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(1911-1998)

GLEE S. SMITH, JR.
OF COUNSEL

March 26, 2009

Via Hand-Delivery

Mr. Frank Reeb, City Clerk
City Hall
6 East 6th Street
Lawrence, Kansas 66044

Re: *Free State TDD Development Agreement*

Dear Frank:

Enclosed, for your file and safe-keeping, please find the original, executed and recorded *Free State Transportation Development District Development Agreement* for the Bauer Farm development.

If you have any questions or if I can be of any further assistance, please call me.

Very truly yours,

BARBER EMERSON, L.C.



Mark A. Andersen

MAA:dbk

Enclosure

cc: William N. Fleming (w/enclosure)
Michael D. McKinley (w/enclosure)

**FREE STATE TRANSPORTATION DEVELOPMENT DISTRICT
DEVELOPMENT AGREEMENT**

THIS AGREEMENT is entered into by and between the CITY OF LAWRENCE, KANSAS, a municipal corporation duly organized and existing under the laws of the State of Kansas as a city of the first class (the "City"), and FREE STATE GROUP, LLC, a limited liability company organized and existing under the laws of the State of Kansas and FREE STATE HOLDINGS, INC., a corporation organized and existing under the laws of the State of Kansas (collectively, the "Developer," and together with the City, the "Parties"), and is dated as of October 14, 2008.

RECITALS

WHEREAS, the Developer submitted to the City (i) a petition to establish the Free State Transportation District on August 5, 2008 and (ii) an amended petition on or about September 22, 2008; and

WHEREAS, on October 21, 2008, the City created the Free State Transportation Development District (the "TDD District") pursuant to K.S.A. 12-17,140 *et seq.* (the "Act") and Ordinance No. 8339 of the City; and

WHEREAS, the TDD District consists of approximately 25.8 acres generally located in Lawrence, Douglas County, Kansas on 6th Street between Wakarusa Drive and Folks Road, and is legally described on **Exhibit A** attached hereto; and

WHEREAS, on September 15, 2008 the Developer submitted to the City a petition to create an improvement district pursuant to K.S.A. 12-6a01 *et seq.* (the "Improvement District") to fund the design and construction of certain public improvements (the "Improvement District Project"); and

WHEREAS, the City and the Developer desire to enter into this Agreement to address certain issues related to development within the TDD District, implementation of the TDD Project and certain issues related to the Improvement District Project.

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

**ARTICLE I
DEFINITIONS AND RULES OF CONSTRUCTION**

Section 1.1. Rules of Construction. For all purposes of this Agreement, except as otherwise expressly provided or unless the context otherwise requires, the following rules of construction apply in construing the provisions of this Agreement.

A. The terms defined in this Article include the plural as well as the singular.

B. All accounting terms not otherwise defined herein shall have the meanings assigned to them, and all computations herein provided for shall be made, in accordance with generally accepted accounting principles.

C. All references herein to “generally accepted accounting principles” refer to such principles in effect on the date of the determination, certification, computation or other action to be taken hereunder using or involving such terms.

D. All references in this instrument to designated “Articles,” “Section” and other subdivisions are to be the designated Articles, Sections and other subdivisions of this instrument as originally executed.

E. The words “herein,” “hereof” and “hereunder” and other words of similar import refer to this Agreement as a whole and not to any particular Article, Section or other subdivision.

F. The Article and Section headings herein are for convenience only and shall not affect the construction hereof.

G. The representations, covenants and recitations set forth in the foregoing recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this Section. The resolutions and ordinances of the City introduced or adopted by the City Commission which designate the TDD District and the provisions of the Act, as amended, are hereby incorporated herein by reference and made a part of this Agreement, subject in every case to the specific terms hereof.

Section 1.2. Definitions of Words and Terms. Capitalized words used in this Agreement shall have the meanings set forth in the Recitals to this Agreement or they shall have the following meanings:

“Affiliate” means any entity in which the Developer, individually or as trustee, directly or indirectly, and individually or in the aggregate owns at least 50% interest.

“Agreement” means this Free State Transportation Development District Development Agreement, as amended from time to time.

“Applicable Law and Requirements” means 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 Governmental Authorities.

“Certificate of TDD Costs” means a certificate relating to TDD Costs in substantially the form attached hereto as **Exhibit B**.

“City” means the City of Lawrence, Kansas.

“City Event of Default” means any event or occurrence defined in **Section 7.1B** of this Agreement.

“City Representative” means the Mayor or City Manager of the City, and such other person or persons at the time designated to act on behalf of the City in matters relating to this Agreement.

“County” means Douglas County, Kansas.

“Developer” means, jointly and severally, Free State Group, LLC, a limited liability company organized and existing under the laws of the State of Kansas and Free State Holdings, Inc., a corporation organized and existing under the laws of the State of Kansas, and their successors and assigns approved pursuant to this Agreement.

“Developer Event of Default” means any event or occurrence defined in **Section 7.1A** of this Agreement.

“Developer Representative” means John Cobb or such other person or persons at the time designated to act on behalf of the Developer in matters relating to this Agreement as evidenced by a written certificate furnished to the City containing the specimen signature of such person or persons and signed on behalf of the Developer.

“Event of Default” means any event or occurrence as defined in **Article VII** of this Agreement.

“Excusable Delays” means any delay beyond the reasonable control of the Party affected, caused by damage or destruction by fire or other casualty, strike, shortage of materials, unavailability of labor, adverse weather conditions such as, by way of illustration and not limitation, severe rain storms or below freezing temperatures of abnormal degree or abnormal duration, freezing temperatures that prevent the prudent installation of concrete or similar materials, tornadoes, delays in the issuance of any governmental permits or approvals which are not the fault of the Developer, adverse market conditions, and the Developer’s inability to secure acceptable financing, tenants or purchasers for its development despite the Developer’s commercially reasonable efforts, and any other events or conditions, which shall include but not be limited to any litigation interfering with or delaying the construction of all or any portion of the TDD Project in accordance with this Agreement, which in fact prevents the Party so affected from discharging its respective obligations hereunder.

“Financing Costs” means those costs, which are approved by the City, incurred, or to be incurred, in connection with the City’s issuance of any Obligations or by the Developer in connection with any Private Loans to pay all or any portion of the TDD Costs incurred, or estimated to be incurred, including interest and loan fees. If the Developer should pay for any TDD Costs with cash or its equivalent, Financing Costs shall also include interest to the Developer on such cash expenditures at a rate per annum equal to the Developer’s actual cost of funds used to pay the TDD Costs as demonstrated to the City.

“Governmental Approvals” means all plat approvals, re-zoning or other zoning changes, site plan approvals, conditional use permits, variances, building permits, architectural review or

other subdivision, zoning or similar approvals required for the implementation of the TDD Project and consistent with this Agreement.

“Governmental Authorities” means any and all jurisdictions, entities, courts, boards, agencies, commissions, offices, divisions, subdivisions, departments, bodies or authorities of any type of any governmental unit (federal, state or local) whether now or hereafter in existence.

“Improvement District” means that certain improvement district expected to be created by the City pursuant to the petition submitted to the City on September 15, 2008 and pursuant to K.S.A. 12-6a01 *et seq.*

“Improvement District Project” means the design and construction of certain public improvements to be constructed pursuant to the petition submitted by the Developer to the City on September 15, 2008, and a resolution to be adopted by the City creating the Improvement District.

