DEVELOPMENT APPLICATION PACKAGE

(NOTE: THIS APPLICATION SHOULD NOT BE USED FOR FAST-TRACKED ECOMMERCE PROJECTS.)

Please submit one (1) hard copy and one (1) electronic copy of the completed application and executed Funding Agreement, and a check with the required Funding Agreement Deposit to:

Port KC
(Port Authority of Kansas City, MO)
110 Berkley Plaza
Kansas City, Missouri 64120

STATUTORY PURPOSE OF THE PORT AUTHORITY

RSMO Chapter 68.020: As a political subdivision of the State of Missouri, it shall be the purposes of every port authority to promote the general welfare, to promote development within the port district, to encourage private capital investment by fostering the creation of industrial facilities and industrial parks within the port district and to endeavor to increase the volume of commerce, and to promote the establishment of a foreign trade zone within the port districts.

The port district for Port KC is the boundary lines of the City of Kansas City, Missouri.

MISSION OF PORT KC

To grow the economy of Kansas City's Port District through transportation, global commerce, and development.

DEVELOPMENT APPLICATION

I. APPLICATION INFORMATION

Applicant Name:

Contact Person:

Business Phone: E-mail:

Attorney for Applicant: Email:

Representative(s) authorized to sign/execute documents:

Address:

Previous development projects or experience of the organization/firm:

II. LOCATION OF DEVELOPMENT

(In this section please note existing versus planned area, square footage and parking).

General Boundaries:

Total Acreage: Total Square Feet:

Total Leasable Square Footage:

Number of floors (levels): Parking Y or No

Garage Parking: Surface Parking:

Jurisdiction

City Council District: County:

School District:

Library District:

III. DESCRIPTIVE SUMMARY OF PLAN AND PROJECT

IV. CURRENT OPERATIONS

- Does the company or project have an existing presence in Kansas City?
    - If yes, provide current information on taxable property, number of employees and average salary.
    - Provide the market value of firm's taxable property (associated with this project) currently on the tax rolls.
        - Land: $
        - Buildings & other Real Property: $
        - Personal Property: $

- Number of existing employees working at current facility.
- Number of jobs to be retained. (*Include average salary).*
- Current annual taxable sales (if applicable): $
- Current annual taxable purchases: $
- Will there be a use of federal or state incentives for the Project? *(If so, please describe)*

V. PROJECT DESCRIPTION

Please attach the following for the development project, as applicable:

- Current land use and zoning for Project Area;
- Proposed land use, zoning for each Project Area;
- Off-site public improvements to be made within Project Area (i.e., infrastructure, streetscape improvements);
- A development schedule for the Project Plan;
- Design plans for the Project Area (including site plans & elevations);
- List of parcels in Project Area to include:
    - Parcel County ID,
    - Current assessed value,
    - Separate land and improvement value,
    - Owner's name and address.
- Number of full-time jobs to be added to the community each year.
- Average annual salaries of new and/or existing employees this year.
- The project's estimated taxable purchases of materials, supplies, and services in the community and the project's estimated taxable sales within the community that will be subject to sales tax within the community.
- If seeking personal property exemption, the estimated value of the personal property and its estimated taxable sales within the community that will be subject to sales tax within the community.
- Project's annual utility usage (water, electricity and natural gas)
- Percent of building costs for materials and labor.

VI. PROJECT BUDGET

Please attach the following for the development project, as applicable:

- A complete sources and uses of the development costs by Project (yrs. 1-10);

- 10 Year pro forma:
- The project's capital investment each year (yrs. 1-10):
- Amount and source of total financing;
- Building permits and fees to be paid to City during construction
- Name of Lender/investor(s);
- Evidence of commitment to provide funds from the lending institution/investor *(Signed by lender(s)/investors and notation of conditions and contingencies, if any);*
- Identify the amount of Project costs to be financed with bond proceeds, if applicable.

VII. BOND ISSUANCE

Chapter 68 of the Missouri Revised Statues authorizes the Port Authority, as a political subdivision, to issue revenue bonds for public offering and private placement.

