

FUNDING AGREEMENT

AMONG

THE TAX INCREMENT FINANCING COMMISSION
OF KANSAS CITY, MISSOURI,

STAR DEVELOPMENT CORP.

AND

THE CITY OF KANSAS CITY, MISSOURI

FOR THE INSTALLATION OF
TRAFFIC SIGNALS AT THE INTERSECTION OF
NE 108TH STREET AND NE COOKINGHAM DRIVE

PURSUANT TO

THE SHOAL CREEK PARKWAY TAX INCREMENT FINANCING PLAN

Dated _____, 2021

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Exhibits

Exhibit A: Description of Traffic Signal Installation Project

Exhibit B: Redevelopment Project Costs

FUNDING AGREEMENT

THIS FUNDING AGREEMENT is made as of this ___ day of _____, 2021 among the TAX INCREMENT FINANCING COMMISSION OF KANSAS CITY, MISSOURI (the “Commission”), STAR DEVELOPMENT CORP., a Missouri corporation (“Star”), and the CITY OF KANSAS CITY, MISSOURI (the “City”), with respect to the following facts and objectives:

A. Pursuant to the Real Property Tax Increment Financing Allocation Act, Section 99.800 RSMo. 1982, et seq., as amended (the “Act”), on November 4, 1994, the City Council (the “City Council”) of Kansas City, Missouri (the “City”), by way of Ordinance No. 941443, approved the Shoal Creek Parkway Tax Increment Financing Plan and designated the area described therein as the redevelopment area (the “Redevelopment Area”).

B. The Shoal Creek Parkway Tax Increment Financing Plan was subsequently amended by the City Council by the passage of a series of Ordinances (the “Shoal Creek Parkway Tax Increment Financing Plan”, as amended by these ordinances is hereinafter referred to as the “Plan”).

C. The Plan provides, among other things, for the design and construction of roadways and other public infrastructure within and adjacent to the Redevelopment Area, including the installation of traffic signals at the intersection of NE 108th Street and NE Cookingham (the “Traffic Signal Installation Project”), as more specifically described on **Exhibit A**.

D. The City intends to enter to a Cost Share Agreement (the “Cost Share Agreement”) with the Missouri Highways and Transportation (“MODOT”), which shall provide that the City shall contribute approximately One Hundred One Thousand Dollars (\$101,000) (the “Local Portion”) and MODOT shall contribute approximately One Hundred One Thousand Dollars (the “MODOT Portion”) toward the cost of the Traffic Signal Installation Project.

E. The Commission, pursuant to Resolution No. 3-__-21, desires to contribute to the City Seventy Two Thousand Five Hundred Dollars (\$72,500) (the “Commission Contribution”) for the purpose of paying a portion of the Local Portion the City is obligated to pay in connection with the Cost Share Agreement.

F. Star desires to contribute to the City Twenty-Eight Thousand Five Hundred Dollars (\$28,500) (the “Star Contribution”) for the purpose of paying a portion of the Local Portion the City is obligated to pay in connection with the Cost Share Agreement.

G. The City desires to receive the Commission Contribution and the Star Contribution and deposit each into an account (the “Traffic Signal Installation Account”) dedicated for the purpose of paying costs related to the Traffic Signal Installation Project (the “Redevelopment Project Costs”), as described on **Exhibit B**, attached hereto, which the City shall be obligated to pay, pursuant to the Cost Share Agreement.

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the Commission and the City agree as follows:

**ARTICLE I
DEFINED TERMS**

Section 1.1 **Defined Terms.** As used in this Agreement, the following terms shall have the following meanings:

(a) “Act” shall mean Real Property Tax Increment Allocation Redevelopment Act, Mo. Rev. Stat. § 99.800 *et seq.* (1982, as amended).

(b) “Agreement” shall mean this Funding Agreement.

(c) “City” shall mean the City of Kansas City, Missouri.

(d) “Commission Contribution” shall mean Seventy-Two Thousand Five Hundred Dollars (\$72,500) which shall be remitted by the Commission, pursuant to Resolution No. 3-__-21, to the City for the purpose of paying part of the Local Portion of the Redevelopment Project Costs.

(e) “Commission” shall mean the Tax Increment Financing Commission of Kansas City, Missouri.

(f) “Cost Share Agreement” shall mean that certain agreement to be entered into between the City and MODOT for the financing of the design and construction of the Traffic Installation Project.

(g) “Local Portion” shall mean One Hundred One Thousand Dollars (\$101,000) of the Redevelopment Project Costs that the City will be obligated to pay in connection with the Cost Share Agreement.