“Obligations” means TDD Bonds issued by the City in accordance with the TDD Act or other obligations issued by the City.

“Pay As You Go” means the reimbursement of TDD Costs from the City to the Developer as monies become available in the TDD Sales Tax Fund.

“Permitted Subsequent Approvals” means the building permits and other governmental approvals customarily obtained prior to construction which have not been obtained on the date that this Agreement is executed, which the City or other governmental entity has not yet determined to grant.

“Private Loans” means loans or indebtedness incurred by the Developer or any other private entity or individual to pay TDD Costs incurred or estimated to be incurred, to carry out the TDD Project, to establish reserves, to finance interest costs associated with such Private Loans, or to refund or refinance any such outstanding Private Loans.

“Reimbursable Project Costs” means TDD Costs and Financing Costs, subject to the Reimbursable Project Costs Cap contained in Section 3.11 hereof.

“TDD Act” means the transportation development district act contained In K.S.A. 12-17,140 *et seq.*

“TDD Bonds” means special obligation bonds or special obligation notes issued by the City in accordance with the TDD Act.

“TDD District” means the Free State Transportation Development District, created by the City on October 21, 2008 by the adoption of Ordinance No. 8339, pursuant to the TDD Act.

“TDD Project” means the TDD District improvements described in **Exhibit C** attached hereto.

“TDD Costs” means those costs of the “project” as defined in the TDD Act to be paid from the TDD Sales Tax, and which do not constitute costs actually paid from proceeds of financing for the Improvement District Project.

“TDD Sales Tax” means the 1% transportation development district sales tax to be imposed within the TDD District pursuant to the TDD Act

“TDD Sales Tax Fund” means the Free State TDD Sales Tax Fund, created pursuant to the TDD Act and **Section 5.1A** hereof.

ARTICLE II REPRESENTATIONS AND WARRANTIES

Section 2.1. Representations of City. The City makes the following representations and warranties which to the best of the City’s actual knowledge, are true and correct on the date hereof:

A. Due Authority. The City has full constitutional and lawful right, power and authority, under current applicable law, to execute and deliver and perform the terms and obligations of this Agreement, and this Agreement has been duly and validly authorized and approved by all necessary City proceedings, findings and actions. Accordingly, this Agreement constitutes the legal valid and binding obligation of the City, enforceable in accordance with its terms.

B. No Defaults or Violation of Law. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any agreement or instrument to which the City is now a party, and do not and will not constitute a default under any of the foregoing.

C. No Litigation. To the best of the City’s knowledge, there is no litigation, proceeding or investigation pending or, to the knowledge of the City, threatened against the City with respect to the TDD Project or this Agreement. In addition, no litigation, proceeding or investigation is pending or, to the knowledge of the City, threatened against the City seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of the City to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by the City of the terms and provisions of this Agreement.

D. Governmental or Corporate Consents. No consent or approval is required to be obtained from, and no action need be taken by, or document filed with, any governmental body or corporate entity in connection with the execution and delivery by the City of this Agreement.

E. No Default. No default or Event of Default has occurred and is continuing, and no event has occurred and is continuing which with the lapse of time or the giving of notice or both, would constitute a default or an event of default in any material respect on the part of the City under this Agreement.

Section 2.2. Representations of the Developer. The Developer makes the following representations and warranties, which to the best of the Developer’s actual knowledge, are true and correct on the date hereof:

A. Due Authority. The Developer has all necessary power and authority to execute and deliver and perform the terms and obligations of this Agreement and to execute and deliver the documents required of the Developer herein, and such execution and delivery has been duly and validly authorized and approved by all necessary proceedings. Accordingly, this Agreement constitutes the legal valid and binding obligation of the Developer, enforceable in accordance with its terms.

B. No Defaults or Violation of Law. The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any corporate or organizational restriction or of any agreement or Instrument to which the Developer is now a party, and do not and will not constitute a default under any of the foregoing.

C. No litigation. No litigation, proceeding or investigation is pending or, to the knowledge of the Developer, threatened against the TDD Project, the Developer or any officer, director, member or shareholder of the Developer. In addition, no litigation, proceeding or investigation is pending or, to the knowledge of the Developer, threatened against the Developer seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of the Developer to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by the Developer of the terms and provisions of this Agreement.

D. No Material Change. (1) The Developer has not incurred any material liabilities or entered into any material transactions other than in the ordinary course of business except for the transactions contemplated by this Agreement and (2) there has been no material adverse change in the business, financial position, prospects or results of operations of the Developer, which could affect the Developer's ability to perform its obligations pursuant to this Agreement from that shown in the financial information provided by the Developer to the City prior to the execution of this Agreement.

E. Governmental or Corporate Consents. No consent or approval is required to be obtained from, and no action need be taken by, or document filed with, any governmental body or corporate entity in connection with the execution, delivery and performance by the Developer of this Agreement.

F. No Default. No default or Event of Default has occurred and is continuing, and no event has occurred and is continuing which with the lapse of time or the giving of notice, or both, would constitute a default or an event of default in any material respect on the part of the Developer under this Agreement, or any other material agreement or material instrument to which the Developer is a party or by which the Developer is or may be bound.

G. Approvals. Except for Permitted Subsequent Approvals, the Developer has received and is in good standing with respect to all certificates, licenses, inspections, franchises, consents, immunities, permits, authorizations and approvals, governmental or otherwise, necessary to conduct and to continue to conduct its business as heretofore

conducted by it and to own or lease and operate its properties as now owned or leased by it. Except for Permitted Subsequent Approvals, the Developer has obtained all certificates, licenses, inspections, franchises, consents, immunities, permits, authorizations and approvals, governmental or otherwise, necessary to acquire, construct, equip, operate and maintain the TDD Project. The Developer reasonably believes that all such certificates, licenses, consents, permits, authorizations or approvals which have not yet been obtained will be obtained in due course.

H. Construction Permits. Except for Permitted Subsequent Approvals, all governmental permits and licenses required by applicable law to construct, occupy and operate the TDD Project have been issued and are in full force and effect or, if the present stage of development does not allow such issuance, the Developer reasonably believes, after due inquiry of the appropriate governmental officials, that such permits and licenses will be issued in a timely manner in order to permit the TDD Project to be constructed.

I. Compliance with Laws. The Developer is in compliance with all valid laws, ordinances, orders, decrees, decisions, rules, regulations and requirements of every duly constituted governmental authority, commission and court applicable to any of its affairs, business, operations as contemplated by this Agreement.

J. Other Disclosures. The information furnished to the City by the Developer in connection with the matters covered in this Agreement are true and correct and do not contain any untrue statement of any material fact and do not omit to state any material fact required to be stated therein or necessary to make any statement made therein, in the light of the circumstances under which it was made, not misleading.

Section 2.3. Developer's Acquisition of the TDD District. At the time that this Agreement is executed, Developer represents that it owns legal title to all real property within the TDD District.

Section 2.4. Conditions to the Effective Date of this Agreement. Contemporaneously with the execution of this Agreement, and as a precondition to the effectiveness of this Agreement, the Developer shall submit the following documents to the City:

A. A copy of the Developer's Articles of Organization, certified by the Secretary of State of the State of Kansas; and

B. A certified copy of the Operating Agreement of the Developer; and

C. A legal opinion from counsel to the Developer in form and substance acceptable to the City covering, (i) the due organization of the Developer and the power and authority of the Developer to execute this Agreement, and (ii) the enforceability of this Agreement against the Developer.