Please complete the following for a bond issuance:

- Will issuance be a private placement____ or public offering_____
- Amount of bond issuance $
- *Refer to the attachments to this application for issuance fee(s) schedule***.**

VIII. CONTROL OF PROPERTY

If the applicant owns the project site or property, indicate:

Date of Purchase: Mortgage(s)/Security:

Balance of existing Mortgage(s):

Submit copies of promissory note(s), deed(s) of trust and deed(s) for each Mortgage.

Does applicant have a contract or option to purchase the project site?

Please complete the following if this describes the project:

Date purchase/option contract signed:

Closing/expiration date:

Provide a copy of purchase/option contract(s) and sale-leaseback *(If applicable).*

IX. TAX EXEMPTION

For any property for which tax exemption is requested, complete the schedule(s) attached to this application. All taxes and proposed payments shall be allocated on a pro rata basis consistent with applicable levy rates.

X. FUNDING AGREEMENT

The Applicant shall complete and sign the Funding Agreement attached to this petition.

XI. DISCLOSURES

Has the Applicant, or any partner, officer, member or director of the Applicant or any entity in which any partner, officer, member or director of the Applicant is or was a partner, officer, member or director, ever been a debtor in bankruptcy? ____ Yes ____No

If yes, state the name of business or individual, caption of the proceeding, court and year in which it was filed and its disposition and/or status:
_____
_____
_____
_____

Has the Applicant, or any partner, officer, member or director of the Applicant or any entity in which any partner, officer, member or director of the Applicant is or was a partner, officer, member or director, ever been charged with and/or convicted of a criminal offense (other than traffic violations) or charged by any regulatory agency with violations of financial or professional regulations? ____ Yes ____No

If yes, state the name of business or individual, caption of the proceeding, court and year in which it was filed and its disposition and/or status:
_____
_____
_____
_____

Has the Applicant, or any partner, officer, member or director of the Applicant or any entity in which any partner, officer, member or director of the Applicant is or was a partner, officer, member or director, mediated, arbitrated, litigated or otherwise settled a legal dispute related to Applicant's business activities within the previous five (5) years? ____ Yes ____No

If yes, state the name of business or individual, caption of the proceeding, court and year in which it was filed and its disposition and/or status:
_____
_____
_____
_____

Has the Applicant, or any partner, officer, member or director of the Applicant or any entity in which any partner, officer, member or director of the Applicant is or was a partner, officer, member or director, ever defaulted on any bond or mortgage commitment? ____ Yes ____No

If yes, state the name of business or individual, year and any relevant circumstances:
_____
_____
_____
_____

Is the Applicant delinquent on any federal, state or local taxes? ____ Yes ____No

If yes, identify the delinquency and any relevant circumstances:_____
_____
_____

XII. CERTIFICATION OF APPLICANT

The undersigned hereby certifies, based upon the actual knowledge and belief of the undersigned, that the foregoing information is true and correct in all material respects.

Name:_____

Signature:_____

Title:_____

RETURN COMPLETED APPLICATION, EXECUTED FUNDING AGREEMENT, AND A CHECK WITH THE REQUIRED FUNDING AGREEMENT DEPOSIT TO:

Port KC
Attn: James Mulick
110 Berkley Plaza
Kansas City, Missouri 64120

BOND ISSUANCE COST SCHEDULE

Activity	Fee	
Funding Agreement Deposit*	$20,000 *This deposit is structured to cover costs expected to be incurred by Port KC prior to any bond closing and shall not offset or reduce any other fee payable pursuant to this Bond Issuance Cost Schedule, except as expressly provided in the Funding Agreement with respect to the Bond Issuance Fee. Supplemental deposits, if any, shall be governed by the terms of the Funding Agreement.	
Bond Issuance Fee*	0.375% on first $10,000,000 0.250% on next $15,000,000 0.125% on remaining issuance amount *Bond Issuance Fee will not exceed $60,000 if the bonds are issued in support of a charitable, not-for-profit 501(c)(3)	
In-House Legal Services Fee	Issuance ≤ $10M Issuance ≤ $25M Issuance > $25M	$35,000 $40,000 $45,000
Bond Counsel Legal Services Fee	Issuance < $15M Issuance ≤ $50M Issuance ≤ $100M Issuance > $100M	$0.95 per $1,000, but not < $12,000 $14,250 + $0.41 per $1,000 over $15M $28,600 + $0.28 per $1,000 over $50M $42,600 + $0.14 per $1,000 over $100M
Bond Trustee Services Fee	Actual Invoice Amount	
Annual Administrative Fee	3.5% of total averaged annual *ad valorem* exemption value	
Sales Tax Exemption Fee	2% of total estimated sales tax savings	