(h) “MODOT” shall mean the Missouri Highways and Transportation Commission.

(i) “Plan” shall mean the Shoal Creek Parkway Tax Increment Financing Plan adopted by the City Council of the City, pursuant to Ordinance No. 941433 on November 10, 1994, and as amended from time to time.

(j) “Redevelopment Project Costs” shall mean the costs identified by the Plan that relate to the design and construction of the Traffic Installation Project, as more specifically identified on **Exhibit B**, attached hereto.

(k) “Star Contribution” shall mean Twenty-Eight Thousand Five Hundred Dollars (\$28,500) which shall be remitted by Star to the City for the purpose of paying part of the Local Portion of the Redevelopment Project Costs.

(l) “Traffic Installation Project” shall mean the installation of traffic signals at the intersection of NE 108th Street and NE Cookingham Drive, which are more particularly identified on **Exhibit A**, attached hereto.

(m) “Traffic Installation Project Account” shall mean an account in which the City shall deposit the Commission’s Contribution and Star’s Contribution.

Section 1.2 **Undefined Terms.** Any capitalized terms undefined by this Article shall the meanings ascribed to them under the Act.

ARTICLE II REPRESENTATIONS

Section 2.1. **Representations by the Commission.** The Commission represents and warrants to the City as follows:

(a) Organization and Authority. The Commission (i) is a real property tax increment financing commission duly organized and existing under the Act and (iii) by all necessary action has been duly authorized to execute and deliver this Agreement acting by and through its duly authorized officers.

(b) No Litigation. To the knowledge of the Commission, there is no litigation or proceeding pending or threatened against the Commission or any other person affecting the right of the Commission to execute or deliver this Agreement or the ability of the Commission to comply with its obligations under this Agreement. Neither the execution and delivery of this Agreement by the Commission, nor compliance by the Commission with its obligations under this Agreement, require the approval of any regulatory body, any parent company, or any other entity, which approval has not been obtained.

Section 2.2. **Representations by the City.** The City represents and warrants to the Commission as follows:

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

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

(c) No Litigation. To the knowledge of the City, there is no litigation or proceeding pending or threatened against the City or any other person affecting the right of the City to execute this Agreement or to otherwise comply with the obligations under this Agreement. Neither the execution and delivery of this Agreement by the City, nor compliance by the City

with its obligations under this Agreement, require the approval of any regulatory body or any other entity, which approval has not been obtained.

Section 2.3. Representations by Star. Star represents and warrants to the Commission as follows:

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

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

(c) **No Litigation.** To the knowledge of Star, there is no litigation or proceeding pending or threatened against Star or any other person affecting the right of Star to execute this Agreement or to otherwise comply with the obligations under this Agreement. Neither the execution and delivery of this Agreement by Star, nor compliance by Star with its obligations under this Agreement, require the approval of any regulatory body or any other entity, which approval has not been obtained.

Section 2.4. Survival of Representations. All representations of the City and Commission contained in this Agreement or in any certificate or other instrument delivered by the City or the Commission pursuant to this Agreement, or in connection with the transactions contemplated thereby, shall survive the execution and delivery thereof.

ARTICLE III FUNDING OF PROJECT COSTS

Section 3.1. Deposit by the City. As soon as reasonably practicable after the receipt of the Commission Contribution and the Star Contribution or any portion thereof, the City agrees to deposit such money in the Traffic Installation Project Account. The money on deposit in the Traffic Installation Project Account (a) shall be segregated on the books and records of the City from all other money, revenue, funds and accounts of the City and (b) shall be utilized to pay the Local Portion of the Redevelopment Project Costs, as required by the Cost Share Agreement.

Section 3.2. Covenants of the City. The City hereby covenants and agrees:

(a) to pledge all right, title and interest in, to and under, the Traffic Installation Project Account to the payment of the Local Portion of the Redevelopment Project Costs, as required by that certain Cost Share Agreement;

(b) the City shall exert reasonable efforts to enter into the Cost Share Agreement (the to cause the completion of the Traffic Installation Project, in accordance with **Exhibit A**, attached hereto; and

(c) in no event shall any portion of the Commission Contribution or the Star Contribution be expended for any purpose other than for the payment of the Local Portion of the Redevelopment Project Costs, in accordance with the Cost Share Agreement.

Section 3.3. **Covenants of the Commission.** The Commission hereby covenants and agrees to remit to the Commission the Commission Contribution by April 30, 2021 for deposit into the Traffic Installation Project Account.

