansas City, Kansas 66101  
Telephone: 913-279-7946  
Facsimile: 913-279-7960

and to Developer at:

American Royal Association  
Attn: Executive Director  
1701 American Royal Court  
Kansas City, Missouri 64102  
Telephone: (816) 221-9800  
Email: jmitchell@companykitchen.com

With a copy to:

Korb Maxwell, Esq.  
Polsinelli, PC  
900 West 48<sup>th</sup> Place, Suite 900

Kansas City, Missouri 64112  
Telephone: (816) 360-4327  
Email: kmaxwell@polsinelli.com

All notices given by: (i) nationally recognized overnight delivery service, or (ii) electronic mail, and followed up by regular United States mail or nationally recognized overnight delivery service in accordance with the above procedures, shall be deemed duly given one (1) business day after they are so delivered. All notices given in person shall be deemed duly given when delivered.

10.12 Real Estate Commissions. Each party hereby agrees to indemnify and hold harmless the other from and against: (i) any and all, losses, liens, claims, judgments, liabilities, reasonable costs, expenses or damages (including reasonable attorneys' fees and court costs) of any kind or character arising out of or resulting from any duty or responsibility to pay any commission or make any other payment by either Developer or the UG; or (ii) arising out of or resulting from any agreement, arrangement or understanding alleged to have been made by Developer or on its behalf with any other broker, agent or finder in connection with this Agreement or the transactions contemplated hereby. Notwithstanding anything to the contrary contained herein, this Section 10.12 shall survive the Bond Closing or any termination of this Agreement.

10.13 Entire Agreement. Together with the Exhibits hereto, this Agreement constitutes the entire agreement of the parties with respect to the subject matter hereof and supersedes and replaces all prior oral or written agreements concerning the subject matter hereof.

10.14 Run with the Land. This Agreement shall be binding on and inure to the benefit of the parties hereto and their respective heirs, successors and assigns and shall run with the land. However, Developer shall remain liable in the event of a violation of any of the terms or restrictions set forth in Section 7.11 and 7.15 hereof. At the time of Bond Closing, the parties shall record a memorandum describing this Agreement in the Office of the Register of Deeds of Wyandotte County, Kansas.

10.15 Tax Implications. Developer acknowledges and agrees that: (a) neither the UG nor any of its officials, employees, consultants, attorneys or other agents has provided to Developer any advice regarding the federal or state income tax implications or consequences of this Agreement, and the transactions contemplated hereby; and (b) Developer is relying solely upon its own tax advisors in this regard.

10.16 Electronic Storage. The parties agree that the transactions described herein may be conducted and related documents may be received, sent or stored by electronic means. Copies, telecopies, facsimiles, electronic files, and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

**[Signature pages follow]**



IN WITNESS WHEREOF, the parties hereto have executed this American Royal Development Agreement as of the Effective Date.

**DEVELOPER:**

**AMERICAN ROYAL ASSOCIATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_

STATE OF \_\_\_\_\_ )  
 ) SS.  
COUNTY OF \_\_\_\_\_ )

This instrument was acknowledged before me on \_\_\_\_\_, 2017, by \_\_\_\_\_, as \_\_\_\_\_ of the American Royal Association, a Missouri not-for-profit corporation.

\_\_\_\_\_  
Printed Name: \_\_\_\_\_  
Notary Public in and for said State  
Commissioned in \_\_\_\_\_ County

My Commission Expires:

\_\_\_\_\_

## **INDEX OF EXHIBITS**

1. Legal Description of STAR Bond District
2. General Depiction of STAR Bond District
3. Legal Description of Project
4. General Depiction of Project
5. Legal Description of CID
6. General Depiction of CID
7. Development Plan
8. Financing Plan
9. Total Project Budget
10. Certificate of Expenditure
11. Design Criteria
12. Landscape Plan
13. Insurance Specifications
14. LBE/MBE/WBE Participation and Employment Opportunity Agreement
15. BBQ Competition Agreement

## ANNEX 1

### DEFINITIONS

"Affiliate" means any person, entity or group of persons or entities which controls Developer or a majority of its principals, which Developer or a majority of its principals controls or which is under common control with Developer or a majority of its principals. As used herein, the term "control" shall mean the possession, directly or indirectly, of the power to direct or cause the direction of management and policies, whether through the ownership of voting securities, by contract or otherwise.

"Agreement" means this Development Agreement by and between the UG and Developer.

"Agricultural Education Center" and "Agricultural Education Center Improvements" shall have the meanings set forth in Recital B and Section 2.2(b), respectively.

"Applicable Laws and Requirements" shall mean any applicable constitution, treaty, statute, rule, regulation, ordinance, order, directive, code, interpretation, judgment, decree, injunction, writ, determination, award, permit, license, authorization, directive, requirement or decision of or agreement with or by Government Authorities, and all requirements of any insurers. Applicable Laws and Requirements shall include, without limitation, the Development Plan, the CID Act, the STAR Bond Act, and the Kansas Cash Basis Law (K.S.A. § 10-1100 *et. seq.*) and Budget Law (K.S.A. § 75-2935 *et. seq.*).

"Approved Assignment" shall have the meaning set forth in Section 7.12.

"Assignee" shall have the meaning set forth in Section 7.12.

"Base Year Revenues" means the annual aggregate amount of the State Collection, the Local Collection and the TGT Collection for the twelve (12) month period preceding December 1, 2016, as described in Section 4.2(b)(i).

"BBQ Competition" means the barbecue contest hosted annually by Developer described in Section 3.1(a)(x).

"BBQ Uses" means those certain barbecue-related uses described in Recital B.

"Bond Closing" means the date on which the STAR Bonds are issued, sold, and delivered publicly or privately, as described in Recital G and Section 5.1.

"BPU" means the Kanas City Board of Public Utilities as referenced in Section 3.1(a)(xiv).

"Bond Documents" means the indenture and other documents related to the issuance of STAR Bonds, as described in Section 4.2(c).

"Casualty" means any fire, storm, earthquake, tornado, flood or natural disaster or other sudden, unexpected or unusual cause of damage or destruction.

"Casualty Escrow" means the net proceeds of any insurance relating to damage or destruction of any portion of the Improvements, the net proceeds of condemnation or taking of any portion of the Improvements, or the net proceeds of any realization on title insurance paid into, and used in accordance with, a construction escrow agreement satisfactory to the UG, Developer and any Permitted Mortgagee, as further described in Section 7.10(a).

"Certificate of Expenditure" means the form attached hereto as **Exhibit 10** that Developer must submit to the UG in order to receive payment or reimbursement for Project Costs from net STAR Bond Proceeds or Pay-As-You-Go CID Financing, as further described in Section 4.5.

"Certificate of Insurance" means a current and accurate certificate of insurance for each coverage applicable to the Project, the Site, and the Improvements, and for all coverages required in Section 7.9 and **Exhibit 13**.

"CID" means the community improvement district established by the UG pursuant to K.S.A. § 12-6a26 *et seq.*, as amended, and legally described on **Exhibit 5** and generally depicted on **Exhibit 6** attached hereto.

"CID Act" means K.S.A. § 12-6a26 *et seq.*, as amended.

"CID Administrative Fee" means the portion of CID Sales Tax from the CID used to pay an administrative fee in an amount equal to one percent (1.0%) of the CID Sales Tax Proceeds received by the UG from the DOR as set forth in Section 4.3(e).

"CID Cap" means the figure set forth in Section 4.3(c) to be used as a limitation on the use of CID Sales Tax for reimbursement of any and all CID Eligible Expenses.

"CID Collection Period" means the period of time in which CID Sales Tax shall be imposed and collected within the CID as set forth in Section 4.3(c)(ii).

"CID Costs" means those costs described on the Total Project Budget to be paid from the CID Sales Tax Fund with Pay-As-You-Go CID Financing.

"CID Eligible Expenses" means those Project Costs to be reimbursed with CID Sales Tax Proceeds as described in Section 4.3 if and the extent to which such Project Costs are eligible for payment or reimbursement pursuant to the CID Act.

"CID Petition" means that certain petition submitted by the Developer to the UG on or about \_\_\_\_\_, 2017, as described in Recital D.

"CID Ordinance" means the ordinance described in Recital F and approved by the UG to create the CID.

