

**Gilmore & Bell, P.C.**  
**Draft: 6/3/19**

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**FINANCING AGREEMENT**

**Dated as of June 1, 2019**

**among**

**THE INDUSTRIAL DEVELOPMENT AUTHORITY  
OF THE CITY OF KANSAS CITY, MISSOURI,**

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

**THE CITY OF KANSAS CITY, MISSOURI,**

**CONVENTION AND VISITORS BUREAU OF GREATER KANSAS CITY, INC.,  
D/B/A KANSAS CITY CONVENTION & VISITORS ASSOCIATION,**

**and**

**9TH & CENTRAL COMMUNITY IMPROVEMENT DISTRICT**

**Relating to:**

**The Industrial Development Authority of the  
City of Kansas City, Missouri  
Tax Increment and Special District Revenue Bonds  
(21c Hotel Project)  
Series 2019**

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**Certain rights, title and interest of The Industrial Development Authority of the City of Kansas City, Missouri (the “Issuer”) in this Financing Agreement have been pledged and assigned to BOKF, N.A., Kansas City, Missouri, as Trustee under a Trust Indenture dated as of June 1, 2019, between the Issuer and the Trustee.**

## FINANCING AGREEMENT

**THIS FINANCING AGREEMENT**, dated as of June 1, 2019 (the “Financing Agreement”), among **THE INDUSTRIAL DEVELOPMENT AUTHORITY OF THE CITY OF KANSAS CITY, MISSOURI**, a public corporation duly organized and existing under the laws of the State of Missouri (the “Issuer”); **THE TAX INCREMENT FINANCING COMMISSION OF KANSAS CITY, MISSOURI**, a real property tax increment financing commission duly organized and existing under the laws of the State of Missouri (the “Commission”); the **CITY OF KANSAS CITY, MISSOURI**, a constitutional charter city organized and existing under the laws of the State of Missouri (the “City”); the **CONVENTION AND VISITORS BUREAU OF GREATER KANSAS CITY, INC., D/B/A KANSAS CITY CONVENTION & VISITORS ASSOCIATION**, a non-profit corporation duly organized and existing under the laws of the State of Missouri (the “CVA”); and the **9TH & CENTRAL COMMUNITY IMPROVEMENT DISTRICT**, a community improvement district and political subdivision duly organized and existing under the laws of the State of Missouri (the “CID”).

### RECITALS:

1. The Issuer is authorized and empowered under Chapter 349 of the Revised Statutes of Missouri, as amended (the “Act”) to issue its revenue bonds for the purpose of providing funds to purchase, construct, extend and improve certain “projects” (as defined in the Act).

2. Pursuant to the Real Property Tax Increment Allocation Redevelopment Act, Sections 99.800 to 99.865, inclusive, of the Revised Statutes of Missouri, as amended (the “TIF Act”), the Commission has recommended and the City has approved a plan for redevelopment known as the “9th & Central Tax Increment Financing Plan” (as amended, the “Redevelopment Plan”), for an area designated therein as the Redevelopment Area (the “Redevelopment Area”), as legally described in the Redevelopment Plan.

3. The Redevelopment Plan provides for the redevelopment of the historic Savoy Hotel into a 120-room boutique hotel, an approximately 5,800 square foot restaurant and bar area, event space and contemporary art museum, along with necessary infrastructure improvements within the Redevelopment Area (the “Project”).

4. The Commission has entered into an Agreement (as amended, the “Redevelopment Agreement”) with 21c Kansas City, LLC, a Missouri limited liability company (the “Original Developer”) to undertake the implementation of the Redevelopment Plan, which Redevelopment Agreement has been assigned by the Original Developer to Kansas City Owner, LLC, a Delaware limited liability company, which subsequently merged with the Original Developer and the surviving entity of such merger changed its name to Kansas City Art Hotel, LLC (the “Developer”).

5. The City has adopted tax increment financing within Redevelopment Project A pursuant to Ordinance No. 130830 of the City and the boundaries of Redevelopment Project Area A are coterminous with the boundaries of the Redevelopment Area.

6. On \_\_\_\_\_, 2019, the Board of Directors of the Issuer adopted a resolution (the “Bond Resolution”) authorizing the issuance of its Tax Increment and Special District Revenue Bonds (21c Hotel Project), Series 2019 (the “Bonds”).

7. The Commission, the City, the CVA and the CID desire to assist the financing of the Project through the execution and delivery of this Financing Agreement for the purpose of securing the Bonds.

**NOW, THEREFORE,** in consideration of the premises and the mutual representations, covenants and agreements herein contained, the Issuer and the City do hereby represent, covenant and agree as follows:

## **ARTICLE I**

### **DEFINITIONS**

**Section 1.1. Definitions of Words and Terms.** Capitalized terms not defined in this Financing Agreement shall have the meanings set forth in the Indenture.

**Section 1.2. Rules of Interpretation.** For all purposes of this Financing Agreement, except as otherwise expressly provided or unless the context otherwise requires:

(a) Words of the masculine gender shall be deemed and construed to include correlative words of the feminine and neuter genders.

(b) Words importing the singular number shall include the plural and vice versa and words importing person shall include firms, associations and corporations, including public bodies, as well as natural persons.

(c) The table of contents hereto and the headings and captions herein are not a part of this document.

(d) Terms used in an accounting context and not otherwise defined shall have the meaning ascribed to them by accounting principles generally accepted in the United States of America.

(e) Whenever an item or items are listed after the word “including,” such listing is not intended to be a listing that excludes items not listed.

## **ARTICLE II**

### **REPRESENTATIONS**

**Section 2.1. Representations by the Issuer.** The Issuer represents and warrants to the other parties to this Financing Agreement and the Trustee as follows:

(a) *Organization and Authority.* The Issuer (1) is a public corporation duly organized and existing under the laws of the State of Missouri, (2) has lawful power and authority to enter into, execute and deliver this Financing Agreement, the Indenture and any other documents required to be executed and delivered by it in connection with the issuance of the Bonds (collectively, the “Issuer Documents”), and to carry out its obligations hereunder and thereunder, and (3) by all necessary action has been duly authorized to execute and deliver this

Financing Agreement and the other Issuer Documents acting by and through its duly authorized officers.