Section 3.4. **Covenants of Star.** The Commission hereby covenants and agrees to remit to the Commission the Commission's Contribution by April 30, 2021 for deposit into the Traffic Installation Project Account.

ARTICLE IV MISCELLANEOUS

Section 4.1. **Term of Agreement.** This Agreement shall be effective from and after its execution and delivery and shall continue in full force and effect until the earlier of (a) the reimbursement of all Redevelopment Project Costs in accordance with the Certification Policy, or (b) the termination of this Agreement in accordance with Section 4.4 (the "Term").

Section 4.2. **Breach; Compliance.** If any party (the "Breaching Party") does not comply with provisions of this Agreement, in that the Breaching Party shall do, permit to be done, or fail or omit to do, or fail or omit to have done, anything contrary to or required of it by this Agreement, and if, within ten (10) days after notice of such default by any one of the other parties (the "Non-Breaching Party"), the Breaching Party shall not have cured such default or commenced such cure and be diligently pursuing the same if such cure would reasonably take longer than said ten (10) day period, then the Non-Breaching Party may institute such proceedings as may be necessary in its opinion to cure the default including, but not limited to, proceedings to compel specific performance by the Breaching Party.

The rights and remedies of the parties to this Agreement, whether provided by law or by this Agreement, shall be cumulative and the exercise by Non-Breaching Party of any one or more of such remedies shall not preclude the exercise by it, at the same or different times, of any other remedies for the same default or breach. No waiver made by the Non-Breaching Party shall apply to obligations beyond those expressly waived.

If any action is instituted by any party hereto to enforce this Agreement, the prevailing party or parties shall be entitled to recover any and all costs, fees and expenses, including reasonable attorneys' fees incurred, in addition to any other damages that may be awarded in that action.

Section 4.3. **Termination of Agreement.** In the event that prior to the payment of the Commission Contribution and the Star Contribution (a) the Plan is amended to exclude the Redevelopment Project Costs as a reimbursable redevelopment project cost or (b) the City is unable to enter into the Cost Share Agreement to cause the Traffic Installation Project to be completed in accordance with **Exhibit A**, the parties hereto agree that this Agreement shall terminate and the City shall reimburse to the Commission the amount of the Commission

Contribution received by the City and shall reimburse Star the amount of the Star Contribution received by the City.

Section 4.4 Notices. All written notices required by this Agreement shall be in writing and shall be served either personally or by certified mail, or by any other delivery service which obtains a receipt for delivery unless any such notice is required by law and such law provides a different form of delivery or service. Any such notice or demand served personally shall be delivered to the party being served (provided that such notice may be delivered to the receptionist or any other person apparently in charge of such party's office at its address hereinafter set forth), and shall be deemed complete upon the day of actual or attempted delivery, as shown by an affidavit of the person so delivering such notice. Any notice so served by certified mail shall be deposited in the United States Mail with postage thereon fully prepaid and addressed to the party or parties so to be served at its address hereinafter stated, and service of any such notice by certified mail shall be deemed complete on the date of actual or attempted delivery as shown by the certified mail receipt. Service of any such notice by another delivery service shall be deemed complete upon the date of actual or attempted delivery as shown on the receipt obtained by such delivery service.

Any notice to the Commission shall be addressed to:

Tax Increment Financing Commission
of Kansas City, Missouri
300 Wyandotte, Suite 400
Kansas City, Missouri 64105
Attn: Executive Director

with a copy to:

Bryan Cave Leighton Paisner LLP
3800 One Kansas City Place
1200 Main Street
Kansas City, Missouri 64105
Attn: Wesley O. Fields, Esq.

Notices to Star shall be addressed to:

Star Development Corp.
244 W. Mill Street, Suite 101
Liberty, Missouri 64068
Attn: Tim Harris

with a copy to:

Polsinelli PC
900 W. 48th Place, Suite 900
Kansas City, Missouri 64112
Attn: Curtis J. Petersen, Esq.

Notices to the City shall be addressed to:

City of Kansas City, Missouri
Public Works Department
414 E. 12th Street, 20th Floor
Kansas City, MO 64106
Attn: Director

with a copy to:

City of Kansas City, Missouri
Law Department
City Hall
414 E. 12th Street, 28th Floor
Kansas City, Missouri 64106

Each party shall have the right to specify that notice be addressed to any other address by giving to the other party ten (10) days written notice thereof.

Section 4.5 **Performance Date Not a Business Day.** If any date for the taking of any action hereunder is on a Saturday, Sunday or business holiday of the City, then such action shall be taken, on the first business day thereafter with the same force and effect as if made on the date fixed for payment or performance.