"CID Sales Tax" means that certain one percent (1%) sales tax imposed within the CID.

"CID Sales Tax Proceeds" means the proceeds from the CID Sales Tax.

"CID Sales Tax Fund" means a separate fund and account established by the UG for collection of the CID Sales Tax Proceeds collected in the CID as described in Section 4.3(b).

"Completion Date" means those dates described in Section 6.10.

"Construction Documents" means those documents respecting the design, development, construction, equipping and completion of the Improvements pursuant to the terms of Section 6.3.

"Core Royal" and "Core Royal Improvements" shall have the meanings set forth in Recital B and Section 2.2(a) of this Agreement, respectively.

"Damaged Facilities" means any part or the whole of the Project to the extent that the same is damaged or destroyed by a Casualty as described in Section 7.10(b).



"Design Criteria" means the design criteria exhibit to be agreed upon by the parties pursuant to Section 6.2(a) and attached hereto as **Exhibit 11**.

"Developer" means American Royal Association, a Missouri not-for-profit corporation, or its successors or assigns as permitted hereunder.

"Development Plan" means the plan agreed to by Developer and the UG as more fully described in Section 2.2 and **Exhibit 7** of this Agreement.

"DOR" means the Kansas Department of Revenue.

"Drop Dead Date" means the date certain described in Section 5.1.

"Due Diligence Period" means the period of time described in Section 3.1(a)(i).

"Effective Date" means the date of this Agreement first above written.

"Environmental Regulation" means any and all present and future laws, statutes, ordinances, rules, regulations and orders of any governmental authority having jurisdiction over the parties hereto or any portion of the Site or the Site and pertaining to the protection of human health, hazardous substances, pollution, or the environment, including, without limitation, the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended by the Superfund Amendments and Reauthorization Act of 1986, and as the same may be further amended from time to time (hereinafter collectively called "CERCLA").

"Excess Land" means that certain acreage within the Site for contemplated future construction of an agricultural headquarters facility and potential expansion of the Core Royal, along with various retail and restaurant uses as described in Section 2.2(c).

"Fair" means the Wyandotte County Fair Association.

"Financing Plan" means the financing plan for the Project as more particularly described in Section 3.1(a)(ii) attached hereto as **Exhibit 8**.

"Force Majeure" is defined in Section 10.2.

"Funding Agreement" means that certain agreement to fund certain costs between the UG and Developer as described in Section 3.2.

"GAAP" means generally accepted accounting principles.

"General Contractor" means the contractor(s) selected pursuant to Section 6.3.

"Government Authorities" shall mean any and all jurisdictions, entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies or authorities of any nature whatsoever of any governmental unit (federal, state, county, district, municipality, city or otherwise), whether now or hereafter in existence.

"Hazardous Substance" means any substance that is defined or listed as a hazardous or toxic substance and which is regulated as such or may form the basis of liability under any present or future Environmental Regulation, or that is otherwise prohibited or subject to investigation or remediation under any present or future Environmental Regulation because of its hazardous, toxic, or dangerous properties, including,

without limitation, (i) any substance that is a "hazardous substance" under CERCLA, and (ii) petroleum, natural gas, natural gas liquids, liquefied natural gas, and synthetic gas usable for fuel (or mixtures of natural gas and such synthetic gas), only to the extent that the constituents of such synthetic gas are released or threatened to be released into the environment.

"Improvements" means the Core Royal Improvements, Agricultural Education Center Improvements, and Parking Improvements, along with the associate signage and landscaping to be constructed in the Project as referenced in Section 6.1.

"Incremental Tax Revenues" means all Incremental Tax Revenues collected within the STAR Bond District and described in Section 4.2(b).

"Insurance Specifications" means the insurance requirements on Developer in connection with the Project as generally described in Section 7.8.

"IRBs" means industrial revenue bonds as set forth in Section 3.1(a)(vii) and Section 4.7.

"KS&F Property" means the real property within the STAR Bond District having a tax roll description of Wyandotte County Parcel No. 949106.

"Landscape Plan" means the detailed plan for landscaping of the Site described in Section 6.2(b) and **Exhibit 12**.

"Local Collection" means the revenues collected within the STAR Bond District by the UG as provided in Section 4.2(b).

"Material Change" means any substantial change to any agreement, plan or other document referred to herein that requires approval of a Government Authority, which change would require changes to Developer's permits or approval of the applicable Government Authorities required by Applicable Laws and Requirements.

"Parking Improvements" means any parking improvements provided for in Section 2.2(d).

"Pay-As-You-Go CID Financing" means the quarterly disbursements of CID Sales Tax Proceeds from the CID Sales Tax Fund described in Section 4.3(c).

"Permitted Mortgage" means the granting of any security interest placed on the Site or any part thereof by Developer in connection with any construction or permanent financing of the Project as described in Section 7.7.

"Permitted Mortgagee" means the holder of the Permitted Mortgage.

"Permitted Uses" means those uses generally described in Section 7.2(a).

"Person" shall mean any natural person, firm, partnership, association, corporation, limited liability company, trust, entity, public body or government or other entity.

"Plans and Specifications" means those plans and specifications generally described in Section 6.2.

"Prime Rate" means the rate of interest announced from time to time by Security Bank of Kansas City, or any successor to it. If such bank, or any successor to it, ceases to announce a prime rate, the UG shall designate a reasonably comparable financial institution for purposes of determining the Prime Rate.

"Private Contribution" means Developer's contribution of private capital to construct the Project as described in Section 4.8.

"Project" means that certain venture to be constructed, developed and completed by Developer as described in Recital B, Section 2.2, and elsewhere in this Agreement.

"Project Costs" means any and all costs of the Project.

"Project Plan" means that certain Northwest Speedway STAR Bond District STAR Bond Financing Project Plan approved and adopted by the UG pursuant to Ordinance No. O-\_\_17.

"Qualified Third Parties" means "qualified buyers" or "accredited investors", as described in Section 4.2(l)(vii).

"Schools" means the Wyandotte County school system as referenced in Section 3.1(a)(xii).

"Secretary" means the Secretary of Commerce for the State of Kansas.

"Signs" means any signage for the Site provided for in Section 2.2(e).

"Site" means that portion of the STAR Bond District upon which Developer is to design, construct and complete the Improvements, and the legal description for which is attached hereto as **Exhibit 3** and generally depicted on **Exhibit 4**.

"STAR Bond Act" means the Kansas STAR Bond Act, K.S.A. § 12-17,160 *et seq.*, as amended.

"STAR Bonds" means the Sales Tax Special Obligation Revenue Bonds to be issued by the UG pursuant this Agreement and the STAR Bond Indenture in connection with the development of the Project, including any refinancing of any such bonds.

"STAR Bond Costs" means Project Costs to be paid with STAR Bond Proceeds if and the extent to which such Project Costs are eligible for payment pursuant to the STAR Bond Act.

"STAR Bond District" means that certain STAR Bond project district established by the UG pursuant to K.S.A. § 12-17,160 *et seq.*, as amended, and Ordinance No. O-75-16, and as legally described on **Exhibit 1** and generally depicted on **Exhibit 2** attached hereto.

"STAR Bond District Plan" means that certain general development plan for the STAR Bond District identified in Ordinance No. O-75-16.

"STAR Bond Indenture" means the bond trust indenture to be entered into between the UG and the STAR Bond Trustee thereunder, as amended and supplemented from time to time, relating to the STAR Bonds.

"STAR Bond Proceeds" means the proceeds from the STAR Bonds.

"STAR Bond Revenue Fund" means a separate fund and account established by the STAR Bond Trustee for collection of the Incremental Tax Revenues collected in the STAR Bond District as described in Section 4.2(c) of this Agreement.

"STAR Bond Trustee" means that institution serving as trustee for the STAR Bonds under the STAR Bond Indenture.

"State" means the State of Kansas.

"State Collection" means the revenues collected within the STAR Bond District by the State as provided in Section 4.2(b).

"Substantial Completion" or "Substantially Completed" means the stage in the progress of the construction of the Project, or as to any particular portion thereof, when said construction is sufficiently complete so that the Project or such particular portion can be occupied or utilized for its intended use.

"Term" means the term of this Agreement as set forth in Section 7.1.