(b) *No Defaults or Violations of Law.* The execution and delivery of this Financing Agreement and the other Issuer Documents by the Issuer will not result in a breach of any of the terms of, or constitute a default under, any indenture, mortgage, deed of trust, lease or other agreement or instrument to which the Issuer is a party or by which it or any of its property is bound or its bylaws or any of the constitutional or statutory laws, rules or regulations applicable to the Issuer or its property.

(c) *Public Purpose.* The projects to be funded by the Bonds will further the public purposes of the Act.

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

(e) *No Conflicts of Interest.* No member of the Board of Directors of the Issuer or any other officer of the Issuer has any significant or conflicting interest, financial, employment or otherwise, in the City, any project within the Redevelopment Area or in the transactions contemplated hereby.

**Section 2.2. Representations by the Commission.** The Commission represents and warrants to the other parties to this Financing Agreement and the Trustee as follows:

(a) *Organization and Authority.* The Commission (1) is a real property tax increment financing commission duly organized and validly existing under the laws of the State of Missouri, (2) has lawful power and authority to enter into, execute and deliver this Financing Agreement and to carry out its obligations hereunder, and (3) by all necessary action has been duly authorized to execute and deliver this Financing Agreement, acting by and through its duly authorized officers.

(b) *No Defaults or Violations of Law.* The execution and delivery of this Financing Agreement by the Commission will not conflict with or result in a breach of any of the terms of, or constitute a default under, any indenture, mortgage, deed of trust, lease or other agreement or instrument to which the Commission 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 Commission or its property.

(c) *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 Redevelopment Area, the right of the Commission to execute this Financing Agreement or the ability of the Commission to comply with the obligations under this Financing Agreement. Neither the execution and delivery of this Financing Agreement by the Commission, nor compliance by the Commission with its obligations under this Financing Agreement require the approval of any regulatory body or any other entity, which approval has not been obtained.

**Section 2.3. Representations by the City.** The City represents and warrants to the other parties to this Financing Agreement and the Trustee as follows:

(a) *Organization and Authority.* The City (1) is a constitutional charter city and political subdivision duly organized and validly existing under the laws of the State of Missouri, (2) has lawful power and authority to enter into, execute and deliver this Financing Agreement and to carry out its obligations hereunder, and (3) by all necessary action has been duly authorized to execute and deliver this Financing Agreement, acting by and through its duly authorized officers.

(b) *No Defaults or Violations of Law.* The execution and delivery of this Financing 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 indenture, mortgage, deed of trust, lease or other 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) *Public Purpose.* The projects to be funded by the Bonds will promote the economic, social, industrial, cultural and commercial growth of the City and will contribute to the general welfare and benefit of the City.

(d) *Tax Increment Financing Proceedings.* The City has duly completed all required proceedings and approvals in connection with approval of the Redevelopment Plan, designation of the Redevelopment Area as a “blighted area”, approval of the Redevelopment Project as a “redevelopment project” and adoption of tax increment financing within the Redevelopment Area, all in accordance with the TIF Act.

(e) *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 Redevelopment Area, the right of the City to execute this Financing Agreement or the ability of the City to comply with the obligations under this Financing Agreement. Neither the execution and delivery of this Financing Agreement by the City, nor compliance by the City with its obligations under this Financing Agreement require the approval of any regulatory body or any other entity, which approval has not been obtained.

**Section 2.4. Representations by the CVA.** The CVA represents and warrants to the other parties to this Financing Agreement and the Trustee as follows:

(a) *Organization and Authority.* The CVA (1) is a non-profit corporation duly organized and validly existing under the laws of the State of Missouri, (2) has lawful power and authority to enter into, execute and deliver this Financing Agreement and to carry out its obligations hereunder, and (3) by all necessary action has been duly authorized to execute and deliver this Financing Agreement, acting by and through its duly authorized officers.

(b) *No Defaults or Violations of Law.* The execution and delivery of this Financing Agreement by the CVA will not conflict with or result in a breach of any of the terms of, or constitute a default under, any indenture, mortgage, deed of trust, lease or other agreement or instrument to which the CVA 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 CVA or its property.

(c) *No Litigation.* To the knowledge of the CVA, there is no litigation or proceeding pending or threatened against the CVA or any other person affecting the right of the CVA to

execute this Financing Agreement or the ability of the CVA to comply with the obligations under this Financing Agreement. Neither the execution and delivery of this Financing Agreement by the CVA, nor compliance by the CVA with its obligations under this Financing Agreement require the approval of any regulatory body or any other entity, which approval has not been obtained.

**Section 2.5. Representations by the CID.** The CID represents and warrants to the other parties to this Financing Agreement and the Trustee as follows:

(a) *Organization and Authority.* The CID (1) is a community improvement district and political subdivision, duly organized and validly existing under the laws of the State of Missouri, (2) has lawful power and authority to enter into, execute and deliver this Financing Agreement and to carry out its obligations hereunder, and (3) by all necessary action has been duly authorized to execute and deliver this Financing Agreement, acting by and through its duly authorized officers.

(b) *No Defaults or Violations of Law.* The execution and delivery of this Financing Agreement by the CID will not conflict with or result in a breach of any of the terms of, or constitute a default under, any indenture, mortgage, deed of trust, lease or other agreement or instrument to which the CID 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) *Formation Proceedings.* The CID has duly completed all required proceedings and approvals in connection with the establishment of the CID and the authorization of the CID to impose the CID Sales Tax, all in accordance with the CID Act.