ARTICLE III
REIMBURSEMENT OF REIMBURSABLE PROJECT COSTS

Section 3.1. City's Obligation to Reimbursement Developer.

A. Obligation to Reimburse. Subject to the terms of this Agreement and the conditions in this Section, the City agrees, solely and exclusively from the TDD Sales Tax, to reimburse Developer for Reimbursable Project Costs consisting of TDD Costs in a total amount not to exceed \$5,000,000 plus any actual Financing Costs (the "Reimbursable Costs Cap"),.

B. Source of Reimbursement. The City shall: (i) reimburse the Developer or its designee from the TDD Sales Tax Fund established pursuant to the Act and this Agreement for all actual Reimbursable Project Costs, subject to the Reimbursable Costs Cap, on a Pay As You Go basis; or (ii) make moneys in the TDD Sales Tax Fund available for the purpose of repaying Obligations, subject to the Reimbursable Costs Cap. The City shall not be required to provide any enhancement to any Obligations. The parties acknowledge and agree that the estimated reimbursable TDD Costs do not purport to cap any particular line item of costs set forth on **Exhibit C**, and that amounts reimbursable to Developer shall include any and all actual costs incurred for any cost category, provided that in no event will the aggregate principal amount to be reimbursed to the Developer related to TDD Costs exceed the Reimbursable Costs Cap. In administering the TDD Sales Tax Fund, the City shall create such accounts and sub-accounts as shall be required by the Act or documents authorizing the issuance of the Obligations.

C. Issuance of Obligations.

1. The Parties anticipate that Obligations may be issued by the City to provide a source of payment and/or reimbursement for Reimbursable Project Costs. As such, all obligations of the Developer hereunder are contingent upon the issuance of such Obligations in such amount as is acceptable to Developer in Developer's sole discretion, provided that if Obligations are not issued and the Developer, in its sole discretion, elects to proceed with developing the TDD Project, the Developer shall be bound by the terms of this Agreement.

2. The City shall issue Obligations as soon as practicable upon the Developer's request for the issuance of such Obligations and after the following condition precedent have been met:

a. Not less than 50,000 square feet of retail space has been constructed, has received a final certificate of occupancy and has opened for business;

b. The underwriter of the Obligations shall be approved by the City, such approval shall not be unreasonably withheld, or the Obligations shall be privately placed with a travelling investment letter that shall be in a

form satisfactory to the City, such approval not to be unreasonably withheld; and

c. If the Obligations are not privately placed with a travelling investment letter, then a feasibility report shall have been delivered to the City that includes: (i) the projected revenues to be generated from the TDD Sales Tax during the term of the Obligations, and (ii) shows a projected debt service coverage ratio acceptable to the City and the underwriter of the Obligations, from a feasibility consultant being reasonably acceptable to the City.

3. The documents providing for the issuance of Obligations shall provide that any disbursement of funds for the payment or reimbursement of Reimbursable Project Costs receive the written approval of the City in accordance with **Section 3.2** of this Agreement.

4. In connection with the issuance of Obligations as described herein, it is anticipated that the City will enter into an agreement to pledge moneys in the TDD Sales Tax Fund available upon such terms and conditions as are acceptable to the City and the Developer, which terms and conditions shall be consistent with this Agreement.

5. Any Obligations issued by the City shall be special obligations of the City payable solely from and secured as to the payment of principal and interest by a pledge of the revenues from the TDD Sales Tax. The taxing power of the City nor any other revenues of the City (other than the TDD Sales Tax) will not pledged to the payment of the Obligations. The Obligations shall not constitute a general obligation of the City, nor shall they constitute an indebtedness of the City within the meaning of any constitutional, statutory or charter provision, limitation or restriction. Government with respect thereto, and the rights of the Registered Bondowners thereof.

Section 3.2. Developer Reimbursement Process.

A. All requests for reimbursement of Reimbursable Project Costs, whether directly from the TDD Sales Tax Fund or from a project fund established in connection with the issuance of Obligations, shall be made in a Certificate of TDD Costs in substantial compliance with the form attached hereto as **Exhibit B**, which Certificate of TDD Costs need only be signed by the Developer Representative. The Developer shall provide itemized invoices, receipts or other information reasonably requested by the City to confirm that such costs were incurred and qualify as Reimbursable Project Costs.

B. The City reserves the right to have its engineer or other agents or employees inspect all work in respect of which a Certificate of TDD Costs is submitted, to examine the Developer's and others' records relating to all expenses related to the invoices to be paid, and to obtain from such parties such other information as is reasonably necessary for the City to evaluate compliance with the terms hereof.

C. The City shall have thirty (30) calendar days after receipt of a Certificate of TDD Costs to review and respond by written notice to the Developer. If the submitted Certificate of TDD Costs and supporting documentation demonstrate that (1) the request relates to Reimbursable Project Costs; (2) the expense was incurred; (3) the Developer is not in material default under this Agreement; (4) there is no fraud on the part of the Developer and (5) if the City has issued Obligations, then no payment default shall exist nor any unreimbursed draw on any reserve fund, then the City shall approve the Certificate of TDD Costs and make, or cause to be made, reimbursement from the TDD Sales Tax Fund in accordance with **Section 3.1** hereof, within thirty (30) calendar days of the City's approval or deemed approval of the Certificate of TDD Costs. If the City reasonably disapproves of the Certificate of TDD Costs, the City shall notify the Developer in writing of the reason for such disapproval within such thirty (30) day period. Approval of the Certificate of TDD Costs will not be unreasonably withheld. If the City fails to provide notice of the disapproval of a Certificate of TDD Costs within thirty (30) days after the City's receipt of the same, such Certificate of TDD Costs shall be deemed approved.

D. If the Developer submits a Certificate of TDD Costs for an amount in excess of the current balance in the TDD Sales Tax Fund, any unpaid Reimbursable Project Costs described in such Certificate of TDD Costs shall remain approved by the City and shall be paid within thirty (30) calendar days of the date additional funds are deposited in the TDD Sales Tax Fund, to the extent of such funds, until the Developer is fully reimbursed for the Reimbursable Project Costs described in such Certificate of TDD Costs.

E. Nothing in this Agreement shall prohibit the Developer from submitting Certificates of TDD Costs covering the Developer's interest expenses on any TDD Costs not previously reimbursed.

Section 3.3. Limitation on City's Payment Obligations. Notwithstanding any other term of provision of this Agreement; the City's obligation to reimburse the Developer for Reimbursable Project Costs on a Pay As You Go basis shall be limited to TDD Sales Taxes collected during the term of this Agreement.

Section 3.4. Right to Inspect and Audit. The Developer agrees that, up to one year after completion of the TDD Project and the Improvement District Project, the City, with reasonable advance notice and during normal business hours, shall have the right and authority to review, audit, and copy, from time to time, all the Developer's books and records relating to the Reimbursable Project Costs (including, but not limited to, all general contractor's sworn statements, general contracts, subcontracts, material purchase orders, waivers of lien, paid receipts and invoices).

ARTICLE IV TDD DISTRICT

Section 4.1. Sales Tax Information.

A. The Developer agrees to provide the City Manager written notice of all current tenants of the TDD District on November 1 of each year and at such other times upon the written request of the City Manager.