"TGT Collection" means the revenues collected from transient guest taxes levied within the STAR Bond District as provided in Section 4.2(b).

"Total Project Budget" means the estimated Project budget attached hereto as **Exhibit 9**.

"Total Project Costs" or "Project Costs" means the costs of constructing, developing and completing the Improvements, an estimate of which costs is more particularly described in **Exhibit 9** hereof.

"Transaction Documents" means this Agreement, the STAR Bond Indenture and the other Bond Documents.

"UG" means the Unified Government of Wyandotte County/Kansas City, Kansas, a municipal corporation organized and existing pursuant to the laws of the State of Kansas as a consolidated city-county having all of the powers, functions, and duties of a county and city of the first class.

## **EXHIBIT 1**

### **Legal Description of STAR Bond District**

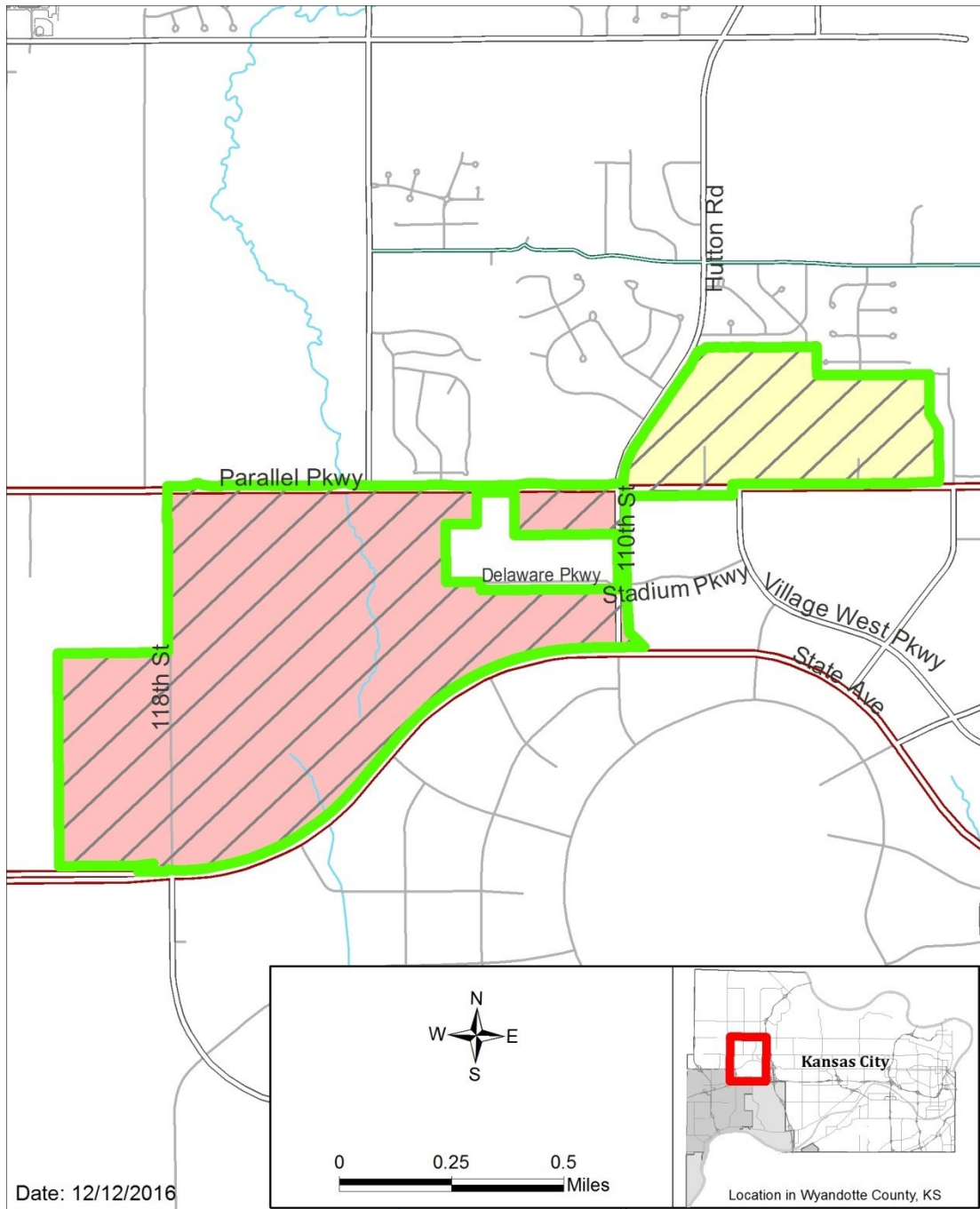
All that part of the Northeast Quarter and Southeast Quarter of Section 4, and all that part of Section 3, and all that part of the north half of Section 2, all in Township 11 South, Range 23 East, all that part of Lot 1, PIPER PLAZA, all that part of Lots 1, 2, 3, 4, and 5 of PIPER PLAZA SECOND PLAT, all that part of Lots 1 and 2 SECURITY BANK, all that part of Lots 14, 24, 25 and C of PLAZA AT THE SPEEDWAY, and all that part of Lots D and 53, PLAZA AT THE SPEEDWAY SECOND PLAT, and all that part of Lots 38, 39, 40, 41, and 42, PLAZA AT THE SPEEDWAY THIRD PLAT, and all that part of Lots 43, 44, 45, 46, 47, 48, 49, 50, 51, and 52, PLAZA AT THE SPEEDWAY FOURTH PLAT, and all that part of Lots 53, 54, and 55, PLAZA AT THE SPEEDWAY FIFTH PLAT, and all that part of Lots 56, 57, Tract E1, and Tract E2, PLAZA AT THE SPEEDWAY SIXTH PLAT, and all that part of the Southeast Quarter and Southwest Quarter of Section 34, and all that part of the Southeast Quarter of Section 33, both in Township 10 South, Range 23 East, all being in the City of Kansas City, Wyandotte County, Kansas being generally described as follows: Beginning at the intersection of the south right-of-way line of Parallel Parkway and the west right-of-way line of N. 118<sup>th</sup> Street, thence southerly, with the west right-of-way line of N. 118<sup>th</sup> Street to the north line of Parcel 953101; thence westerly with the north line of parcel 953101, to the northwest corner of said Parcel 953101; thence southerly, with the west line of Parcel 953101, and with the west line of Parcels 953103 and 953104 to the north right-of-way line of State Avenue; thence easterly, with the north right-of-way line of State Avenue to the east right-of-way line of N. 110<sup>th</sup> Street; thence northerly, with the east right-of-way line of N. 110<sup>th</sup> Street, to the south right-of-way line of Parallel Parkway; thence easterly, with the south right-of-way line of Parallel Parkway, to the west right-of-way line of Village West Parkway; thence northerly, with the west right-of-way line of Village West Parkway, to the north right-of-way line of Parallel Parkway; thence easterly, with the north right-of-way line of Parallel Parkway, to the easterly line of PLAZA AT THE SPEEDWAY SIXTH PLAT; thence northerly, with the east line of PLAZA AT THE SPEEDWAY SIXTH PLAT to the northeast corner thereof; thence westerly, with the north line of PLAZA AT THE SPEEDWAY SIXTH PLAT, to the northwest corner thereof, said point also being on the easterly line of PLAZA AT THE SPEEDWAY FIFTH PLAT; thence westerly and northerly, with the easterly line of PLAZA AT THE SPEEDWAY FIFTH PLAT, to the northeast corner thereof; thence westerly, with the north line of PLAZA AT THE SPEEDWAY FIFTH PLAT, and with the north line of PLAZA AT THE SPEEDWAY, to the northwest corner thereof, said point being on the east right-of-way line of Hutton Road; thence southwesterly, with the easterly right-of-way line of Hutton Road to the north right-of-way line of Parallel Parkway; thence westerly, with the north right-of-way line of Parallel Parkway, to the intersection of the north right-of-way line Parallel Parkway and the northerly prolongation of the west right-of-way line of N. 118<sup>th</sup> Street; thence southerly, with the northerly prolongation of the west right-of-way line of N. 118<sup>th</sup> Street, to the point of beginning.