MISCELLANOUS FEES:

A supplemental application fee in the amount of **$2,500** shall be payable by the applicant in connection with each amendment to an existing bond issue, request for Port KC consent, or other Port KC action relating to an existing bond issue, which is not required as part of the issuance of a new series of bonds contemplated by an existing bond.

A supplemental In-House Legal Services Fee in the amount of **$750** and supplemental Bond Counsel Legal Services Fee in the amount of **$3,000** shall be payable by the application in the event the applicant requests the bond issuance date be rescheduled at any point after the bond documents shall have been executed by Port KC and delivered for issuance.

FEE DUE DATES:

The following fees shall be paid prior to the consideration of any inducement resolution or other action by the Board of Commissioners:

Funding Agreement Deposit

The following fees shall be paid at the time of bond issuance:

Bond Issuance Fee
In-House Legal Services Fee (including any supplemental In-House Leal Services Fee)
Bond Counsel Legal Services Fee (including any supplemental Bond Counsel Legal Services Fee)
Bond Trustee Services Fee
Annual Administrative Fee (prorated to bond issuance date)
Sales Tax Exemption Fee

THIS BOND ISSUANCE COST SCHEDULE REFLECTS ONLY THOSE COSTS TO BE PAID THROUGH AND INCLUDING THE DATED THAT THE BONDS ARE ISSUED. ANY AND ALL FEES PAYABLE AFTER ISSUANCE OF THE BONDS, I.E., DURING THE TERM THAT THE BOUNDS REMAIN OUTSTANDING, SHALL BE GOVERNED BY AND PAID AS PROVIDED IN THE RELEVANT PROJECT AGREEMENTS.

FUNDING AGREEMENT

THIS FUNDING AGREEMENT (the **"Funding Agreement"**) is made as of _____, 20__, (the **"Effective Date"**) between the **PORT AUTHORITY OF KANSAS CITY, MISSOURI**, a political subdivision of the State of Missouri created pursuant to Section 68.010 *et seq.*, RSMo (**"Port KC"**) and, _____ (**"Developer"**) (each, a **"Party"** and together, Port KC and Developer are hereinafter the **"Parties"**).

RECITALS

A. Port KC is a political subdivision of the State of Missouri pursuant to Section 68.010, et seq. (the **"Act"**) of the Revised Missouri Statutes (**"RSMo"**), and is transacting business and exercising the powers granted by the Act.

B. Under the Act, Port KC is granted the authority to, among other things, promote development within its port district (the **"Port District"**), encourage private capital investment within its Port District, and endeavor to increase the volume of commerce within its Port District.

C. Port KC is further authorized to acquire, own, lease, sell or otherwise dispose of interests in and to real property and improvements situated thereon, as is necessary or desirable to fulfilling its purposes.

D. Developer has purchased or anticipates the purchase of certain real property generally identified as approximately _____ acres of real property located in Kansas City, _____ County, Missouri, being generally located at _____ (the **"Property"**).

E. Developer desires to invest private capital in the Port District by undertaking the improvement of the Property (the **"Project"**).