Section 4.6. **Binding Effect.** This Agreement shall inure to the benefit of and shall be binding upon the City and the Commission and their respective successors and assigns.

Section 4.7. **Amendments, Changes and Modifications.** This Agreement may not be effectively amended, changed, modified or altered without the prior concurring written consent of all the parties hereto.

Section 4.8. **Execution in Counterparts.** This Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 4.9. **No Pecuniary Liability.** All covenants, obligations and agreements of the City and the Commission contained in this Agreement shall be effective to the extent authorized and permitted by applicable law. No such covenant, obligation or agreement shall be deemed to be a covenant, obligation or agreement of any present or future director, officer, agent or employee of the City or the Commission in other than their official capacity.

Section 4.10. **Entire Agreement.** This Agreement constitutes the entire agreement and understanding between the parties with respect to the subject matter hereof, and supersedes and replaces any and all prior oral agreements or written agreements, arrangements, and understandings relating thereto.

Section 4.11. **Severability.** If any provision of this Agreement, or any covenant, stipulation, obligation, agreement, act or action, or part thereof made, assumed, entered into or

taken thereunder, or any application of such provision, is for any reason held to be illegal or invalid, such illegality or invalidity shall not affect any other provision of this Agreement or any other covenant, stipulation, obligation, agreement, act or action, or part thereof, made, assumed, entered into, or taken, each of which shall be construed and enforced as if such illegal or invalid portion were not contained herein. Such illegality or invalidity of any application thereof shall not affect any legal and valid application thereof, and each such provision, covenant, stipulation, obligation, agreement, act or action, or part thereof, shall be deemed to be effective, operative, made, entered into or taken in the manner and to the full extent permitted by law.

Section 4.12. **Governing Law.** This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri.

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed pursuant to due authority as of the date first above set forth.

TAX INCREMENT FINANCING COMMISSION
OF KANSAS CITY, MISSOURI

ATTEST:

Heather A. Brown, Secretary

By: _____
Alissia R. Canady, Chair

Approved as to form:

Wesley O. Fields
Counsel to the Commission

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

BE IT REMEMBERED, that on this ____ day of _____, 2021, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Alissia R. Canady, Chair of the Tax Increment Financing Commission of Kansas City, Missouri, a commission duly organized, incorporated and existing under and by virtue of the laws of the State of Missouri, who is personally known to me to be the same person who executed, as such official, the within instrument on behalf of said commission, and such person duly acknowledged the execution of the same to be the act and deed of said commission.

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

NOTARY PUBLIC

My Commission Expires:

STAR DEVELOPMENT CORP.

By: _____

Name: _____

Title: _____

ATTEST:

Secretary

STATE OF _____)

) ss.

COUNTY OF _____)

On this ____ day of _____, 2021, before me, a Notary Public in and for the state and county aforesaid, appeared _____, to me personally known, and who being by me duly sworn, did say that he/she is the _____ of Star Development Corp., and said instrument was signed on behalf of said corporation by authority of its Board of Directors on behalf of Star Development Corp. and acknowledged said instrument to be the free act and deed of said corporation.

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

Notary Public

My Commission Expires:

THE CITY OF KANSAS CITY, MISSOURI,

By: _____
Michael Shaw, Director of Public Works

Approved as to form and legality:

City Attorney

I hereby certify that there is a balance, otherwise unencumbered, to the credit of the appropriation to which the foregoing expenditure is to be charged, sufficient to meet the obligation hereby incurred, and that there is a balance, otherwise unencumbered, and a cash balance sufficient to meet the obligation hereby incurred from which payment is to be made.

By: _____
Director of Finance

STATE OF MISSOURI)
) ss.
COUNTY OF JACKSON)

BE IT REMEMBERED, that on this ____ day of _____, 2021, before me, the undersigned, a Notary Public in and for the County and State aforesaid, came Michael Shaw, Director of Public Works of the City of Kansas City, Missouri, a special chartered city of the State of Missouri, who is personally known to me to be the same person who executed, as such official, the within instrument on behalf of said City, and such person duly acknowledged the execution of the same to be the act and deed of said City.

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

NOTARY PUBLIC

My Commission Expires:

Exhibit A

Description of the Traffic Installation Project

Install a traffic signal at NE Cookingham Drive and NE 108th Street with span wire signal poles and LED signal heads with energy efficient 332L cabinets and 2070 LX controller, radar detection system.

Exhibit B

Traffic Signal Installation Project – Redevelopment Project Costs

Installation/Construction	\$202,000
Total Project Costs	\$202,000