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

**Section 2.6. Survival of Representations.** All representations of the parties contained in this Financing Agreement or in any certificate or other instrument delivered by the parties pursuant to this Financing Agreement or any Issuer Documents, or in connection with the transactions contemplated hereby or thereby, shall survive the execution and delivery thereof and the issuance, sale and delivery of the Bonds, as representations of facts existing as of the date of execution and delivery of the instruments containing such representations.

### ARTICLE III

#### ISSUANCE OF THE BONDS; TRANSFERS TO THE TRUSTEE

**Section 3.1. Issuance of the Bonds.** In order to provide funds for the Project, the Issuer agrees that it will issue, sell and deliver the Bonds. The net proceeds of the sale of such Bonds paid over to the Trustee for the account of the Issuer shall be administered, disbursed and applied upon the terms and in the manner as provided in the Indenture.

**Section 3.2. Transfer of Revenues to the Trustee.** On the fifteenth (15th) calendar day of each month (or the next Business Day thereafter if the fifteenth (15th) is not a Business Day) while the Bonds are Outstanding, (a) the Commission shall transfer or cause to be transferred to the Trustee (1) all Net Revenues consisting of Payments in Lieu of Taxes, less the Commission Administrative Fee, (2) subject to annual budgeting, or to the extent necessary, appropriation by the City, all Net Revenues consisting of Economic Activity Tax Revenues, less the Commission Administrative Fee, (3) subject to annual budgeting, or to the extent necessary, appropriation by the City, all Net Revenues consisting of Additional City EATS, and (4) all Net Revenues consisting of the CVA Contribution; and (b) the CID shall transfer to the Trustee, subject to annual appropriation by the CID, all Net Revenues consisting of CID Sales Tax Revenues. Notwithstanding anything herein to the contrary, the Commission shall be entitled to retain the Commission Administration Fee from the amounts so transferred. As part of each transfer of funds to the Trustee from the Commission, the Commission or the City on behalf of the Commission, shall separately designate the amounts consisting of Payments in Lieu of Taxes, Economic Activity Tax Revenues, Additional City EATS, and CVA Contribution. The Commission's obligations to make or cause such transfers to be made are limited to monies available in the Special Allocation Fund or other funds established by the Commission for such revenues and shall not be construed as creating a general liability, debt or obligation of the Commission. The Developer has confirmed, in writing to the Commission, that the disbursement of monies to the Trustee as provided herein constitutes a payment of reimbursable Project Costs under the Redevelopment Agreement.

**Section 3.3. Indenture Requirements.** Prior to the Commission making or causing to be made any transfers pursuant to **Section 3.2**, above, to the Trustee, the Issuer shall have received a written acknowledgement from the Commission that the form of the Indenture to be executed by and between the Issuer and the Trustee, to which any such revenues shall be pledged or shall otherwise be deemed as part of the Trust Estate, is reasonably acceptable to the Commission. Such Indenture shall provide that:

(a) except for proceeds of the Bonds to be paid from the Cost of Issuance Fund under the Indenture, none of the other proceeds of the Bonds shall be paid or disbursed to the Developer for Project Costs unless and until the Trustee receives, prior to the time of each disbursement, documentation evidencing approval of each draw by the Commission, as follows:

(i) a copy of a resolution duly adopted by the Commission (the "TIF Resolution"), which sets forth: (1) the amount of Project Costs previously certified by the Commission and (2) the amount of Project Costs certified by the Commission which may be then reimbursed or paid from the proceeds of the Bonds; and

(ii) a written acknowledgment approving the disbursement request executed by the Executive Director and Chairperson of the Commission;

(b) the Trustee shall not disburse any proceeds of the Bonds in excess of the amount specified in the TIF Resolution;

(c) the Commission shall receive, upon request, but no less frequently than monthly (until all proceeds of the Bonds are expended), a report or statement that details all proceeds paid to or on behalf of the Developer; and

(d) no proceeds of the Bonds shall be paid to the Developer in excess of "Project Costs" previously certified by the Commission's Cost Certifier and approved by resolution of the TIF Commission; and

(e) Except as otherwise provided in **Section 511** of the Indenture, from and after the Bond Issuance Date, the Trustee shall apply moneys from the Revenue Fund, after accounting for the application of moneys from the Capitalized Interest Fund, *first*, from the Revenue Account of the Revenue Fund, *second*, from the PILOTS Account of the Revenue Fund, *third*, from the EATS Account of the Revenue Fund, *fourth*, from the CID Sales Tax Account of the Revenue Fund, and *fifth*, from the Super TIF Account of the Revenue Fund (or in such other order as may be specified in writing by an Authorized Issuer Representative or Authorized Commission Representative) at least 40 days prior to each Interest Payment Date (or at any time in the event of rebate payable to the United States of America), for application in the order of priority and for the purposes as follows:

(1) to the Rebate Fund when necessary, an amount sufficient to pay rebate, if any, to the United States of America, owed under Section 148 of the Code, in accordance with the Tax Compliance Agreement and to the Rebate Analyst, an amount equal to all fees, charges, advances and expenses of the Rebate Analyst due and payable;

(2) to the Trustee, upon delivery to the Issuer of an invoice for such amounts, an amount equal to all fees, charges, advances and expenses of the Trustee due and payable pursuant to this Indenture, including any fees and charges due to the Trustee as dissemination agent under the Continuing Disclosure Agreement (fees, charges, advances and expenses of the Trustee incurred in connection with the Trustee's ordinary services shall not exceed \$4,500 per fiscal year per series of Bonds; provided the Trustee shall also be entitled to compensation for extraordinary services rendered and reimbursed for extraordinary out of pockets costs and expenses incurred, in accordance with **Section 902** of the Indenture);

(3) to the Administrative Expense Fund, the amount necessary to fund or replenish the balance of the Administrative Expense Fund to a total of \$50,000, provided that the transfers under Subsection 505(b)(3) of the Indenture shall not exceed \$50,000 in any one year period ending July 1;