B. The Developer agrees to cause all assignees, purchasers, tenants, subtenants or any other entity acquiring property or occupancy rights in the TDD District to be obligated by written contract (lease agreement or other enforceable document) to provide to the City Manager simultaneously with submission to the Kansas Department of Revenue the monthly sales tax returns for their facilities in the TDD District. This obligation shall be a covenant running with the land and shall be enforceable against all businesses operating in the TDD District and shall only terminate upon the passage by the City of an ordinance terminating the TDD District. The Developer hereby agrees that each such lease agreement shall provide that the City is an intended third-party beneficiary of such provisions and has a separate and independent right to enforce such provisions directly against such tenant or purchaser.

C. To the extent it may legally do so, information obtained pursuant to this Section shall be kept confidential by the City in accordance with K.S.A. 79-3657. In furtherance of maintaining the confidentiality of the information provided in this Section, the City shall take all reasonable steps necessary to ensure that such information is kept confidential.

D. The Developer agrees to use its best efforts to obtain waivers consenting to the release by the City of aggregate TDD Sales Tax revenues generated within the TDD District from all assignees, purchasers, tenants subtenants or any other entity with property or occupancy rights in the TDD District.

ARTICLE V REIMBURSEMENT OF PROJECT COSTS;

Section 5.1. TDD Sales Tax Fund.

A. Creation of Fund; Deposit of TDD Sales Tax. The City shall establish and maintain a separate fund and account known as the Free State TDD Sales Tax Fund (the "TDD Sales Tax Fund"). All TDD Sales Tax collected by the City shall be deposited in the TDD Sales Tax Fund.

B. Disbursements from Fund. All disbursements from the TDD Sales Tax Fund shall be made only to pay Reimbursable Project Costs. The City shall have sole control of the disbursements from the TDD Sales Tax Fund.

Any surplus amounts of TDD Sales Tax after all Reimbursable Project Costs have been reimbursed shall be used as determined by the City for any purpose authorized by the TDD Act.

Section 5.2. City Administrative Service Fee. As a result of the public improvements being financed with the TDD Sales Tax, the City agrees not to charge any administrative service fees

in connection with the administration of the TDD Sales Tax Fund or any other aspect of this Agreement.

ARTICLE VI GENERAL COVENANTS

Section 6.1. Operation of Project. The Project shall comply with all applicable building and zoning, health, environmental and safety resolutions and laws and all other applicable laws, rules and regulations. The Developer shall, at its own expense, secure or cause to be secured any and all permits which may be required by the City and any other governmental agency having jurisdiction for the construction and operation of the Project, including but not limited to, obtaining all necessary rental licenses and paying any necessary fees to obtain required permits and licenses.

Section 6.2. Taxes, Assessments, Encumbrances and Liens. For that portion of the Project owned by the Developer or any Affiliate, the Developer shall pay or cause to be paid when due all real estate taxes and assessments within the Project. Nothing herein shall be deemed to prohibit the Developer from contesting the validity or amounts of any tax, assessment, encumbrance or lien, nor to limit the remedies available to the Developer in respect thereto. The Developer and any other owners of real property in the TDD District shall promptly notify the City in writing of a protest of real estate taxes or valuation of the Developer's or such other owners' property within the TDD District.

Section 6.3. Covenant for Non-Discrimination. The Developer covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, familial status, marital status, age, handicap, national origin, sexual orientation or ancestry in the sale, lease, sublease, transfer, use, occupancy, tenure or enjoyment of the TDD District, nor shall the Developer itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees or vendees of the TDD District. The covenant established in this Section shall, without regard to technical classification and designation, be binding for the benefit and in favor of the City, its successors and assigns and any successor in interest to the TDD District or any part thereof. The covenants contained in this Section shall remain for so long as this Agreement is in effect.

Section 6.4. Indemnification of City.

A. The Developer agrees to indemnify and hold the City, its employees, agents and independent contractors and consultants (collectively, the "City Indemnified Parties") harmless, but only to the extent of actual insurance coverage being available as a result of the insurance maintained by the Developer pursuant to **Section 6.5** hereof, from and against any and all suits, claims, costs of defense, damages, injuries, liabilities, judgments, costs and/or expenses, including court costs and attorneys fees, resulting from, arising out of or in any way connected with:

1. the Developer's actions and undertaking in implementation of the TDD Project or this Agreement; and
2. the negligence or willful misconduct of the Developer, its employees, agents or independent contractors and consultants in connection with the management, design, development, redevelopment and construction of the TDD Project; and
3. any delay or expense resulting from any litigation filed against the Developer by any member or shareholder of the Developer, any prospective investor, prospective partner or joint venture partner, lender, co-proposer, architect, contractor, consultant or other vendor.

This section shall not apply to willful misconduct or negligence of the City or its officers, employees or agents. This section includes, but is not limited to, any repair, cleanup, remediation, detoxification, or preparation and implementation of any removal, remediation, response, closure or other plan (regardless of whether undertaken due to governmental action) concerning any hazardous substance or hazardous wastes including petroleum and its fractions as defined in (i) the Comprehensive Environmental Response, Compensation and Liability Act ("CERCLA"; 42 U.S.C. Section 9601, Ct seq.), (ii) the Resource Conservation and Recovery Act ("RCRA"; 42 U.S.C. Section 6901 et seq.) and (iii) Article 34, Chapter 65, K.S.A. and all amendments thereto, at any place where the Developer owns or has control of real property pursuant to any of the Developer's activities under this Agreement. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107 (e) of CERCLA to assure, protect hold harmless and indemnify City from liability.

B. In the event any suit, action, investigation, claim or proceeding (collectively, an "Action") is begun or made as a result of which the Developer may become obligated to one or more of the City Indemnified Parties hereunder, any one of the City Indemnified Parties shall give prompt notice to the Developer of the occurrence of such event.

C. The right to indemnification set forth in this Agreement shall survive the termination of this Agreement.

Section 6.5. Insurance.

A. During the construction of the TDD Project, the Developer shall maintain or cause to be maintained builder's risk insurance on the TDD Project written on a replacement cost basis, commercial general liability insurance insuring against claims for bodily injury, personal injury and property damage in a combined single limit of not less than \$1,000,000 per occurrence with a \$2,000,000 aggregate, and worker's compensation insurance pursuant to statutory requirements.

B. All such policies, or a certificate or certificates of the insurers that such insurance is in full force and effect, shall be provided to the City and, prior to expiration of any such policy, the Developer shall furnish the City with satisfactory evidence that such policy has been renewed or replaced or is no longer required by this Agreement; provided, however, the insurance so required may be provided by blanket policies now or hereafter maintained by the Developer if the Developer provides the City with a certificate from an insurance consultant to the effect that such coverage is

substantially the same as that provided by individual policies. All policies evidencing such insurance required to be obtained under the terms of this Agreement shall provide for 30 days' prior written notice to the Developer and the City of any cancellation (other than for nonpayment of premium), reduction in amount or material change in coverage.

C. In the event the Developer shall fail to maintain or cause to be maintained the insurance coverage required by this Agreement, the Developer shall promptly notify the City of such event and the City may (but shall be under no obligation to) contract for the required policies of insurance and pay the premium for the same; and the Developer agrees to reimburse the City to the extent of the amounts so advanced, with interest thereon at the statutory rate.

Section 6.6. Obligation to Restore. The City and the Developer will negotiate any covenants to restore that portion of the Project at time any Obligations are issued to finance all or any portion of the TDD Project.