Except all of Lot 1, LEGENDS APARTMENTS, and except all of Lot 1, VILLAGE WEST APARTMENTS, and except all of Parcel 949201.

The above described tract contains approximately 550 acres, more or less.

## EXHIBIT 2

### General Depiction of STAR Bond District



### **EXHIBIT 3**

#### **Legal Description of Project Site**

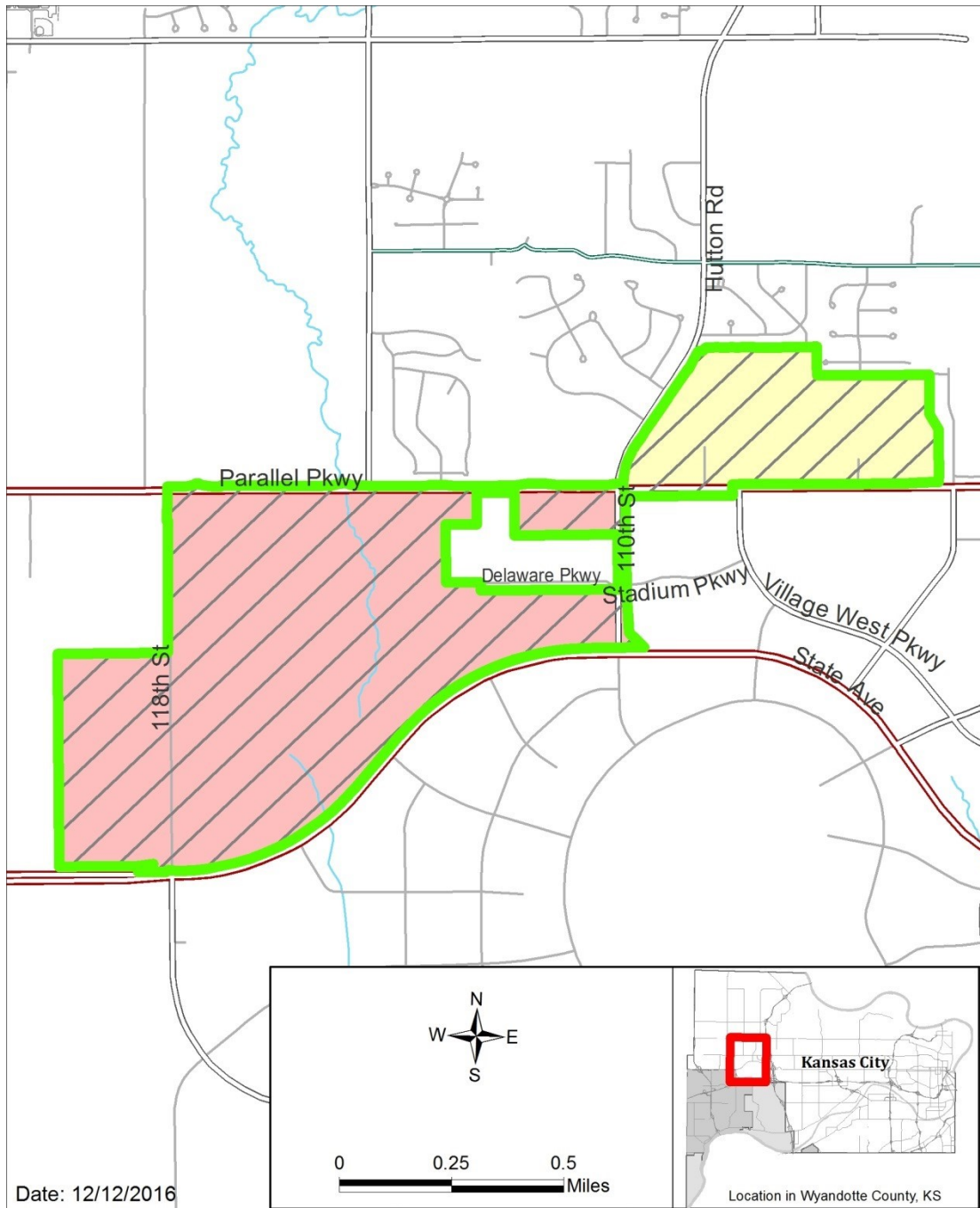
All that part of the Northeast Quarter and Southeast Quarter of Section 4, and all that part of Section 3, and all that part of the north half of Section 2, all in Township 11 South, Range 23 East, all that part of Lot 1, PIPER PLAZA, all that part of Lots 1, 2, 3, 4, and 5 of PIPER PLAZA SECOND PLAT, all that part of Lots 1 and 2 SECURITY BANK, all that part of Lots 14, 24, 25 and C of PLAZA AT THE SPEEDWAY, and all that part of Lots D and 53, PLAZA AT THE SPEEDWAY SECOND PLAT, and all that part of Lots 38, 39, 40, 41, and 42, PLAZA AT THE SPEEDWAY THIRD PLAT, and all that part of Lots 43, 44, 45, 46, 47, 48, 49, 50, 51, and 52, PLAZA AT THE SPEEDWAY FOURTH PLAT, and all that part of Lots 53, 54, and 55, PLAZA AT THE SPEEDWAY FIFTH PLAT, and all that part of Lots 56, 57, Tract E1, and Tract E2, PLAZA AT THE SPEEDWAY SIXTH PLAT, and all that part of the Southeast Quarter and Southwest Quarter of Section 34, and all that part of the Southeast Quarter of Section 33, both in Township 10 South, Range 23 East, all being in the City of Kansas City, Wyandotte County, Kansas being generally described as follows: Beginning at the intersection of the south right-of-way line of Parallel Parkway and the west right-of-way line of N. 118<sup>th</sup> Street, thence southerly, with the west right-of-way line of N. 118<sup>th</sup> Street to the north line of Parcel 953101; thence westerly with the north line of parcel 953101, to the northwest corner of said Parcel 953101; thence southerly, with the west line of Parcel 953101, and with the west line of Parcels 953103 and 953104 to the north right-of-way line of State Avenue; thence easterly, with the north right-of-way line of State Avenue to the east right-of-way line of N. 110<sup>th</sup> Street; thence northerly, with the east right-of-way line of N. 110<sup>th</sup> Street, to the south right-of-way line of Parallel Parkway; thence easterly, with the south right-of-way line of Parallel Parkway, to the west right-of-way line of Village West Parkway; thence northerly, with the west right-of-way line of Village West Parkway, to the north right-of-way line of Parallel Parkway; thence easterly, with the north right-of-way line of Parallel Parkway, to the easterly line of PLAZA AT THE SPEEDWAY SIXTH PLAT; thence northerly, with the east line of PLAZA AT THE SPEEDWAY SIXTH PLAT to the northeast corner thereof; thence westerly, with the north line of PLAZA AT THE SPEEDWAY SIXTH PLAT, to the northwest corner thereof, said point also being on the easterly line of PLAZA AT THE SPEEDWAY FIFTH PLAT; thence westerly and northerly, with the easterly line of PLAZA AT THE SPEEDWAY FIFTH PLAT, to the northeast corner thereof; thence westerly, with the north line of PLAZA AT THE SPEEDWAY FIFTH PLAT, and with the north line of PLAZA AT THE SPEEDWAY, to the northwest corner thereof, said point being on the east right-of-way line of Hutton Road; thence southwesterly, with the easterly right-of-way line of Hutton Road to the north right-of-way line of Parallel Parkway; thence westerly, with the north right-of-way line of Parallel Parkway, to the intersection of the north right-of-way line Parallel Parkway and the northerly prolongation of the west right-of-way line of N. 118<sup>th</sup> Street; thence southerly, with the northerly prolongation of the west right-of-way line of N. 118<sup>th</sup> Street, to the point of beginning.

Except all of Lot 1, LEGENDS APARTMENTS, and except all of Lot 1, VILLAGE WEST APARTMENTS, and except all of Parcel 949201.

The above described tract contains approximately 550 acres, more or less.