F. In furtherance of encouraging Developer's private investment in the Port District and the Project, Developer desires the assistance of Port KC to finance such development and investment by entering into a sale-leaseback arrangement, pursuant to which Developer shall convey legal title to the Property to Port KC, and Port KC shall lease all such Property and Project, as applicable, to Developer, all for the purposes of: (i) causing all tangible personal property incorporated or consumed in a construction Project to be exempt from sales taxes, pursuant to the Act and Section 144.062, RSMo; and (ii) causing the Project to be constructed, installed, completed and operated on a tax-exempt basis, free from ad valorem real property taxes, while Port KC is the fee owner of the Property, and to the maximum extent permitted by Missouri law and the Act, by virtue of Port KC's statutory authority (the **"Transaction"**).

G. Port KC and Developer desire to enter into various documents that will further the Transaction in order to promote development and encourage private capital investment within the Port District, pursuant to Port KC's authority under the Act (the **"Transaction Documents"**).

H. In consideration of the Transaction, Developer desires to enter into this Funding Agreement, subject to and conditioned upon the terms and provisions stated herein.

AGREEMENT

NOW, THEREFORE, in consideration of the premises and mutual promises and agreements contained in this Funding Agreement, the Parties agree as follows:

1. Incorporation of Recitals. The foregoing Recitals are true and correct and incorporated by reference as if fully set forth herein.

2. Condition Precedent; Port KC Services to be Performed by Port KC.

a. Port KC shall commence performance under this Funding Agreement at such time that Developer: (a) pays the "Initial Funds" required by **Section 4** below; and (b) provides Port KC with a Certificate of Good Standing duly issued by the Missouri Secretary of State (the **"Secretary**).

b. Subject to Developer's compliance with the foregoing, Port KC shall provide administrative Port KC Services that it reasonably determines are necessary to cause the application for Port KC's assistance to be evaluated, and the Transaction and Transaction Documents to be structured, consummated, implemented, monitored, audited, amended and terminated, if and as required (the **"Port KC Services"**).

3. Payment of Fees, Costs and Expenses. Developer shall pay to Port KC all reasonable costs, expenses, and fees, both direct and indirect, including customary reasonable, actual legal and administrative fees, arising out of and related to Port KC Services rendered by Port KC and its officers, directors, employees, agents, contractors, successors, and assigns in performing the Port KC Services (individually and collectively, the **"Port KC Costs"**). Notwithstanding the foregoing or anything in this Funding Agreement to the contrary, any sums incurred by Developer for any services it elects to retain in connection with the Transaction and Transaction Documents, and any other sums paid or payable under the Transaction Documents to Port KC or any other person or entity at bond closing and during the term that the bonds remain outstanding shall not offset or reduce any financial obligation of Developer under this Funding Agreement, but shall be additive to any financial obligation of Developer under this Funding Agreement.

4. Initial Funding. Port KC acknowledges receipt from the Developer of a deposit in the amount of Twenty Thousand and No/100 Dollars ($20,000.00) (the **"Initial Funds"**), which Initial Funds shall be applied against and used to pay Port KC Costs.

5. Supplemental Funding. At any time following the Effective Date and throughout the term of the Transaction there are insufficient funds on deposit within the Initial Funds, Port KC may require the reimbursement or advancement by Developer to Port KC of supplemental funds necessary to pay Port KC for any and all Port KC Costs that Port KC has or shall incur in conjunction with the Transaction (the **"Supplemental Funds"**). Port KC shall notify Developer of the need for the

Supplemental Funds, which notice shall include: (a) a brief narrative of the Port KC Costs for which the Supplemental Funds are needed; (b) the amount of the additional Port KC Costs: and (c) such other information as Port KC deems reasonably necessary and informative to Developer regarding the basis for Port KC's need (the **"Cost Notice"**). Upon Developer's request, Port KC shall provide Developer with copies of invoices pursuant to which Port KC is incurring such additional Port KC Costs, or copies of payments made by Port KC for which reimbursement has been requested. In the event such Supplemental Funds provided by Developer to Port KC for Port KC Costs exceeds in aggregate Fifteen Thousand and No/100 Dollars ($15,000.00) (the **"Supplemental Funds Limit"**), Port KC shall not incur additional Port KC Costs in excess of the Supplemental Funds Limit without first: (a) providing Developer a brief narrative of the funds needed in excess of the Supplemental Funds Limit; (b) providing Developer the amount of the Port KC Costs in excess of the Supplemental Funds Limit; and (c) obtaining Developer's approval to incur costs in excess of the Supplemental Funds Limit (the **"Approval Notice"**). Upon Developer's request, Port KC shall provide Developer with copies of invoices pursuant to which Port KC is incurring such approved Port KC Costs in excess of the Supplemental Funds Limit.