Section 6.7. Non-liability of Officials, Employees and Agents of the City. No recourse shall be had for the reimbursement of the Reimbursable Project Costs or for any claim based thereon or upon any representation, obligation, covenant or agreement contained in this Agreement against any past, present or future official, officer, employee or agent of the City, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such officials, officers, employees or agents as such is hereby expressly waived and released as a condition of and consideration for the execution of this Agreement.

Section 6.8. Construction of the TDD Project and Improvement District Project. The Developer shall have the sole responsibility to contract for the design and construction of the TDD Project and the Improvement District Project. The Developer acknowledges and agrees that some of the project costs for the TDD Project and the Improvement District Project are the same and understands that such costs may only be paid for from either the TDD District or the Improvement District. In the event that the City issues notes or bonds to finance the Improvement District Project or any other improvement district created by the City pursuant to K.S.A. 12-6a01 *et seq.* that includes any of the real estate in the TDD District on a tax-exempt basis, Developer understands that any Obligations issued by the City to finance all or a portion of the TDD Project may, if required by applicable law, be issued on a taxable basis.

Section 6.9. Reimbursement of Improvement District Project Costs. If the City adopts a resolution creating the Improvement District and the Developer contracts and pays for costs of the Improvement District Project, the City shall reimburse the Developer for costs of the Improvement District Project, but only once such costs are incurred and paid by the Developer and the Improvement District Project is complete and only to the extent the City issues general obligation bonds or temporary notes for the Improvement District Project and the proceeds of such bonds and/or notes are available to the City.

ARTICLE VII

ASSIGNMENT; TRANSFER

Section 7.1. Transfer of Obligations.

A. Prior to the date upon which the TDD Project improvements are substantially completed by the Developer, the rights, duties and obligations hereunder of the Developer may not be assigned, in whole or in part, to another entity, without prior written notice to the City Commission and a copy of an assumption agreement satisfactory to the City pursuant to which the proposed assignee shall, by instrument in writing, for itself and its successors and assigns, and expressly for the benefit of the City, assume all of the obligations of the Developer under this Agreement and agree to be subject to all the conditions and restrictions to which the Developer is subject (or, in the event the transfer is of or relates to a portion of the TDD District, such obligations, conditions and restrictions to the extent that they relate to such portion), such approval by the City shall not be unreasonably withheld. Prior the date upon which the TDD Project improvements are substantially completed by the Developer, he Developer shall not be relieved from any obligations set forth herein unless and until the City specifically agrees to release the Developer, such approval by the City shall not be unreasonably withheld. After the date upon which the TDD Project is substantially complete, the Developer shall have no restrictions on assignment of this Agreement in whole or part and Developer shall hereby be released for any duties and obligations assumed in writing by the any subsequent assignee to Developer. The Developer agrees to record all assignments in the office of the Register of Deeds of Douglas County, Kansas, in a timely manner following the execution of such agreements.

B. The Parties' obligations pursuant to this Agreement, unless earlier satisfied, shall inure to and be binding upon the heirs, executors, administrators, successors and assigns of the respective parties as if they were in every case specifically named and shall be construed as a covenant running with the land, enforceable against the purchasers or other transferees as if such purchaser or transferee were originally a party and bound by this Agreement. Notwithstanding the foregoing, no tenant of any part of the TDD District shall be bound by any obligation of the Developer solely by virtue of being a tenant; provided, however, that no transferee or owner of property within the TDD District except the Developer shall be entitled to any rights whatsoever or claim upon the TDD revenues as set forth herein, except as specifically authorized in writing by the Developer.

C. The foregoing restrictions on assignment, transfer and conveyance shall not apply to any security interest granted to secure indebtedness to any construction or permanent lender.

D. Notwithstanding anything contained herein to the contrary, the Developer is hereby authorized, without approval by the City but with prior written notice to the City, to assign this Agreement to any Affiliate.

ARTICLE VII DEFAULTS AND REMEDIES

Section 7.1. Event of Default

A. Developer Event of Default. Subject to **Section 7.4** a “Developer Event of Default” shall mean a default in the performance of any obligation or breach of any covenant or agreement of the Developer in this Agreement (other than a covenant or agreement; a default in the performance or breach of which is specifically dealt with elsewhere in this Section), and continuance of such default or breach for a period of thirty (30) days after City has delivered to Developer a written notice specifying such default or breach and requiring it to be remedied; provided, that if such default or breach cannot be fully remedied within such thirty (30) day period, but can reasonably be expected to be fully remedied and the Developer is diligently attempting to remedy such default or breach, such default or breach shall not constitute an event of default if the Developer shall immediately upon receipt of such notice diligently attempt to remedy such default or breach and shall thereafter prosecute and complete the same with due diligence and dispatch.

B. City Event of Default. Subject to **Section 7.4** a “City Event of Default” shall mean a default in the performance of any obligation or breach of any other covenant or agreement of the City in this Agreement (other than a covenant or agreement; a default in the performance or breach of which is specifically dealt with elsewhere in this Section), and continuance of such default or breach for a period of thirty (30) days after there has been given to the City by the Developer a written notice specifying such default or breach and requiring it to be remedied; provided, that if such default or breach cannot be fully remedied within such thirty (30) day period, but can reasonably be expected to be fully remedied and the City is diligently attempting to remedy such default or breach, such default or breach shall not constitute an event of default if the City shall immediately upon receipt of such notice diligently attempt to remedy such default or breach and shall thereafter prosecute and complete the same with due diligence and dispatch.

Section 7.2. Remedies Upon a Developer Event of Default.

A. Upon the occurrence and continuance of a Developer Event of Default; the City shall have the following rights and remedies, in addition to any other rights and remedies provided under this Agreement or by law:

1. The City shall have the right to terminate this Agreement or terminate the Developer’s rights under this Agreement

2. The City may pursue any available remedy at law or in equity by suit; action, mandamus or other proceeding to enforce and compel the performance of the duties and obligations of the Developer as set forth in this Agreement; to enforce or preserve any other rights or interests of the City under this Agreement or otherwise existing at law or in equity and to recover any damages incurred by the City resulting from such Developer Event of Default

B. Upon termination of this Agreement for any reason, the City shall have the continuing obligation to reimburse the Developer for any Reimbursable Project Costs incurred or paid by the Developer prior to such termination.

C. If the City has instituted any proceeding to enforce any right or remedy under this Agreement by suit or otherwise, and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the City, then and in every case the City and the Developer shall, subject to any determination in such proceeding, be restored to their former positions and rights hereunder, and thereafter all rights and remedies of the City shall continue as though no such proceeding had been instituted.

D. The exercise by the City of any one remedy 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 City shall apply to obligations beyond those expressly waived.

E. Any delay by the City in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this Section shall not operate as a waiver of such rights or limit it in any way. No waiver in fact made by the City of any specific default by the Developer shall be considered or treated as a waiver of the rights with respect to any other defaults, or with respect to the particular default except to the extent specifically waived.

Section 7.3. Remedies Upon a City Event of Default.

A. Upon the occurrence and continuance of a City Event of Default the Developer shall have the following rights and remedies, in addition to any other rights and remedies provided under this Agreement or by law:

1. The Developer shall have the right to terminate the Developer's obligations under this Agreement;

2. The Developer may pursue any available remedy at law or in equity by suit; action, mandamus or other proceeding to enforce and compel the performance of the duties and obligations of the City as set forth in this Agreement; to enforce or preserve any other rights or interests of the Developer under this Agreement or otherwise existing at law or in equity and to recover any damages incurred by the Developer resulting from such City Event of Default.