(4) on a parity basis, to the Issuer, an amount equal to all fees, charges and expenses of the Issuer due and payable pursuant to the Indenture (including **Sections 702** and **703** of the Indenture), upon delivery to the Commission and the Trustee of an invoice for such amounts, and to the Commission and the City an amount sufficient for payment of any fees and expenses which are due and owing to or have been incurred by such parties in compliance with **Section 4.4** or **Section 5.3** of this Financing Agreement, upon delivery to the Issuer and the Trustee of an invoice for such amounts;

(5) to the Interest Account of the Debt Service Fund, an amount sufficient to pay the interest becoming due and payable on the Parity Bonds on the next Interest Payment Date, or, if the next Interest Payment Date is July 1, an amount sufficient to pay the interest becoming due and payable on the Parity Bonds on the next two Interest Payment Dates;

(6) to the Principal Account of the Debt Service Fund, an amount sufficient to pay the principal of the Parity Bonds due on the next Principal Payment Date (at maturity or upon scheduled mandatory sinking fund redemption);



(7) to the Bond Reserve Fund until such fund has been funded or restored to the Bond Reserve Requirement; provided that no amounts from the CID Sales Tax Account shall be deposited into the Bond Reserve Fund;

(8) to the Redemption Account in the Debt Service Fund, all remaining funds to redeem, on a parity basis, (A) Series 2019 Bonds pursuant to the special mandatory redemption provisions contained in **Section 402(b)** of the Indenture, and (B) any Parity Bonds pursuant to the special mandatory redemption provisions contained in the Supplemental Indenture(s) relating to such Parity Bonds;

(9) to the Interest Account and Principal Account, respectively, of the Debt Service Fund, *first*, the amounts required to pay interest becoming due and payable on any Subordinate Bonds on the next Interest Payment Date, and *second*, the amounts required to pay the principal of any Subordinate Bonds due on the next Principal Payment Date (at maturity or upon scheduled mandatory redemption); and

(10) to the Redemption Account in the Debt Service Fund, all remaining funds to redeem any Subordinate Bonds pursuant to the special mandatory redemption provisions contained in the Supplemental Indenture(s) relating to such Subordinate Bonds.

## ARTICLE IV

### SPECIAL ALLOCATION FUND

**Section 4.1. Special Allocation Fund.** The Commission or the City, on behalf of the Commission has established and shall hold the Special Allocation Fund (defined by the Indenture to include only the “9th & Central Account” therein for purposes of this Financing Agreement and not any other accounts established for other redevelopment projects) in accordance with the provisions of the TIF Act, subject to the pledge of certain amounts therein to the Trustee pursuant to this Financing Agreement and the Indenture. The Special Allocation Fund, and the accounts therein, shall be segregated on the books and records of the Commission and shall be kept separate and apart on the books and records of the Commission from all other moneys, revenues, funds and accounts of the Commission and shall not be commingled with any other moneys, revenues, funds and accounts of the Commission.

**Section 4.2. Use of Special Allocation Fund.** The Special Allocation Fund shall be maintained and administered by or on behalf of the Commission solely for the purposes provided herein and in the Indenture until such time as the Indenture has been discharged in accordance with the provisions of the Indenture. The Commission shall, within five days of receipt thereof, deposit all Payments in Lieu of Taxes, Economic Activity Tax Revenues, Additional City EATS, and CVA Contribution received by it in appropriate accounts of the Special Allocation Fund. The Commission shall thereafter transfer or cause to be transferred all such amounts to the Trustee pursuant to **Section 3.2** hereof.

**Section 4.3. Pledge of Payments in Lieu of Taxes.** The Commission and the City hereby pledge to the Issuer, for the benefit of the Owners of the Bonds, as security for the payment of the principal of and redemption premium, if any, and interest on the Bonds, all of their right, title and interest in, to and under, and grant to the Issuer a lien upon and security interest in, (a) the Payments in Lieu of Taxes, less the amount of the Commission Administrative Fee, and (b) the account of the Special Allocation Fund into which the Payments in Lieu of Taxes are deposited (to the extent consisting of

Payments in Lieu of Taxes, less the amount of the Commission Administrative Fee), and all proceeds of the foregoing.

**Section 4.4. Collection of Revenues.** The Commission and the City shall, at the expense of the Trust Estate, (a) take all lawful action within their control to cause the Assessment Department of Jackson County, Missouri to assess the real property and improvements within the Redevelopment Area at the times and in the manner required by the laws of the State of Missouri and (b) take such lawful action within its control as may be required to cause the Missouri Department of Revenue and all other Persons located within the Redevelopment Area to pay all Economic Activity Tax Revenues which are due under the TIF Act.

## ARTICLE V

### COVENANTS OF THE COMMISSION AND THE CITY

**Section 5.1. City Covenant to Request Budget Obligation or Appropriation.** The City covenants and agrees that the officer of the City at any time charged with the responsibility of formulating budget proposals is hereby directed to include in the budget proposal submitted to the City Council of the City for each fiscal year of the City that the Bonds are Outstanding a request for an obligation and/or appropriation of the Net Revenues consisting of Economic Activity Tax Revenues and Additional City EATS collected during such fiscal year for transfer to the Commission and, upon reduction of the Economic Activity Tax Revenues by the amount of the Commission Administrative Fee, ultimately transferred to the Trustee for deposit in the Revenue Fund at the times and in the manner provided in the Indenture and this Financing Agreement. Any funds budgeted and obligated or appropriated as the result of such a request, less the amount of the Commission Administrative Fee payable from Economic Activity Tax Revenues, shall be payable to and shall be transferred to the Revenue Fund at the times and in the manner provided in the Indenture and **Section 3.2** of this Financing Agreement.

The City shall deliver written notice to the Trustee no later than 15 days after the commencement of its fiscal year stating whether or not the City Council has budgeted and/or appropriated such funds for such fiscal year, provided however that the inclusion of the same within the budget adopted by the City Council may serve in lieu of such written notice and, in such case, the failure of the City to deliver such notice shall not constitute a default under this Financing Agreement. The Commission shall be entitled to make an independent inquiry as to whether such budgeting has occurred or such appropriation shall have been made.