Developer shall pay to Port KC the Supplemental Funds as identified in the Cost Notice or Approval Notice within thirty-five (35) calendar days of the date of the Cost Notice or Approval Notice (or such later period as may be specified in the Cost Notice or Approval Notice). If such Supplemental Funds are not received, in full, within thirty-five (35) calendar days of the date of the Cost Notice or Approval Notice (or such other period specified in the Cost Notice or Approval Notice), the unpaid balance of any Port KC Costs advanced or incurred by Port KC on behalf of Developer, pursuant to this Funding Agreement, shall be subject to interest at the rate of two percent (2%)per month (the **"Interest Rate"**), until all such Port KC Costs are paid in full. Port KC shall have no obligation to provide Port KC Services to the Developer under this Funding Agreement or fulfill any of its obligations related to the Transaction or under any of the Transaction Documents, unless and until all Port KC Costs set forth in the Cost Notice or Approval Notice are paid by Developer, in full. Notwithstanding the foregoing, the absence of a Cost Notice shall not release Developer of its obligation to pay Port KC Costs. However, the absence of an Approval Notice shall release Developer of its obligation to pay Port KC Costs.

6. <u>Initial Funds Deemed Earned; Credits.</u>

Twenty-five percent (25%) of the Initial Funds ($5,000) shall be deemed earned by Port KC as of the Effective Date and shall not be refunded to Developer.

If the bond financing on the Project, (or on the first phase of the Project, if such Project is being undertaken on a phased basis) closes within one hundred eighty (180) calendar days from the date upon which Port KC's Board of Commissioners adopts an inducement resolution expressing its intent to issue Port KC's bonds for the Project, an additional fifty-five percent (55%) of the Initial Funds ($11,000) shall be deemed earned by Port KC in its entirety at closing. Developer may elect to receive a credit for the balance of the Initial Funds ($4,000) against Port KC's Bond Issuance Fee, which credit shall be issued at bond closing, provided Developer shall have notified Port KC of its intention to claim such credit not less than seven (7) calendar days prior to the date of bond closing, Alternatively, or in the absence of a timely notice, the balance of the Initial Funds shall be retained by Port KC and utilized to fund any Port KC Costs incurred during the term of the

Transaction. Notwithstanding the foregoing, the grant of the credit shall not relieve Developer of its obligation to tender any Supplemental Funds should Port KC subsequently incur any Port KC Costs during the term of the Transaction.

If the bond financing on the Project, (or on the first phase of the Project, if such Project is being undertaken on a phased basis) does not close within one hundred eighty (180) calendar days from the date upon which Port KC's Board of Commissioners adopts an inducement resolution expressing its intent to issue Port KC's bonds for the Project, the Initial Funds shall be deemed earned by Port KC in their entirety and no portion of the same shall be credited or otherwise refunded to Developer, notwithstanding anything to the contrary in this Funding Agreement.

7. Termination.

a. By Port KC. In the event Developer fails to perform any of its obligations under this Funding Agreement or any Transaction Document, Port KC may terminate this Funding Agreement. Such termination shall be subject to Port KC first providing Developer with notice of such default, and allowing Developer thirty (30) days following the date of such notice in which to cure such failure. Upon the termination of this Funding Agreement, the Transaction Documents shall remain in full force and effect, except to the extent such failure to perform under this Funding Agreement constitutes a default under any of the Transaction Documents. Port KC may also terminate this Funding Agreement in the event the Transaction contemplated by this Funding Agreement is not consummated within the period prescribed in the Transaction Documents or such later date as may be agreed to, in writing, by the Parties.