## **EXHIBIT 4**

### **General Depiction of Project Site**





**EXHIBIT 5**

**Legal Description of CID**

[TO BE ATTACHED]

**EXHIBIT 6**

**General Depiction of CID**

[TO BE ATTACHED]

# EXHIBIT 7

## Development Plan

SITE OPTION 1



AMERICAN ROYAL: PROJECT OZ | March 30, 2017

gouldevans

## **EXHIBIT 8**

### **Financing Plan**

SOURCES		USES	
Net STAR Bond Proceeds	\$ 80,000,000	Land Acquisition	\$ 4,000,000
Private Contribution	\$ 80,000,000	Private Sitework	\$ 21,335,244
Other Sources	\$ 5,383,706	Public Infrastructure	\$ 18,979,957
		Vertical Construction	\$ 91,352,249
		Soft Costs	\$ 19,158,443
		Contingency	\$ 10,557,813
<b>TOTAL SOURCES</b>	<b>\$ 165,383,706</b>	<b>TOTAL USES</b>	<b>\$ 165,383,706</b>

*NOTE: The costs set forth above are estimates only, and subject to change in Developer's discretion, subject to compliance with this Agreement. Subject to the terms of Section 4.6 and the balance of the Agreement, costs set forth above may be shifted among line items.*

Prior to the Bond Closing, Developer shall prove-up all sources and uses for the Project, evidenced by:

1. The good faith belief by the UG (as issuer) and the underwriter of the STAR Bonds that a Bond Closing can be achieved that will result in the issuance of STAR Bonds sufficient to render \$80 million in net STAR Bond Proceeds (or such lesser amount as Developer may decide is acceptable to Developer in its discretion, provided such lesser amount balances with the Total Project Costs as described in Section 4.2(a) of the Agreement); and
2. Immediately available private funds to assist in financing the Project that, when added to the net STAR Bond Proceeds, are sufficient to complete the Project in accordance with the Total Project Budget, and that are verifiable by the UG: (a) cash funds held in a bank account; or (b) private equity, received charitable contributions (not pledges), grants and/or a closed loan from a financial institution that is ready, willing and able to provide construction draws for the Project, subject only to normal and customary draw conditions that are reasonably approved by the UG.

The parties acknowledge and agree that the Financing Plan may change in accordance with this Agreement, and likely will change prior to the Bond Closing, in which event the County Administrator shall consider such change or changes in accordance with Section 3.1(a)(ii) hereof.

The parties further acknowledge and agree that all disbursements of STAR Bond Proceeds shall be subject to the 50/50 Limitation (as defined in Section 4.2(d) of this Agreement) and the other limitations described in Article 4 of the Agreement.

## EXHIBIT 9

### Total Project Budget

COST CATEGORY		ESTIMATED COSTS	STAR BOND COSTS	CID ELIGIBLE EXPENSES
<u>Land Acquisition</u>				
Land Cost		\$ 4,000,000	\$ 4,000,000	\$ 4,000,000
	Subtotal:	\$ 4,000,000	\$ 4,000,000	\$ 4,000,000
<u>Private Sitework</u>				
Grading, Utilities, Paving, Landscaping	75+/- ac. @ \$284,470 per ac.	\$ 21,335,244	\$ 21,335,244	\$ 21,335,244
	Subtotal:	\$ 21,335,244	\$ 21,335,244	\$ 21,335,244
<u>Public Infrastructure</u>				
115th Street		\$ 6,721,192	\$ 6,721,192	\$ 6,721,192
118th Street		\$ 5,660,765	\$ 5,660,765	\$ 5,660,765
Delaware West		\$ 4,688,000	\$ 4,688,000	\$ 4,688,000
South Road at Kiickapoo		\$ 1,910,000	\$ 1,910,000	\$ 1,910,000
	Subtotal:	\$ 18,979,957	\$ 18,979,957	\$ 18,979,957
<u>Vertical Construction</u>				
Barns / Warm-up Arena	274,080 SF @ \$125.33 PSF	\$ 34,350,684	\$ 34,350,684	\$ 34,350,684
Large Show Arena	164,825 SF @ \$250.70 PSF	\$ 41,321,117	\$ 41,321,117	\$ 41,321,117
Sales Barn*	7,500 SF @ \$250.70 PSF	\$ 1,880,227	\$ -	\$ 1,880,227
American Royal Office & Meeting*	21,660 SF @ \$159.77 PSF	\$ 3,460,662	\$ -	\$ 3,460,662
Maintenance, Storage, Dirt Facilities*	60,000 SF @ \$59.83 PSF	\$ 3,589,560	\$ -	\$ 3,589,560
Integrated Educational & Museum Facilities		\$ 6,750,000	\$ 6,750,000	\$ 6,750,000
	Subtotal:	\$ 91,352,249	\$ 82,421,801	\$ 91,352,249
<u>Soft Costs</u>				
Design & Engineering	8.00%	\$ 10,533,396	\$ -	\$ -
Reimbursable Expense Allowance		\$ 225,000	\$ -	\$ -
Professional Services & Fees	3.00%	\$ 3,950,024	\$ -	\$ -
Property Insurance		\$ 50,000	\$ -	\$ -
Construction Mgmt. / Owners Rep. Fees	2.00%	\$ 2,633,349	\$ -	\$ -
Utility Development Fees		\$ 250,000	\$ -	\$ -
Special Inspections & Inspection Services		\$ 75,000	\$ -	\$ -
Testing (Building & Site)		\$ 125,000	\$ -	\$ -
Overhead & Opening Operations	1.00%	\$ 1,316,675	\$ -	\$ -
	Subtotal:	\$ 19,158,443	\$ -	\$ -
<u>Contingency</u>				
Contingency (Hard & Soft)	7.00%	\$ 10,557,813	\$ -	\$ -
<b>TOTAL PROJECT COST</b>		<b>\$ 165,383,706</b>	<b>\$ 126,737,002</b>	<b>\$ 135,667,450</b>

\*NOTE: To the extent that CID Sales Tax is pledged as an additional source of revenues to pay the STAR Bonds, the following line items above will not be eligible for payment with STAR Bond Proceeds: (1) Sales Barn; (2) American Royal Office & Meeting; and (3) Maintenance, Storage, Dirt Facilities.

*NOTE: The costs set forth above are estimates only, and subject to change in Developer's discretion, subject to compliance with this Agreement. Subject to the terms of Section 4.6 and the balance of the Agreement, costs set forth above may be shifted among line items.*

**EXHIBIT 10**

**Form Certificate of Expenditure**

**CERTIFICATE OF EXPENDITURES  
AMERICAN ROYAL IMPROVEMENTS**

Date:  
Certification #

Governing Body of the Unified Government

The American Royal Association, a Missouri not-for-profit corporation ("Developer"), in accordance with the American Royal Development Agreement dated \_\_\_\_\_, 2017 (the "Agreement"), between the Unified Government of Wyandotte County/Kansas City, Kansas (the "UG") and Developer, presents this Certificate Expenditure ("Certificate"), certifying as follows:

1. All amounts submitted herewith ("Amounts") are expenses for STAR Bond Costs [*and/or CID Eligible Expenses*] that are reimbursable to Developer under the terms and conditions of the Agreement.
2. All Amounts have been advanced by Developer, successors, assigns, tenants, or transferees for STAR Bond Costs [*and/or CID Eligible Expenses*] in accordance with the Agreement and represent the fair value of work, materials or expenses.
3. No part of such Amounts has been the basis for any previous request for reimbursement under the Agreement.
5. This Certificate complies with all Applicable Laws and Requirements in accordance with the Agreement, including without limitation the Kansas False Claims Act (K.S.A. § 75-7501 *et. seq.*).
4. Developer has not breached and is not in default or violation of any representation, warranty, or covenant under the Agreement.
5. All insurance policies which Developer is responsible for under the Agreement are in full force and effect and that Developer is in compliance, in all material respects, with all other terms of the Agreement.

The total of all Amounts requested for reimbursement by this Certificate is \$ \_\_\_\_\_ which amount is itemized on **Attachment A** attached hereto and which Attachment A includes \_\_\_\_\_ page(s), is incorporated herein by reference and has been signed by the authorized representative of Developer who signed this Certificate.