The parties to this Financing Agreement and the Trustee acknowledge that the payment of Economic Activity Tax Revenues and Additional City EATS, subject to annual budgeting or, to the extent necessary, appropriation, as required under this Financing Agreement, shall constitute currently budgeted expenditures of the City, and shall not in any way be construed or interpreted as creating a liability or a general obligation or debt of the City in contravention of any applicable constitutional or statutory limitation or requirements concerning the creation of indebtedness by the City, nor shall anything contained in the Indenture or this Financing Agreement constitute a pledge of the general credit, tax revenues, funds or moneys of the City. The City's obligations to transfer Economic Activity Tax Revenues and Additional City EATS, subject to annual budgeting or, to the extent necessary, appropriation, under this Financing Agreement shall be from year to year only, and shall not constitute a mandatory payment obligation of the City in any ensuing fiscal year beyond the then current fiscal year. Neither the Indenture, this Financing Agreement, nor the issuance of the Bonds shall directly or indirectly obligate the City to levy or pledge any form of taxation or make any budget obligation or appropriation or make any payments beyond those budgeted or appropriated for the City's then current fiscal year in contravention of any applicable constitutional or statutory limitation or requirements concerning the

creation of indebtedness by the City, but in each fiscal year such Economic Activity Tax Revenues and Additional City EATS shall be payable solely from the amounts budgeted or appropriated therefor; provided, however, that nothing in the Indenture or this Financing Agreement shall be construed to diminish the rights of the owners of the Bonds or the Trustee to receive any amounts which may be realized from the Trust Estate pursuant to the Indenture.

**Section 5.2. Transfer of Revenues to the Commission.** While the Bonds are Outstanding, the City shall transfer to the Commission (1) on or before April 30 of each year (or the next Business Day thereafter if the thirtieth is not a Business Day) any Net Revenues consisting of Payments in Lieu of Taxes on deposit with the City and not already held by the Commission, (2) on a semi-annual basis (commencing with the six-month period ending June 30, 2019), subject to annual budgeting, or to the extent necessary, appropriation by the City, any Net Revenues consisting of Economic Activity Tax Revenues on deposit with the City and not already held by the Commission, and (3) on a semi-annual basis (commencing with the six-month period ending June 30, 2019), subject to annual budgeting, or to the extent necessary, appropriation by the City, all Net Revenues consisting of Additional City EATS on deposit with the City and not already held by the Commission. The parties to this Financing Agreement acknowledge that Economic Activity Tax Revenues and Super-TIF Revenues consisting of Additional City EATS are received by the City on a semi-annual basis and that transfers of Economic Activity Tax Revenues and Additional City EATS to the Commission will be made on a semi-annual basis after the end of each six-month period.

*The obligation of the City to transfer Payments in Lieu of Taxes, Economic Activity Tax Revenues and Additional City EATS under this Financing Agreement terminates on November 29, 2040, whether or not the principal amount of or interest on the Bonds has been paid in full. Additionally, the obligation of the City to transfer Additional City EATS under this Financing Agreement terminates at such time as the City and the CVA have collectively transferred \$18,753,062 of Super-TIF Revenues to the Commission, whether or not the principal amount of or interest on the Bonds has been paid in full.*

**Section 5.3. Enforcement of Bond Documents.**

(a) The Commission and the City, at the expense of the Trust Estate, shall enforce the provisions of the Bond Documents to which they are a party in such manner as they deem prudent and advisable in their good faith discretion. The Commission and/or the City may enforce all appropriate available remedies thereunder, including particularly any actual, agreed or liquidated damages for failure to perform under such Bond Documents, and shall transfer to the Trustee for deposit to the Revenue Fund all sums received on account of such damages.

(b) Each of the Commission and the City shall notify the Trustee in writing as to any material failure of performance under the Bond Documents to which it is a party and at the time of such notification the Commission or the City, as applicable, shall also advise the Trustee what action the Commission or the City, as applicable, proposes to take in enforcing available remedies. If, in the judgment of the Trustee, being advised by counsel, such action is less likely to be effective than some other or additional action, the Trustee shall so advise the Commission and the City promptly in writing. If, within 30 days following advice by the Trustee that some additional or other action would be more effective, the Commission or the City has not taken such other or additional action, and the Trustee has not, after consultation with the Commission and the City, withdrawn such advice, upon receipt of indemnification satisfactory to it, the Trustee is hereby authorized to take such action, whether the action was suggested by the Trustee or otherwise, as the Trustee, being advised by counsel, may deem most expedient and in the interest of the Owners of the Bonds. In furtherance of the rights granted to the Trustee by this Section, the Commission and the City hereby assign to the Trustee all of the rights they

may have in the enforcement of the Bond Documents which they are parties, further authorizing the Trustee in its own name or in the name of the Commission and/or the City to bring such actions, employ such counsel, execute such documents and do such other things as may in the judgment of the Trustee be necessary or appropriate under the circumstance at the expense of the Trust Estate.

(c) Neither the Commission nor the City shall modify, amend or waive any provision of the Bond Documents to which it is a party in a manner which may, in the sole judgment of the Commission or the City, as applicable, being advised by counsel, materially adversely affect the security for the Bonds or the interest of the owners thereof or adversely affects the exclusion of interest on the Bonds from gross income of the Owners thereof for federal income tax purposes. The Commission and the City shall not amend such Bond Documents except as allowed under and subject to the same requirements of **Article XI** of the Indenture as are applicable to amendments by the Issuer.

**Section 5.4. General Limitation on Obligations.** ANY OTHER TERM OR PROVISION OF THIS FINANCING AGREEMENT OR ANY OTHER DOCUMENT EXECUTED IN CONNECTION WITH THE TRANSACTION WHICH IS THE SUBJECT HEREOF TO THE CONTRARY NOTWITHSTANDING, NEITHER THE COMMISSION NOR THE CITY SHALL BE REQUIRED TO TAKE OR OMIT TO TAKE, OR REQUIRE ANY OTHER PERSON OR ENTITY TO TAKE OR OMIT TO TAKE, ANY ACTION WHICH WOULD CAUSE IT OR ANY PERSON OR ENTITY TO BE, OR RESULT IN IT OR ANY PERSON OR ENTITY BEING, IN VIOLATION OF ANY LAW OF THE STATE.