B. If the Developer has instituted any proceeding to enforce any right or remedy under this Agreement by suit or otherwise, and such proceeding has been discontinued or abandoned for any reason, or has been determined adversely to the Developer, then and in every case the Developer and the City shall subject to any determination in such proceeding, be restored to their former positions and rights hereunder, and thereafter all rights and remedies of the Developer shall continue as though no such proceeding had been instituted.

C. The exercise by the Developer of any one remedy 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 Developer shall apply to obligations be those expressly waived.

D. Any delay by the Developer in instituting or prosecuting any such actions or proceedings or otherwise asserting its rights under this paragraph shall not operate as a

waiver of such rights or limit such rights in any way. No waiver in fact made by the Developer of any specific default by the Developer shall be considered or treated as a waiver of the rights with respect to any other defaults, or with respect to the particular default except to the extent specifically waived.

Section 7.4. Excusable Delays. Neither the City nor the Developer shall be deemed to be in default of this Agreement because of an Excusable Delay.

Section 7.5. Legal Actions. Any legal actions related to or arising out of this Agreement must be instituted in the District Court of Douglas County, Kansas or, if federal jurisdiction exists, in the United States District Court for the District of Kansas.

ARTICLE VIII GENERAL PROVISIONS

Section 8.1. Mutual Assistance. The City and the Developer agree to take such actions, including the execution and deliver of such documents, instruments, petitions and certifications as may be necessary or appropriate to carry out the terms, provisions and intent of this Agreement, including any continuing disclosure agreements entered into in connection with any Obligations, and to aid and assist each other in carrying out said terms provisions and intent.

Section 8.2. Effect of Violation of the Terms and Provisions of this Agreement; No Partnership. The City is deemed the beneficiary of the terms and provisions of this Agreement, for and in its own rights and for the purposes of protecting the interests of the community and other parties, public or private, in whose favor and for whose benefit this Agreement and the covenants running with the land have been provided. The City shall have the right, if the Agreement or covenants are breached, to exercise all rights and remedies, and to maintain any actions or suits at law or in equity or other proper proceedings to enforce the curing of such breaches to which it or any other beneficiaries of this Agreement and covenants may be entitled. Nothing contained herein shall be construed as creating a partnership between the Developer and the City.

Section 8.3. Time of Essence. Time is of the essence of this Agreement. The Parties will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation.

Section 8.4. Amendments. This Agreement may be amended only by the mutual consent of the Parties, by the adoption of a resolution of the City approving said amendment, as provided by law, and by the execution of said amendment by the Parties or their successors in interest

Section 8.5. Agreement Controls. The Parties agree that the TDD Project will be implemented as agreed in this Agreement. This Agreement specifies the rights, duties and obligations of the City and Developer with respect to constructing the TDD Project; the payment of Reimbursable Project Costs and all other methods of implementing the TDD Project. The Parties further agree that this Agreement contains provisions that are in greater detail than as set forth in the petition creating the TDD District and expand upon the estimated and anticipated sources and uses of funds to implement the TDD Project. Except as otherwise expressly provided herein, this Agreement supersedes all prior agreements, negotiations and discussions relative to the subject matter hereof and is a full integration of the agreement of the Parties.

Section 8.6. Conflicts of Interest.

A. No member of the City's governing body or of any branch of the City's government that has any power of review or approval of any of the Developer's undertakings shall participate in any decisions relating thereto which affect such person's personal interest or the interests of any corporation or partnership in which such person is directly or indirectly interested. Any person having such interest shall immediately, upon knowledge of such possible conflict disclose, in writing, to the City the nature of such interest and seek a determination with respect to such interest by the City and, in the meantime, shall not participate in any actions or discussions relating to the activities herein proscribed.

B. The Developer warrants that it has not paid or given and will not pay or give any officer, employee or agent of the City any money or other consideration for obtaining this Agreement. The Developer further represents that, to its best knowledge and belief, no officer, employee or agent of the City who exercises or has exercised any functions or responsibilities with respect to the TDD Project during his or her tenure, or who is in a position to participate in a decision making process or gain insider information with regard to the TDD Project, has or will have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof for work to be performed in connection with the TDD Project, or in any activity, or benefit therefrom, which is part of the TDD Project at any time during or after such person's tenure

Section 8.7. Term. Unless earlier terminated as provided herein, this Agreement shall remain in full force and effect for a period commencing the date hereof and ending the earlier of (i) the date that the TDD Project has been substantially completed and all Reimbursable Project Costs have been paid to the Developer or (ii) twenty-two (22) years after initial issuance of any Obligations to fund Project Costs.

Section 8.8. Validity and Severability. It is the intention of the parties that the provisions of this Agreement shall be enforced to the fullest extent permissible under the laws and public policies of the State of Kansas, and that the unenforceability (or modification to conform with such laws or public policies) of any provision hereof shall not render unenforceable, or impair, the remainder of this Agreement. Accordingly, if any provision of this Agreement shall be deemed invalid or unenforceable in whole or in part, this Agreement shall be deemed amended to delete or modify, in whole or in part, if necessary, the invalid or unenforceable provision or provisions, or portions thereof, and to alter the balance of this Agreement in order to render the same valid and enforceable.

Section 8.9. Required Disclosures. The Developer shall immediately notify the City of the occurrence of any material event which would cause any of the information furnished to the City by the Developer in connection with the matters covered in this Agreement to contain any untrue statement of any material fact or to omit to state any material fact required to be stated therein or necessary to make any statement made therein, in the light of the circumstances under which it was made, not misleading.

Section 8.10. Tax Implications. The Developer acknowledges and represents that (i) neither the City nor any of its officials, employees, consultants, attorneys or other agents has

provided to the Developer any advice regarding the federal or state income tax implications or consequences of this Agreement and the transactions contemplated hereby, and (ii) the Developer is relying solely upon its own tax advisors in this regard.

Section 8.11. Authorized Parties. Whenever under the provisions of this Agreement and other related documents, instruments or any supplemental agreement, a request, demand, approval, notice or consent of the City or the Developer is required, or the City or the Developer is required to agree or to take some action at the request of the other Party, such approval or such consent or such request shall be given for the City, unless otherwise provided herein, by the City Manager and for the Developer by any officer of the Developer so authorized; and any person shall be authorized to act on any such agreement, request, demand, approval, notice or consent or other action and neither Party shall have any complaint against the other as a result of any such action taken. The City Manager may seek the advice, consent or approval of the City Commission before providing any supplemental agreement, request, demand, approval, notice or consent for the City pursuant to this Section.

Section 8.12. Notice. All notices and requests required pursuant to this Agreement shall be sent as follows:

To the City:

City Manager
City of Lawrence, Kansas
6 East 6 Street
Lawrence, Kansas 66044

With a copy to:

Gary A. Anderson
Gilmore & Bell P.C.
2405 Grand Blvd., Suite 1100
Kansas City, Missouri 64108

To the Developer:

Free State Group, LLC
Free State Holdings, Inc.
110 McDonald Drive, Suite 192
Lawrence, Kansas 66044

With a copy to:

James W. Grice
Spencer Fane Britt & Browne LLP
100 Walnut Street, Suite 1400
Kansas City, Missouri 64106

or at such other addresses as the Parties may indicate in writing to the other either by personal delivery, courier, or by registered mail, return receipt requested, with proof of delivery thereof. Mailed notices shall be deemed effective on the third day after mailing; all other notices shall be effective when delivered.