Certified: AMERICAN ROYAL ASSOCIATION      Approved:

Signed: \_\_\_\_\_

\_\_\_\_\_  
UG Representative

By: \_\_\_\_\_

Its: \_\_\_\_\_

**ATTACHMENT A**  
**TO CERTIFICATION OF EXPENDITURES**  
**AMERICAN ROYAL IMPROVEMENTS**

**PAGE \_\_\_\_ OF \_\_\_\_**

Date: \_\_\_\_\_

Certification # \_\_\_\_\_

**DESCRIPTION OF EXPENSE  
(ATTACH ADDITIONAL SUPPORTING  
DOCUMENTATION)**

**Amount of Expense**

1. _____	\$ _____
2. _____	\$ _____
3. _____	\$ _____
4. _____	\$ _____

TOTAL EXPENSES    \$ \_\_\_\_\_

\_\_\_\_\_  
Signature of Developer

**EXHIBIT 11**

**Design Criteria**

[TO BE ATTACHED]



**EXHIBIT 12**

**Landscape Plan**

[TO BE ATTACHED]

## **EXHIBIT 13**

### **Insurance Specifications**

1. Worker's Compensation. Developer may self-insure, to the extent allowed by applicable law. The self-insured retention shall be that which is standard in the industry. Developer will then purchase excess Worker's Compensation Insurance with statutory limits over the self-insured retention. If self-insurance is not available under applicable state law, coverage will be purchased in accordance with the statutory requirements.
2. Comprehensive General Liability. Developer will purchase and maintain with primary limits of \$2,000,000.
3. Automobile Liability. Developer will purchase and maintain with primary limits of \$1,000,000.
4. Excess Liability. Developer will purchase and maintain excess liability insurance in an amount not less than \$5,000,000.
5. Special Perils Form Property Insurance. Developer will purchase on a replacement cost basis. Deductibles and limits will be standard to those in the industry, and the policy shall include an "Agreed Amount" endorsement.

## **EXHIBIT 14**

### **LBE/MBE/WBE PARTICIPATION AND EMPLOYMENT OPPORTUNITY AGREEMENT**

This Exhibit sets forth the goals for the utilization of local business, minority, and women enterprises and local resident, minority, and women participation and equal employment opportunity referenced in Section 8.2 of the American Royal Development Agreement (the "Agreement") between the Unified Government of Wyandotte County/Kansas City, Kansas ("UG") and American Royal Association ("Developer"). The parties agree as follows:

#### **I. SCOPE**

These procedures are applicable to the design, construction, and development of the Project, whether performed by or on behalf of Developer, and including:

**A.** During the Term of the Agreement, Professional Services, which shall include but not be limited to architectural, engineering, planning, appraisal, public relations, and other similar services related to design, development, and Construction of the Project, but not including: (i) Specialized Services, or (ii) legal, architectural and pre-construction consulting services already contracted for prior to the Effective Date of the Agreement (as defined herein), which shall specifically be excluded from both the numerator and the denominator in determining whether the Professional Services goals set forth herein have been met; and

**B.** Construction, including but not limited to all aspects of the Construction of the Project and all related facilities, including labor, materials and supplies, and construction-related services, whether undertaken by or on behalf of Developer, but not including (i) Specialized Services, (ii) Professional Services, or (ii) pre-construction consulting services already contracted for prior to the Effective Date of the Agreement (as defined herein), which shall specifically be excluded from both the numerator and the denominator in determining whether the Construction goals set forth herein have been met.

#### **II. DEFINITIONS**

All capitalized terms used in this Exhibit shall have the meaning ascribed to them in Annex 1 to the Agreement and made a part thereof, or as otherwise set forth herein.

**A.** **"Construction"** means all aspects of the design, development, and construction of the Project, including without limitation labor, materials and supplies, and construction-related services, whether performed or contracted for by or on behalf of Developer. Construction shall not include: (1) services performed or associated with tenant improvements or any services requested by tenants of the Project, provided that this exception shall only apply to tenants who are third parties unaffiliated with Developer, (2) Specialized Services, (3) Professional Services, or (4) pre-construction consulting services already contracted for prior to the Effective Date of the Agreement (as defined herein).

**B.** **"Contractor"** means the Proposer selected by Developer for the design, development, or construction of the Project.

**C. "Local Business Enterprise or LBE"** means a business headquartered or which maintains a Substantial Local Office that performs the significant functions of the business in Wyandotte County or a business of which at least 51% of the stock, equity, or beneficial interest is owned, held, or controlled and whose day-to-day management is under the control of an individual residing in Wyandotte County. There is no formal certification process for LBE designation and it is determined and assigned based upon the criteria referenced in this definition and payment of all applicable Wyandotte County taxes and/or licensing fees.

**D. "Local Resident"** means an individual that, during his or her employment with the Project, maintains his or her place of domicile in Wyandotte County, Kansas.

**E. "Minority Business Enterprise or MBE"** means a business of which at least 51% of the stock, equity, or beneficial interest is owned, held, or controlled and/or whose day-to-day management is under the control of a person who is a member of an American ethnic minority group including African-American, Asian-Indian, Asian-Pacific, Hispanic and Native American.

**F. "Professional Services"** means advisory or consulting activities including, but not limited to, architectural, engineering, accounting, financial, marketing, environmental studies, medical doctors, and financial services contracted for by or on behalf of Developer for the design, development, and Construction of the Project, but specifically excluding: (1) services that have historically been sourced and provided at the holding company level by Developer (such as legal services, and accounting services, for example); (2) Specialized Services, or (3) legal, architectural and pre-construction consulting services already contracted for prior to the Effective Date of the Agreement (as defined herein).

**G. "Proposer"** means a person who submits a proposal in response to a solicitation for proposals issued by Developer or one of its Contractors with respect to the design, development, or Construction of the Project or with respect to the annual operations of the Project.

**H. "Specialized Services"** means expertise, services or products, the application of which are unique to the business of the Project and which are only available through sole or limited source providers or national vendors including, but not limited to, the following: superflat concrete floors, vendor displays and racks, log construction, murals, mountain and exterior water feature displays (excluding plumbing), aquariums, mounts, and bronze sculptures.

**I. "Substantial Local Office"** means an office operated and financially supported by a firm that has sufficient space, staff, and equipment to carry on the local business of the firm and that is engaged in significant, on-going local involvement with the business community in Wyandotte County, Kansas.

**J. "Women Business Enterprise or WBE"** means a business of which at least 51% of the stock, equity, or beneficial interest is owned, held, or controlled and/or whose day-to-day management is under the control of one or more women who are U.S. citizens or legal resident aliens.

### **III. DESIGN, DEVELOPMENT, AND CONSTRUCTION**

#### **A. GOALS FOR LBE/MBE/WBE PARTICIPATION.**

##### **1. Construction Goals.**

Developer will use its best efforts, as defined in Section III.C.3.b., to meet the following goals based upon the total cost of the Construction and Professional Services, respectively, to complete the Project, but not including Specialized Services. In no event shall Developer be

required to incur higher costs as a result of its commitment to attempt to meet such goals. These goals are based upon a disparity study performed for the Kansas City Metropolitan Area for LBE, MBE, and WBE participation. These goals are not to act as quotas or set asides.

	Construction	Professional Services
LBE	18%	18%
MBE	15%	13%
WBE	7%	8%

It is the intent of the UG to give preference to the utilization of LBEs so long as all other factors relating to the award of an individual contract are equal. If the factors relating to an award of an individual contract are equal, Developer shall give preference to the utilization of LBEs over the utilization of MBEs and WBEs. The Developer shall strive to meet each individual goal listed.

**2. Contract Specific Goals.**

Where appropriate, the UG may agree to different specific goals for specific elements of the Project to be awarded by Developer, when proposed by Developer, relating to the construction of the Project, based upon the availability of qualified LBEs and certified MBEs and WBEs to perform the specific scopes of work delineated in Developer's Project Utilization Plan.

**3. Eligibility for Credit.**

**a.** Only LBE businesses that are qualified and/or MBE or WBE businesses that are certified or undergoing certification by the Kansas Department of Commerce, the City of Kansas City, Missouri, the State of Missouri, the Missouri Department of Transportation, the MidAmerica Minority Business Development Council, and/or the Women's Business Enterprise National Council, or any other applicable or appropriate public or private entity or other entity mutually acceptable to the UG and the Developer (each, an "approved" business) may be counted towards the participation goals in Section III.A.1. above.