**Section 5.5. Possession and Inspection of Books and Documents.** The Commission covenants and agrees that all books and documents in its possession relating to the Special Allocation Fund and to the distribution of proceeds thereof shall at all reasonable times and upon reasonable notice be open to inspection by such accountants or other agencies or Persons as the Trustee or the Issuer may from time to time designate.

## ARTICLE VI

### COVENANTS OF THE CVA

**Section 6.1. Transfer of Revenues to the Commission.** On a semi-annual basis (commencing with the six-month period ending June 30, 2019) while the Bonds are Outstanding, the CVA shall transfer to the Commission all Net Revenues consisting of the CVA Contribution held by the CVA. The parties to this Financing Agreement acknowledge that Super-TIF Revenues consisting of the CVA Contribution are received by the CVA on a semi-annual basis and that transfers of CVA Contribution to the Commission will be made on a semi-annual basis after the end of each six-month period.

*The obligation of the CVA to transfer the CVA Contribution under this Financing Agreement terminates at such time as the City and the CVA have collectively transferred \$18,753,062 of Super-TIF Revenues to the Commission, whether or not the principal amount of or interest on the Bonds has been paid in full.*

## ARTICLE VII

### COVENANTS OF THE CID

#### **Section 7.1. Collection and Application of CID Sales Tax.**

(a) The CID will deposit all proceeds received by the CID from the imposition of the CID Sales Tax into an account held by or on behalf of the CID (the "CID Sales Tax Fund").

(b) The CID shall impose the CID Sales Tax at the rate of 1.0% of retail sales within the boundaries of the CID. In no event while Bonds are Outstanding under the Indenture shall the CID take any action to repeal or reduce the amount of CID Sales Tax imposed.

(c) The CID shall perform all functions incident to the administration, collection, enforcement and operation of the CID Sales Tax or provide for the performance of such functions by the Missouri Department of Revenue.

(d) The CID may invest any or all of the moneys deposited in the CID Sales Tax Fund in accordance with applicable laws relating to investment of the CID's funds. All interest earned upon the balance in the CID Sales Tax Fund shall be credited to such fund.

(e) The CID shall keep accurate records of the amount of the CID Sales Tax collected and such records shall be open to the inspection by such accountants or other agencies or Persons as the Trustee or the Issuer may from time to time designate, except as may be limited by State law.

(f) The CID has *not* consented to the inclusion of proceeds of the CID Sales Tax as "economic activity taxes" under the TIF Act for purposes of Section 99.845.3 of the Revised Statutes of Missouri, as amended.

(g) The CID shall transfer the CID Sales Tax Revenues to the Trustee in accordance with **Section 3.2** of this Financing Agreement.

**Section 7.2. Appropriation; Budget.** The CID hereby covenants and agrees to include in the budget proposal submitted to the CID's Board of Directors for each fiscal year a request for an appropriation of the CID Sales Tax Revenues collected during such fiscal year for deposit in the Revenue Fund under the Indenture. The parties hereto acknowledge and agree that the payment of CID Sales Tax Revenues to the Trustee shall constitute currently budgeted expenditures of the CID and shall not in any way be construed or interpreted as creating a liability or a general obligation or debt of the CID in contravention of any applicable constitutional or statutory limitations or requirements concerning the creation of indebtedness by the CID, nor shall anything contained herein constitute a pledge of the general credit, tax revenues, funds or moneys of the CID. The CID's obligations under this section shall be from year to year only, and shall not constitute a mandatory payment obligation of the CID in any ensuing fiscal year beyond the then current fiscal year.

The CID shall deliver written notice to the Trustee no later than 15 days after the commencement of its fiscal year stating whether or not the Board of Directors has made the appropriation described above. If the Board of Directors shall have made the appropriations necessary, the failure of the CID to deliver the foregoing notice on or before the 15th day after the commencement of its fiscal year shall not constitute an event of default and, on failure to receive such notice 15 days after the commencement of the CID's fiscal year, the Trustee shall request that the CID confirm in writing whether or not such

appropriation has been made. If in any fiscal year the Board of Directors of the CID fails to adopt a budget, the budget for the prior fiscal year shall continue. Any funds appropriated under this Section shall be payable to and shall be transferred to the Revenue Fund at the times and in the manner provided in the Indenture and **Section 3.2** of this Financing Agreement.

**Section 7.3. Budget and Reporting Requirements.** The CID shall comply with the budgetary and reporting requirements contained in the Revised Statutes of Missouri, as amended, and the CID Agreement:

(a) The Board of Directors of the CID shall prepare and submit a proposed annual budget to the City in accordance with Section 67.1471.2 of the Revised Statutes of Missouri, as amended, and the CID Agreement.

(b) The CID shall submit an annual report to the Deputy City Clerk and the Missouri Department of Economic Development in accordance with Section 67.1471.4 of the Revised Statutes of Missouri, as amended, and the CID agreement.

(c) The CID shall submit an annual financial report to the Missouri State Auditor in accordance with Section 105.145 of the Revised Statutes of Missouri, as amended.

**Section 7.4. Operating Expenses.**

(a) From the CID Sales Tax proceeds, the CID shall pay the administrative and operating costs of the CID described in the CID Agreement (the “CID Operating Expenses”), as budgeted and approved by the CID, provided that such amount shall not exceed \$10,000 for any fiscal year of the CID. The CID shall be responsible for its own operations and payment of the CID Operating Expenses.