Section 8.13. Kansas Law. This Agreement shall be governed by and contained in accordance with the laws of the State of Kansas.

Section 8.14. 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 agreement.

Section 8.15. Recordation of Agreement. The Parties agree to execute and deliver an original of this Agreement and any amendments or supplements hereto, in proper form for recording and/or indexing in the appropriate land or governmental records, including, but not limited to, recording in the real estate records of Douglas County, Kansas. This Agreement shall be recorded by the Developer, and proof of recording shall be provided to the City.

Section 8.16. Consent or Approval. Except as otherwise provided in this Agreement, whenever the consent, approval or acceptance of either Party is required hereunder, such consent, approval or acceptance shall not be unreasonably withheld or unduly delayed.

The Parties hereto have caused this Agreement to be executed by their duly authorized representatives the day and year first above written.

CITY OF LAWRENCE, KANSAS

By: 
City Manager

Attest:

By:

Approved as to form:


Director of Legal Services

FREE STATE GROUP, LLC

By: 
Name: Michael L. Treavor
Title: Manager

FREE STATE HOLDINGS, INC.

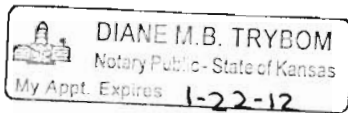
By: 
Name: Michael L. Treavor
Title: President

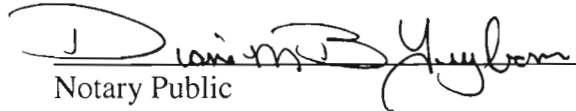
ACKNOWLEDGMENT

STATE OF KANSAS)
) SS.
COUNTY OF DOUGLAS)

On Oct 21, 2008, before me, the undersigned, a Notary Public in and for said state, personally appeared Michael Dever and Frank Reeb, proved to me on the basis of satisfactory evidence to be the persons whose names are subscribed to the within instrument as Mayor and City Clerk, respectively, of the **CITY OF LAWRENCE, KANSAS**, the city of the third class therein named, and acknowledged to me that they executed the same in their authorized capacities, and that by their signatures on the instrument the entity upon behalf of which the persons acted, executed the instrument.

WITNESS my hand and official seal.




Notary Public

My commission expires: JAN 22, 2012

18-261

28-12-19 SE (City)



Douglas County Register of Deeds
Book: 1046 Page: 2584

Receipt #: 393644
Pages Recorded: 32
Cashier Initials: rec

Recording Fee: \$132.00
Authorized By: 

Date Recorded: 3/20/2009 10:57:06 AM

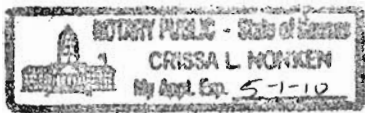


ACKNOWLEDGMENT

STATE OF KANSAS)
) SS.
COUNTY OF DOUGLAS)

On October 16, 2008, before me, the undersigned, a Notary Public in and for said State, personally appeared Michael Treadwell, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument as the Manager of **FREE STATE GROUP, LLC** and acknowledged to me that he executed the same in his authorized capacity, and that by such person's signature on the instrument the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Crissa L. Monken
Notary Public

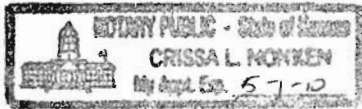
My commission expires: May 1, 2010.

ACKNOWLEDGMENT

STATE OF KANSAS)
) SS.
COUNTY OF DOUGLAS)

On October 16, 2008, before me, the undersigned, a Notary Public in and for said State, personally appeared Michael T. Tervo, proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument as the President of **FREE STATE HOLDINGS, INC.** and acknowledged to me that he executed the same in his authorized capacity, and that by such person's signature on the instrument the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.



Crissa L. Mowken
Notary Public

My commission expires: May 1, 2010.

EXHIBIT A
Legal Description

BAUER FARMS - TRACT 1

A TRACT OF LAND IN THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 12 SOUTH, RANGE 19 EAST OF THE SIXTH PRINCIPAL MERIDIAN, IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS SOUTH 88°11'38" WEST, 1040.80 FEET ALONG THE SOUTH LINE, AND NORTH 01°48'22" WEST, 75.00 FEET FROM THE SOUTHEAST CORNER OF SAID QUARTER SECTION, SAID POINT BEING ON THE NORTH RIGHT OF WAY LINE OF WEST SIXTH STREET; THENCE SOUTH 88°11'38" WEST, ALONG SAID NORTH RIGHT OF WAY LINE, 1494.15 FEET; THENCE NORTH 56°15'24" WEST, ALONG SAID NORTH LINE, 68.50 FEET TO THE EAST RIGHT OF WAY LINE OF WAKARUSA DRIVE; THENCE NORTH 01°44'19" WEST, ALONG SAID EAST RIGHT OF WAY LINE, 295.38 FEET; THENCE NORTH 26°45'46" WEST, ALONG SAID EAST LINE, 28.93 FEET; THENCE NORTH 01°52'17" WEST, ALONG SAID EAST LINE, 21.68 FEET; THENCE NORTH 88°11'38" EAST, 68.82 FEET; THENCE ON A 135.00 FOOT RADIUS CURVE TO THE RIGHT WITH A 130.49 FOOT CHORD BEARING SOUTH 62°54'23" EAST, AN ARC DISTANCE OF 136.19 FEET; THENCE ON A 135.00 FOOT RADIUS CURVE TO THE LEFT WITH A 130.49 FOOT CHORD BEARING SOUTH 62°54'23" EAST, AN ARC DISTANCE OF 136.19 FEET; THENCE NORTH 88°11'38" EAST, 1264.47 FEET; THENCE SOUTH 01°48'22" EAST, 257.00 FEET TO THE POINT OF BEGINNING. CONTAINS 9.622 ACRES, MORE OR LESS. [THIS "TRACT 1" NOW PLATTED AS A PORTION OF A FINAL PLAT OF BAUER FARM FIRST PLAT, A SUBDIVISION IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS.]