**b.** In the event that a contract has been awarded on the Project to an approved LBE, MBE, or WBE business, and such LBE, MBE, or WBE business later becomes unapproved prior to the completion and acceptance of all the work to be provided under such contract, then Developer shall nonetheless receive credit towards the goal for the entire portion of work performed or services provided up to the point such business becomes unapproved.

**4. Construction Workforce.**

**a. Recruitment and Outreach.** Developer will use its best efforts to employ and to ensure its Contractors employ Local Residents, minorities, and women in all aspects of the Construction of the Project, except for Specialized Services. These efforts shall include but not be limited to:

i. advertising in appropriate publications describing the work available, pay scales, and application procedures and maintaining a log or copies of these ads showing the date of publication and identifying the publication;

ii. working with local community organizations, minority and women's community organizations, and other appropriate organizations to seek qualified Local Residents, minorities, and women (a list of these organizations may be provided by the UG upon request); and

iii. working with the UG to promote diversity and inclusion in all aspects of the Construction of the Project.

Documentation of these and any other steps taken shall be submitted to the UG in connection with each submission of Certificates of Expenditure by Developer.

**b. Employment Procedures.** Developer and its Contractors shall implement equal employment opportunity hiring and job action procedures as those terms are commonly understood.

**B. CONSTRUCTION UTILIZATION PLANS.**

**1. Submissions, Content, and Fulfillment of Utilization Plan.**

a. Fourteen (14) calendar days before the solicitation of the first proposal for the Construction of part of the Project, which is issued by Developer after the execution of the Agreement, Developer shall submit a Construction Utilization Plan to the UG. The Construction Utilization Plan shall be on the form attached to this Agreement as Attachment A or on another form provided or approved by the UG. This Construction Utilization Plan shall set forth, to Developer's actual knowledge: all categories of work that will be covered within solicitations that Developer or its Contractors intend to issue for all Construction and Professional Services providers necessary for the Construction of the Project; an estimate of the dollar value of all work covered by these solicitations; an estimate of the dollar value of work within each identified work category; the dollar value of the work for each identified work category that is projected to be performed by LBEs, MBEs, and WBEs; any known potential joint ventures with LBEs, MBEs, and WBEs within each identified work category; an overall schedule of all work projected to be performed related to the Construction of the Project, laid out sequentially over time; and the actions Developer intends to take, with respect to these solicitations, to make best efforts to meet the goals set forth in Section III.A.1. of this Exhibit.

b. The Developer, in this Construction Utilization Plan, shall designate one person as the Project Manager to serve as the point of contact with the UG on all matters related to the Construction Utilization Plan. Developer shall provide the Project Manager's name, physical office address, e-mail address, and phone number to the UG.

c. The goals of Section III.A.1. may be met by the expenditure of dollars with approved LBE, MBE, or WBE prime contractors, material suppliers, subcontractors, or through joint ventures with approved LBEs, MBEs, or WBEs.

i. Certified MBE and WBE prime contractor Proposers may count their own participation toward each goal for which they qualify, and may divide

their participation between two goals, but the participation may not be double-counted. These prime contractor Proposers shall receive credit towards the goals for the dollar value of the contract.

ii. Approved or certified MBE, WBE, or LBE material suppliers, regular dealers, and manufacturers shall be credited towards the goals for the dollar value of the contract.

iii. A joint venture involving an approved LBE, MBE, or WBE as a partner may be counted towards the applicable goal only to the extent of the dollar amount that the approved LBE, MBE, or WBE is responsible for and at risk, except, however, if the LBE/MBE/WBE is the majority partner in the joint venture, the entire joint venture contract amount shall be counted, less any work subcontracted to the non-LBE/MBE/WBE joint venture partner. To receive credit, the approved LBE, MBE, or WBE must be responsible for a clearly defined portion of the work, profits, risks, assets, and liabilities of the joint venture.

iv. Participation by a certified MBE owned by a minority woman may be counted as MBE participation or as WBE participation; however, this participation cannot be double counted. A certified MBE or WBE may also be counted towards the LBE goal, if qualified as LBE. The amount of participation by these businesses may be divided between the MBE or the WBE goals but may not be double-counted. A qualified LBE, which is certified as MBE and WBE, shall be counted toward the LBE and the MBE or WBE goals, but shall not be counted toward both the MBE and WBE goals.

v. Only the participation of LBEs, MBEs, and WBEs that provide a commercially useful function required for the work of the specific solicitation shall be counted toward achievement of the goals. The LBE, MBE, or WBE must be responsible for the execution of a distinct element of the work by actually performing, managing, or supervising its function in the work identified in the solicitation. Brokering is not credited. Purchases from LBEs, MBEs, and WBEs that constitute indirect or general overhead costs to a projected Proposer's business may not be counted toward the goals. Costs directly incurred solely to perform the work with respect to a Project contract may be counted toward the goals.

## **2. Evaluation of Utilization Plans.**

a. The UG will review the Developer's Construction Utilization Plan respecting each category of work identified by Developer. In conducting its review, the UG shall evaluate the extent to which the actions Developer proposes constitute best efforts, as set forth in Section III.C.3.b. below. In no event shall Developer or any of its Contractors be required to engage any LBE, MBE, or WBE that is not the low bidder or is not qualified or capable of performing the work to acceptable standards in the reasonable discretion of Developer.

b. Changes to the Construction Utilization Plan shall be reviewed and approved or rejected by the UG within 30 days after submission of the same by Developer, and the same shall be deemed to be approved by the UG if not rejected within said 30 days. All such approved changes shall become effective upon the date that the same are approved (or deemed approved) by the UG.

## **C. CONTRACT AWARD COMPLIANCE PROCEDURES.**

### **1. Solicitation Documents.**

The solicitation documents for each contract for which goals are established shall contain a general description of the requirements set forth in this Exhibit; the LBE, MBE, and WBE goals; and the areas of projected subcontracting. Five (5) calendar days before the issuance of each solicitation, Developer shall submit the solicitation documents and the bid list to the UG. This submittal is mandatory for each bid subject to LBE/MBE/WBE goals.

### **2. Developer's Report of Solicitation Results.**

Within seven (7) working days after the date set for receipt of proposals by each solicitation issued for Developer for the Construction of the Project, the Project Manager shall submit to the UG, on a form provided or approved by the UG, a Report of Solicitation Results (the "Report") fully describing all proposals received in response to the solicitation. The Report shall: (1) state the estimated total dollar value of the work covered by the solicitation; (2) state the names of all Proposers; (3) state the total dollar value of work covered by proposals submitted by approved LBEs, MBEs, and/or WBEs (for both Construction and Professional Services); (4) provide all relevant information concerning each joint venture Proposer; and (5) state the name of all subcontractors to Proposers (to the extent then available) that are approved LBEs, MBEs, and/or WBEs, and the dollar value of work covered by proposed subcontracts between Proposers and LBEs, MBEs, and/or WBEs. The Report shall also indicate to which of the Proposers, including joint venture Proposers, the Developer or any of its Contractors is intending to award contracts resulting from the solicitation. In addition, with respect to any LBE, MBE, or WBE goal established in the Construction Utilization Plan that it appears from the proposals received will not be met, Developer shall include in the Report a precise description of all best efforts it has undertaken or caused to be undertaken to meet the established goals. These submittals are mandatory for all solicitations subject to LBE/MBE/WBE goals.

### **3. UG Review of Developer's Report of Solicitation Results.**

**a.** Within seven (7) calendar days of receiving a Report for review, the UG, based on its review of the Report, shall advise the Developer whether it appears that, in light of Developer's indication of the Proposers to whom it intends to award contracts, Developer will meet the goals for work to be performed by LBEs, MBEs, and WBEs set forth in the Construction Utilization Plan or if not, whether Developer has established best efforts to meet these goals, and shall state the reasons for this conclusion, referring to the specific efforts criteria contained in Section III.C.3.b. below. As a part of its review, the UG may ascertain whether LBE, MBE, or WBE subcontractors agree with the dollar value of the work and the scope of the work, as identified in the proposal.