(b) Promptly following the adoption of each annual budget by the Board of Directors of the CID, the CID shall provide written notice to the Trustee of the amount of operating expenses of the CID included in such budget so that the Trustee can determine the CID Operating Expenses for such fiscal year in accordance with the provisions of the Indenture. If the Board of Directors shall have made the operating expenses appropriation within the limits set forth in this Agreement, the failure of the CID to deliver the foregoing notice shall not constitute an event of default and, on failure to receive such notice, the Trustee may request that the CID confirm in writing the amount of the operating expenses appropriation in the applicable annual budget.

**ARTICLE VIII**

**ASSIGNMENT AND TRANSFERS OF INTEREST**

**Section 8.1. Assignment by the Issuer.** The Issuer, by means of the Indenture and as security for the payment of the principal of, and redemption premium, if any, and interest on the Bonds, will assign, pledge and grant a security interest in all of its rights, title and interests in, to and under this Financing Agreement for the benefit of the Owners (reserving any rights of the Issuer to indemnity and reimbursement contained in such agreement, or to receive moneys on its own account, referred to herein as the “Unassigned Issuer Rights”).

**Section 8.2. Restriction on Transfer of Interests.** None of the Issuer, the Commission, the City, the CVA or the CID will sell, assign, transfer or convey its interests in this Financing Agreement or the Net Revenues except pursuant to the Indenture, this Financing Agreement and the Bond Documents.

## ARTICLE IX

### EVENTS OF DEFAULT AND REMEDIES

**Section 9.1. Events of Default Defined.** The term “Event of Default” shall mean any one or more of the following events:

(a) Failure by the Commission or the CID to timely transfer revenues to the Trustee pursuant to **Section 3.2** hereof.

(b) Failure by the Commission, the City, the CVA or the CID to observe and perform any covenant, condition or agreement on their part under this Financing Agreement, other than as referred to in the preceding subparagraph (a) of this Section, for a period of 30 days after written notice of such default has been given to the defaulting party, during which time such default is neither cured nor waived in writing by the Trustee, provided that, if the failure stated in the notice cannot be corrected within said 30-day period, the Trustee may consent in writing to an extension of such time prior to its expiration if corrective action is instituted by the defaulting party within the 30-day period and diligently pursued to completion and if such consent, in the judgment of the Trustee, does not materially adversely affect the interests of the Owners of the Bonds.

(c) Any representation or warranty by the Commission, the City, the CVA or the CID herein or in any certificate or other instrument delivered under or pursuant to this Financing Agreement or the Indenture shall prove to have been false, incorrect, misleading or breached in any material respect on the date when made, unless waived in writing by the Trustee or cured within 30 days after notice thereof has been given to the defaulting party.

(d) An Event of Default under the Indenture.

**Section 9.2. Remedies on an Event of Default.**

(a) Whenever any Event of Default has occurred and is continuing, the Trustee, as the assignee of the Issuer, may take any one or more of the remedial steps set forth in the Indenture, including whatever action at law or in equity is necessary and appropriate to exercise or to cause the exercise of the rights and powers set forth herein or in the Indenture, as may appear necessary or desirable to collect the amounts payable pursuant to this Financing Agreement then due and thereafter to become due or to enforce the performance and observance of any obligation, agreement or covenant of the parties under this Financing Agreement.

(b) Any amount collected pursuant to action taken under this Section shall be paid to the Trustee and applied, first, to the payment of any reasonable costs, expenses and fees incurred by the Trustee as a result of taking such action and, next, any balance shall be applied in accordance with the Indenture.

(c) Notwithstanding the foregoing, the Trustee shall not be obligated to take any step that in its opinion will or might cause it to expend time or money or otherwise incur liability, unless and until

indemnity satisfactory to it has been furnished to the Trustee at no cost or expense to the Trustee, except as otherwise provided in the Indenture.

**Section 9.3. No Remedy Exclusive.** No remedy herein conferred or reserved is intended to be exclusive of any other available remedy or remedies, but each and every such remedy shall be cumulative and shall be in addition to every other remedy given under this Financing Agreement or now or hereafter existing at law or in equity or by statute. No delay or omission to exercise any right or power accruing upon an Event of Default shall impair any such right or power or shall be construed to be a waiver thereof, but any such right and power may be exercised from time to time and as often as may be deemed expedient. In order to entitle the Trustee to exercise any remedy reserved to it in this Article, it shall not be necessary to give any notice, other than such notice as may be herein expressly required.

**Section 9.4. Parties to Give Notice of an Event of Default .** Each party to this Financing Agreement shall each promptly give to the Trustee written notice of any Event of Default of which the party shall have actual knowledge or written notice, but no party shall be liable for failing to give such notice.

**Section 9.5. Performance of the Obligations.** If any party to this Financing Agreement fails to keep or perform any of its obligations as provided in this Financing Agreement, then the Trustee may (but shall not be obligated so to do) upon the continuance of such failure for 15 days after notice of such failure is given to such party by the Trustee, and without waiving or releasing such party from any obligation hereunder, as an additional but not exclusive remedy, make any such payment or perform any such obligation, and all sums so paid by the Trustee and all necessary incidental costs and expenses incurred by the Trustee in performing such obligations shall be paid to the Trustee in accordance with the Indenture.

**Section 9.6. Remedial Rights Assigned to the Trustee.** Upon the execution and delivery of the Indenture, the Issuer will thereby have assigned to the Trustee all rights and remedies conferred upon or reserved to the Issuer by this Financing Agreement, reserving only the Unassigned Issuer Rights. The Trustee shall have the exclusive right to exercise such rights and remedies conferred upon or reserved to the Issuer by this Financing Agreement in the same manner and to the same extent, but under the limitations and conditions imposed thereby and hereby. The Owners of the Bonds shall be deemed third party creditor beneficiaries of all representations, warranties, covenants and agreements contained herein.

## ARTICLE X

### MISCELLANEOUS

**Section 10.1. Provisions Relating to Other Bond Documents.**

(a) To the extent of any inconsistency between the provisions of this Financing Agreement and the provisions of the Super-TIF Financing Agreement, during the time that any Bonds are Outstanding under the Indenture, the provisions of this Financing Agreement shall govern.