BAUER FARMS - TRACT 2

A TRACT OF LAND IN THE SOUTHEAST QUARTER OF SECTION 28, TOWNSHIP 12 SOUTH, RANGE 19 EAST OF THE SIXTH PRINCIPAL MERIDIAN, IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS, DESCRIBED AS FOLLOWS:

BEGINNING AT A POINT WHICH IS SOUTH 88°11'38" WEST, 1152.80 FEET ALONG THE SOUTH LINE, AND NORTH 01°48'22" WEST, 332.00 FEET FROM THE SOUTHEAST CORNER OF SAID QUARTER SECTION; THENCE SOUTH 88°11'38" WEST, 1152.47 FEET; THENCE ON A 135.00 FOOT RADIUS CURVE TO THE RIGHT WITH A 130.49 FOOT CHORD BEARING NORTH 62°54'23" WEST, AN ARC DISTANCE OF 136.19 FEET; THENCE ON A 135.00 FOOT RADIUS CURVE TO THE LEFT WITH A 130.49 FOOT CHORD BEARING NORTH 62°54'23" WEST, AN ARC DISTANCE OF 136.19 FEET; THENCE SOUTH 88°11'38" WEST, 68.82 FEET TO THE EAST RIGHT OF WAY LINE OF WAKARUSA DRIVE; THENCE NORTH 01°52'17" WEST, ALONG SAID EAST RIGHT OF WAY LINE, 7.85 FEET; THENCE NORTH 04°15'53" WEST, ALONG SAID EAST LINE, 247.85 FEET; THENCE NORTH 01°55'21" WEST, ALONG SAID EAST LINE, 121.41 FEET TO THE SOUTH RIGHT OF WAY LINE OF OVERLAND DRIVE; THENCE NORTH 88°11'38" EAST, ALONG SAID SOUTH RIGHT OF WAY LINE, 1460.65 FEET; THENCE SOUTH 01°48'22" EAST, 503.00 FEET TO THE POINT OF BEGINNING. CONTAINS 16.271 ACRES, MORE OR LESS. [A PORTION OF THIS "TRACT 2" NOW PLATTED AS A PORTION OF A FINAL PLAT OF BAUER FARM FIRST PLAT, A SUBDIVISION IN THE CITY OF LAWRENCE, DOUGLAS COUNTY, KANSAS.]

EXHIBIT B

FORM OF CERTIFICATE OF TDD COSTS

CERTIFICATE OF REDEVELOPMENT PROJECT COSTS

TO: City of Lawrence, Kansas
Attention: City Manager

RE: Free State TDD

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Free State TDD Development Agreement dated as of _____, 2008 ("Agreement") between the City and Developer.

In connection with the Agreement, the undersigned hereby states and certifies that:

1. Each item listed in Schedule 1 hereto is a Reimbursable Project Cost and was incurred in connection with the construction of the TDD Project.
2. These Reimbursable Project Costs have been paid by the Developer and are reimbursable under the Agreement.
3. Each item listed in Schedule 1 has not previously been paid or reimbursed from money derived from the TDD Sales Tax Fund or any money derived from any project fund established by the issuance of Obligations, and no part thereof has been included in any other certificate previously filed with the City.
4. Each item listed in Schedule 1 has not and will not be funded by the Improvement District or any other improvement district created by the City pursuant to K.S.A. 12-6a01 *et seq.* that includes all or any portion of the real estate included in the TDD District.
5. There has not been filed with or served upon the Developer any notice of any lien, right of lien or attachment upon or claim affecting the right of any person, firm or corporation to receive payment of the amounts stated in this requested, except to the extent any such lien is being contested in good faith.
6. All necessary permits and approvals required for the work for which this certificate relates were issued and were in full force and effect at the time such work was being performed.
7. All work for which payment or reimbursement is requested has been performed in a good and workmanlike manner and in accordance with the Agreement.
8. The Developer is not in default or breach of any term or condition of the Agreement, and no event has occurred and no condition exists which constitutes a Developer Event of Default under the Agreement.

9. All of the Developer's representations set forth in the Agreement remain true and correct as of the date hereof.

Dated this ____ day of _____, 20__.

FREE STATE GROUP, LLC
FREE STATE HOLDINGS, INC.
By: Developer Representative

By: _____
Name: _____
Title: _____

Approved for payment this ____ day of _____, 20__.

CITY OF LAWRENCE, KANSAS

By: _____

Title: _____

EXHIBIT C
TDD PROJECT

Planned Commercial Development

Demolition Existing Waterline
8" Asphalt Pavement
6" Asphalt
5" Asphalt
24" Curb and Gutter
9" Flyash Treated Subgrade
Pavement Markings
5'x4" Concrete Sidewalk
Storm Sewer (large)
Storm Sewer (Small)
8" Waterline
Fire Hydrant Assembly
Sanitary Manholes
Street Trees
Street Lamps
Bridge
Rough Earthwork
Seed, Mulch and Fertilize
Construction Staking

Engineering Fees (7% Subtotal)
Inspection Fees (3%)
SWP3 Erosion Control (0.5%)
Contingency (15% Subtotal)

Estimated PCD Total

Offsite Improvements - 6th Street and Champion Lane Westbound Right Turn Lane

Demolition Existing Curb/Gutter
Demolition Existing Concrete Intersection
Demolition Existing Sidewalk
12" Asphalt Pavement
12" Concrete Intersection
24" Curb and Gutter
9" Flyash Treated Subgrade
Pavement Markings
5'x4" Concrete Sidewalk
Relocate Existing Curb Inlet
Seed, Mulch, and Fertilize
Traffic Control
ADA Ramps
Construction Staking

Offsite Improvements - 6th Street and Champion Lane Traffic Signal
Traffic Signal

Offsite Improvements - 6th Street and West Entrance Westbound Right Turn Lane

Demolition Existing Curb/Gutter
Demolition Existing Sidewalk
12" Asphalt Pavement
12" Concrete Intersection
24" Curb and Gutter
9" Flyash Treated Subgrade
Pavement Markings
5'x4" Concrete Sidewalk
Relocate Existing Curb Inlet
Seed, Mulch, and Fertilize
Traffic Control
Construction Staking
Street Lamp

Offsite Improvements - Wakarusa Drive and Bauer Farm Drive Northbound Right Turn Lane

Demolition Existing Curb/Gutter
Demolition Existing Sidewalk
10" Asphalt Pavement
10" Concrete Intersection
24" Curb and Gutter
9" Flyash Treated Subgrade
5'x4" Concrete Sidewalk
Pavement Markings
Seed, Mulch, and Fertilize
Traffic Control
Construction Staking

Offsite Improvements - Wakarusa Drive Ramps/Lights/Trees (Entire Frontage)

ADA Ramps
Street Trees

Offsite Improvements - Wakarusa Drive and Overland Drive Northbound Right Turn Lane

Demolition Existing Curb/Gutter
Demolition Existing Sidewalk
10" Asphalt Pavement
24" Curb and Gutter
9" Flyash Treated Subgrade
5'x4" Concrete Sidewalk
Pavement Markings
Relocate Existing Curb Inlet
Seed, Mulch, and Fertilize
Traffic Control
ADA Ramps
Construction Staking

Offsite Improvements - Overland Drive at Existing Champion Lane

Demolition Existing Champion Lane
24" Curb and Gutter
5'x4" Concrete Sidewalk

Offsite Improvements - Wakarusa Drive & Overland Drive Traffic Signal

Traffic Signal

Offsite Improvements - Remove Existing, Champion Lane Curb Cut

Demolition Existing Concrete Intersection
24" Curb and Gutter
5'x4" Concrete Sidewalk

Offsite Improvements - Overland from Wakarusa Drive to PRD - Ramps/Lights/Trees

ADA Ramp
Street Lamp
Street Trees

Offsite Improvements - Overland from Wakarusa Drive to PRD - Ramps/Lights/Trees

ADA Ramp
Street Lamp
Street Trees

Offsite Improvements - Folks from Overland to Office Entrance - Ramps/Lights/Trees

ADA Ramp

Street Lamp

Street Trees

Offsite Improvements - Sanitary Sewer

Demolition Improvements - Sanitary Sewer

Upsize Sanitary Sewer

Manhole

Construction Staking

Engineering, Inspection & Contingency

Estimated Engineering Fees (7% Subtotal)

Inspection Fees (3%)

SWP3 Erosion Control (0.5%)

Contingency (15% Subtotal)