b. By Developer. Developer may elect to not consummate the Transaction. Upon the receipt by Port KC of a written notice of Developer's election to not consummate the Transaction, this Funding Agreement shall terminate. Further, in the event the Developer elects to terminate any of the Transaction Documents pursuant to the terms thereof, the Developer may also, at its discretion, terminate this Funding Agreement.

c. Automatic. This Funding Agreement shall terminate without further action of the parties hereto in the event Port KC's Board of Commissioners elects not to adopt an inducement resolution expressing its intent to issue Port KC's bonds for the Project.

d. Application of Funds. In the event of a termination of this Funding Agreement, Port KC is hereby authorized to apply any Initial Funds and Supplemental Funds, if any, then on deposit with Port KC to any and all outstanding Port KC Costs incurred and/or expended through the termination date (including, but not limited to, interest that may have accrued on such Port KC Costs) as well as any monies that may be due and owing to Port KC by Developer pursuant to any other of the Transaction Documents between the Parties. Following the payment thereof, any Initial Funds then on account with Port KC shall be released by Port KC to Developer, except as otherwise provided in Section 6 of this Funding Agreement.

8. Non-Disclosure. As a material condition of Port KC's agreement to enter into this Funding Agreement, Developer agrees that prior to such time that the Transaction Documents are approved by Port KC's Board of Commissioners, Developer shall not, without first consulting with and obtaining the approval of Port KC, disclose information regarding the material financial terms of the Transaction or the Transaction Documents to any third-party broker, marketing, advertising, media or communications representative, or to any potential third-party tenant, subtenant, assignee, licensee, invitee or purchaser of all or any portion of the Property, Developer recognizing that any such intentional or unintentional disclosure could materially impact the terms, requirements, economic benefits or timing of the Transaction and cause direct or indirect damage to Port KC. Notwithstanding the foregoing, this Non-Disclosure provision specifically excludes and does not prevent Developer's disclosure of the material terms of the Transaction: (i) to any of the taxing districts of the applicable county in which the Property is located; (ii) as Developer may be required by law; (iii) in any judicial or other dispute resolution process involving Port KC and Developer; or (iv) unless the information is otherwise available to the public, which availability will be Developer's burden to demonstrate to Port KC. In the event of a breach of this Section by Developer or its agents and representatives, Port KC may terminate this Funding Agreement and Transaction, at its discretion. Any Port KC Costs incurred by Port KC on behalf of Developer shall be due within thirty (30) days of the Funding Agreement termination, and the payment of such Port KC Costs shall survive the termination of this Funding Agreement, and any unpaid deficiency shall accrue interest at the Interest Rate, until the deficiency and all interest accrued thereon are paid in full.

9. Security of Data. Port KC reserves the right to utilize any information submitted by Developer to undertake such financial analysis as Port KC determines appropriate in evaluating the Project. Port KC utilizes an internet-based software service for such purposes pursuant to a contract with a third-party vendor, Impact DataSource, LLC. While the vendor has contractually obligated itself to undertake certain data security measures and to promptly notify Port KC in the event information deemed confidential is accessed, disclosed or acquired without proper authorization, Developer is aware that the security of an internet-based software service may be breached and data transmissions intercepted. Port KC disclaims any liability for security breaches or third party access of any information not caused by Port KC's sole negligence, and Developer shall not seek to hold Port KC liable for any such security breach or third party access not so caused, or for any loss or damages of any kind incurred by Developer, or that may be incurred by Developer at a later date.

10. Notices. All notices or other communications required or permitted to be given pursuant to the provisions of this Funding Agreement shall be in writing and shall be sent by U.S. certified or registered mail, postage prepaid, return receipt requested, or via a nationally-recognized overnight delivery service which provides receipt for delivery, addressed:

If to Port KC:

Port KC
110 Berkley Plaza
Kansas City, Missouri 64120
Attention: President and CEO

With a copy to:

Port KC
110 Berkley Plaza
Kansas City, Missouri 64120
Attention: General Counsel

If to Developer:

With a copy to:

Each Party may specify that notice be addressed to any other person or address by giving to the other party ten (10) days prior written notice thereof. Port KC may rely solely upon the notice information provided to it by Developer and shall have no independent obligation to investigate the accuracy or completeness thereof.