(b) Notwithstanding anything to the contrary in the Redevelopment Agreement, the Commission hereby waives enforcement of the provisions of Section 17 and Section 33(a)(iv) of the Redevelopment Agreement with respect to the Redevelopment Area by any means other than (1) refusal to continue making payments of Certified Costs (as defined in the Redevelopment Agreement) on a pay as you go basis, or (2) the statutory remedies available to Jackson County,



Missouri and other taxing jurisdictions within such county to enforce the payment of *ad valorem* real property taxes.

**Section 10.2. Performance of Covenants.** Each of the parties to this Financing Agreement covenants that it will faithfully perform at all times any and all covenants, undertakings, stipulations and provisions contained in this Financing Agreement applicable to it and in all proceedings pertaining thereto.

**Section 10.3. Authorized Representatives.** Whenever under this Financing Agreement the approval of a party having an authorized representative designated under the Indenture is required or such party is required or permitted to take some action, such approval shall be given or such action shall be taken by the authorized representative so designated in the Indenture, and the Trustee shall be authorized to act on any such approval or action.

**Section 10.4. Term of Financing Agreement.** This Financing Agreement shall be effective from and after its execution and delivery and shall continue in full force and effect until the Bonds are deemed to be paid under the Indenture and provision has been made for paying all other sums payable under this Financing Agreement and the Indenture.

**Section 10.5. Notices.** All notices, certificates or other communications hereunder shall be given in accordance with **Section 1302** of the Indenture.

**Section 10.6. Performance Date Not a Business Day.** If any date for a transfer of funds or the taking of any other action hereunder is not a Business Day, then such transfer shall be due, or 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 such transfer or performance.

**Section 10.7. Binding Effect.** This Financing Agreement shall inure to the benefit of and shall be binding upon the parties hereto and their respective successors and assigns.

**Section 10.8. Amendments, Changes and Modifications.** Except as otherwise provided in this Financing Agreement or in the Indenture, subsequent to the issuance of Bonds and prior to all of the Bonds being deemed to be paid in accordance with the Indenture and provision being made for the payment of all sums payable under the Indenture in accordance with the Indenture, this Financing Agreement may not be effectively amended, changed, modified, altered or terminated without the prior concurring written consent of the Trustee, given in accordance with the Indenture.

**Section 10.9. Execution in Counterparts; Electronic Transaction.** This Financing 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. The transaction described herein may be conducted and related documents may be stored, delivered and received 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.

**Section 10.10. No Pecuniary Liability of Parties.** Notwithstanding the language or implication of any provision, representation, covenant or agreement to the contrary, no provision, representation, covenant or agreement contained in this Financing Agreement or in the Indenture, the Bonds, or any obligation herein or therein imposed upon the Issuer or parties hereto, or the breach thereof, shall constitute or give rise to or impose upon the Issuer or the other parties hereto a pecuniary liability (except to the extent of any Net Revenues actually collected by such party and, if subject to appropriation as

described hereunder, appropriated to the payment of the Bonds). No provision hereof shall be construed to impose a charge against the general credit of the Issuer or another party hereto or any personal or pecuniary liability upon any director, officer, agent or employee of the Issuer or another party hereto.

**Section 10.11. Extent of Covenants; No Personal Liability.** All covenants, obligations and agreements of the parties contained in this Financing Agreement and the Indenture 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 parties in other than his official capacity, and no official executing the Bonds shall be liable personally on the Bonds or be subject to any personal liability or accountability by reason of the issuance thereof or by reason of the covenants, obligations or agreements of the parties contained in this Financing Agreement or in the Indenture.

**Section 10.12. Severability.** If any provision of this Financing Agreement is held or deemed to be invalid, inoperative or unenforceable as applied in any particular case in any jurisdiction or jurisdictions or in all jurisdictions, or in all cases because it conflicts with any other provision or provisions hereof or any constitution or statute or rule of public policy, or for any other reason, such circumstances shall not have the effect of rendering the provision in question inoperative or unenforceable in any other case or circumstances, or of rendering any other provision or provisions herein contained invalid, inoperative or unenforceable to any extent whatever. The invalidity of any one or more phrases, sentences, clauses or Sections in this Financing Agreement contained shall not affect the remaining portions of this Financing Agreement, or any part thereof.

**Section 10.13. Governing Law.** This Financing Agreement shall be governed by and construed in accordance with the laws of the State.

*[remainder of page intentionally left blank]*

**IN WITNESS WHEREOF**, the parties have caused this instrument to be executed on their behalf all as of the date first above written.

**THE INDUSTRIAL DEVELOPMENT AUTHORITY  
OF THE CITY OF KANSAS CITY, MISSOURI**

[SEAL]

By \_\_\_\_\_  
Chairman

ATTEST:

\_\_\_\_\_  
Assistant Secretary

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

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

ATTEST:

\_\_\_\_\_  
Secretary

Approved as to form:

\_\_\_\_\_  
Counsel to the Tax  
Increment Financing Commission

**CITY OF KANSAS CITY, MISSOURI**

By: \_\_\_\_\_  
Director of Finance

ATTEST:

\_\_\_\_\_  
City Clerk

Approved as to form:

\_\_\_\_\_  
City Attorney

**CONVENTION AND VISITORS BUREAU OF  
GREATER KANSAS CITY, INC., D/B/A KANSAS  
CITY CONVENTION & VISITORS  
ASSOCIATION**

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

ATTEST:

\_\_\_\_\_  
Corporate Secretary

Approved as to form:

\_\_\_\_\_  
General Counsel

Financing Agreement  
Tax Increment and Special District Revenue Bonds  
(21c Hotel Project)  
Series 2019

**9TH & CENTRAL COMMUNITY  
IMPROVEMENT DISTRICT**

By: \_\_\_\_\_  
Executive Director

ATTEST:

\_\_\_\_\_  
Secretary