**b.** For each Construction Utilization Plan goal that is not achieved, Developer shall be deemed to have used best efforts ("**best efforts**") to meet the Construction Utilization Plan goals for Construction and Professional Services set forth in Section III.A.1. of this Exhibit if Developer shall have taken substantially all the following actions:

**i.** Developer is seeking or has sought timely assistance of the UG to identify qualified LBEs, MBEs, and WBEs;



**ii.** Developer is advertising or has advertised contract opportunities in local, minority, and women media;

**iii.** Developer is providing or has provided reasonable written notice of opportunities and informational meetings to approved LBEs, MBEs, and WBEs;

**iv.** Developer is following up or has followed up initial solicitations of interest by contacting LBEs, MBEs, and WBEs;

**v.** Developer is segmenting or has segmented portions of the work to increase the likelihood of LBE, MBE, and WBE participation, where feasible;

**vi.** Developer is providing or has provided interested LBEs, MBEs, and WBEs with timely and accurate information about the plans, specifications, requirements, deadlines, and bidding procedures of the contracts;

**vii.** Developer is negotiating or has negotiated in good faith with interested LBEs, MBEs, and WBEs, not rejecting them as unqualified without sound reasons, based on a thorough review of their capabilities and prior work histories; and

**ix.** Developer is working or has worked with local, minority, and women contracting, professional, civic, and community organizations, government officers or any other organization or persons, as identified by the UG, that provide assistance in the recruitment of LBEs, MBEs, and WBEs.

Each time the phrase “best efforts” appears throughout this Exhibit, it refers to the definition set forth in this Section. Failure by Developer to take all of the foregoing actions shall not be determinative that Developer has not used best efforts.

#### **4. Signed Contracts.**

Within thirty (30) working days following provision of the UG's evaluation of the Report of Solicitation Results to Developer, the Project Manager shall submit signed contracts with successful Proposers to the UG.

### **D. SUBCONTRACTOR RELATIONS.**

#### **1. Documentation of Subcontracting Agreements.**

All subcontracting services shall be evidenced by a written agreement stating, at a minimum, the scope of work to be performed and the amount to be paid for performance of the work. Unit price subcontracts are acceptable if appropriate to the type of work being performed.

#### **2. Documentation of Schedules.**

**a.** For Construction contracts, the Contractor must present a work schedule that includes when the LBE, MBE, and WBE subcontractors will be utilized at the job site. This schedule is due on or before the pre-construction meeting with the UG and the Project Manager representing Developer.

**b.** For Professional Services contracts, Developer must present a written schedule of when the LBE, MBE, and WBE consultants will be working on the Project. This written schedule shall be provided to the UG prior to the Bond Closing (as defined in the Agreement).

**3. Substitutions, Additions or Deletions.**

Where a substitution for a LBE, MBE, or WBE subcontractor must occur after submission of proposals by the Project Manager to the UG, the Project Manager must submit notice of the proposed change or substitution to the UG for review. The UG shall have no authority to approve or reject any change or substitution. The sole purpose of the review by the UG shall be to determine whether the LBE, MBE, or WBE should be counted toward achievement of the goals of Section III.A.1.

**IV. UG'S ASSISTANCE TO DEVELOPER.**

The UG shall use its best efforts to provide assistance to Developer in fulfilling its obligations as set forth in this Exhibit. Developer assumes all responsibility for its efforts in meeting the goals and complying with the procedures and processes set forth herein. The UG assumes no duty or responsibility to the Developer with respect to Developer's fulfillment of the goals set forth in this Exhibit by reason of the provision of assistance to the Developer. Examples of assistance the UG may provide include but are not limited to:

- A.** providing information and technical assistance regarding the Project to Developer and its agents, including Contractors, subcontractors, LBEs, MBEs, WBEs, officials, and other interested persons;
- B.** developing and maintaining a registry of approved LBE, MBE, and WBE businesses;
- C.** assisting with identifying potential LBEs, MBEs, and WBEs and reviewing their qualifications to participate in the Project;
- D.** updating Developer and its agents on current or proposed affirmative action legislation enacted by the UG that may affect the Project;
- E.** recommending contract specific goals, as appropriate;
- F.** providing assistance in pre-award activities, such as provision of model or example Utilization Plans and work segmentation;
- G.** reviewing Developer, Contractor, and subcontractor performance and LBE, MBE, and WBE participation on the Project;
- H.** providing advice relative to utilization and compliance matters;
- I.** conducting compliance reviews and audits of LBE, MBE, and WBE participation;
- J.** evaluating requests for substitutions, additions, and deletions;
- K.** assisting Developer and its agents in addressing issues related to the goals and procedures set forth in this Exhibit;

L. reviewing payments to subcontractors, as documented by monthly reports submitted by Developer;

M. reviewing complaints from LBEs, MBEs, WBEs, Contractors, subcontractors, and any other interested persons regarding these goals and procedures;

N. assisting in Developer's development of forms to document compliance with these procedures; and

O. reviewing and approving utilization plans and contract award submittals.

## **VI. DEVELOPER COMPLIANCE RECORDS AND REPORTS.**

### **A. RECORDS.**

Developer shall maintain those records as may reasonably be required to demonstrate compliance with the goals and procedures set forth in this Exhibit. These records shall be available to the UG upon reasonable notice.

### **B. CONSTRUCTION UTILIZATION PLAN REPORTS.**

Developer shall update the Construction Utilization Plan quarterly on the forms attached hereto as Attachments B and C or another form provided or approved by the UG. In addition, each quarterly report shall include the following for each LBE, MBE, or WBE whose participation is utilized by Developer to be applied to the goals set forth herein: business name and address of each LBE, MBE, and WBE; and a brief description of the work to be performed by each. Developer also shall document the change orders to contracts awarded in each monthly report.

### **C. REMEDIES.**

Subject to the provisions of Section 9.1 of the Agreement, if Developer should fail to provide a report required by this Exhibit, and fail to cure such failure within thirty (30) days after receipt of written notice from the UG specifying such failure, then such failure to cure shall constitute an event of default and the UG shall have those remedies set forth in the Agreement, and the UG shall have the right to stop processing Certificates of Expenditure or make any further disbursements of STAR Bond Proceeds and/or CID Sales Tax Proceeds until Developer complies with reporting requirements.

If, after reviewing Developer's reports, the UG reasonably believes that the participation goals contained in this Exhibit have not been met, and that the best efforts described herein have not been met, then the UG shall inform Developer of this determination in writing. If the Developer fails to demonstrate to the UG, within thirty (30) days following its receipt of said written determination, that either: (i) the goals contained in this Exhibit have been met, or (ii) the goals contained in this Exhibit have not been met but the best efforts described herein have been met, then the UG shall have the right to reduce the STAR Bond Proceeds and CID Sales Tax Proceeds available to Developer pursuant to the Agreement by an amount equal to one and one-half percent (1.5%) (applied separately to Construction and Professional Services) as the UG's sole and exclusive remedy for such failure. The UG shall also have the right to renegotiate LBE, MBE, and WBE goals for future construction projects.

**UNIFIED GOVERNMENT OF WYANDOTTE  
COUNTY/KANSAS CITY, KANSAS**

By: \_\_\_\_\_  
Douglas G. Bach  
County Administrator

Date: \_\_\_\_\_

**AMERICAN ROYAL ASSOCIATION**

By: \_\_\_\_\_  
Name: \_\_\_\_\_  
Title: \_\_\_\_\_  
Date: \_\_\_\_\_

**Date:** \_\_\_\_\_

**Project Name:** \_\_\_\_\_

58916516.10  
CORE/0501343.0111/132688339.15

**Attachment B**  
**Unified Government**  
**MBE/WBE/LBE Status Report**  
**Construction Phase**

[illegible]



**Attachment C**

**LBE/MBE/WBE COMPLIANCE**

**SUMMARY REPORT  
EXPENDITURES FOR REPORTING PERIOD**

<b>GOODS SUPPLIES and OTHER SERVICES</b>	<b>Total</b>	<b>Class</b>	<b>Percent</b>	<b>Comments</b>
Total \$ Awarded				
Total \$ Expended				
Total \$ MBE		% MBE		
Total \$ WBE		%WBE		
Total \$ M/WBE		%M/WBE		



### MINORITY AND WOMEN EMPLOYEES

List the name, address, trade, classification, date hired, sex and ethnic origin for each minority/women employed by your company.

Name & Address	Trade	Classification	Date Hired	Sex	Ethnic Origin

**EXHIBIT 15**

**BBQ Competition Agreement**

**[To Be Attached]**