11. Attorneys' Fees. In the event either Party prevails in any action to enforce this Funding Agreement or to pursue or defend its rights under this Funding Agreement, the non-prevailing Party shall be responsible for, and shall pay to the prevailing Party upon demand, all costs and expenses including reasonable attorneys' fees incurred by the prevailing Party in connection with such action.

12. Jurisdiction. DEVELOPER IRREVOCABLY SUBMITS TO PERSONAL JURISDICTION IN MISSOURI AND OF THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF MISSOURI OR, AT THE OPTION OF PORT KC, ANY COURT IN WHICH PORT KC DECIDES TO INITIATE LEGAL OR EQUITABLE PROCEEDINGS CONCERNING THIS FUNDING AGREEMENT, PROVIDED SUCH COURT HAS SUBJECT MATTER JURISDICTION OVER THE MATTER AND CONTROVERSY FOR THE ENFORCEMENT OF DEVELOPER'S OBLIGATIONS UNDER THIS FUNDING AGREEMENT. DEVELOPER WAIVES ANY AND ALL RIGHTS UNDER THE LAW OF ANY OTHER STATE TO OBJECT TO JURISDICTION WITHIN MISSOURI FOR THE PURPOSES OF LITIGATION TO ENFORCE ITS OBLIGATIONS UNDER THIS FUNDING AGREEMENT.

13. Indemnity. Developer agrees to and shall defend, indemnify, and hold harmless Port KC, its officers, commissioners, agents, employees, contractors and attorneys at Developer's expense, from and against any and all claims, demands, obligations, expenses, losses, judgments, damages, liabilities lawsuits costs and expenses (including reasonable attorneys' fees at all tribunal levels) arising out of or related to any breach or default by Developer in the performance of any of the terms, provisions, covenants or obligations to be observed, performed and/or complied with on the

part of Developer contained or incorporated in this Funding Agreement. The indemnity obligations of Developer shall survive the termination of this Funding Agreement.

14. Inaction Not a Waiver. Failure of Port KC or Developer to complain of any act or omission on the part of the other Party no matter how long the same may continue, shall not be deemed to be a waiver by said Party of any of its rights under this Funding Agreement. No waiver by Port KC or Developer at any time, express or implied, of any breach of any provision of this Funding Agreement shall be deemed a waiver of a breach of any other provision of this Funding Agreement or a consent to any subsequent breach of the same or any other provision.

15. Third Parties. Nothing contained in this Funding Agreement shall create any rights in, or be deemed to have been executed for the benefit of, any person that is not a party hereto.

16. Entire Agreement; Incorporation of Exhibits. This Funding Agreement embodies the entire understanding and agreement between the Parties with respect to the subject matter of this Funding Agreement, and supersedes all prior oral and written negotiations, commitments and understandings between such Parties, and no representations, inducements, promises or other agreements, oral or otherwise, not embodied herein, shall be of any force or effect. The exhibits to this Funding Agreement, if any, shall be deemed to be incorporated in and form a part of this Funding Agreement.

17. Headings. The headings in this Funding Agreement are inserted for convenience only and shall not constitute a part of this Funding Agreement or be employed to interpret any term or provision of this Funding Agreement.

18. Counterparts. This Funding Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but which taken together shall constitute one and the same instrument.

19. Missouri Law to Govern. This Funding Agreement shall be governed by and construed under the internal laws of the State of Missouri, without regard to its conflicts of law provisions.

20. Amendment. This Funding Agreement may not be modified, amended, supplemented, waived or terminated orally, but only by an agreement in writing signed by the Party against whom enforcement of any such modification, amendment, supplement, waiver or termination is sought.

21. Partial Invalidity. If any term, covenant, condition or provision of this Funding Agreement or the application of this Funding Agreement to any person or circumstance shall, at any time or to any extent, be invalid or unenforceable, the remainder of this Funding Agreement, or the application of such term or provision to persons or circumstances other than those as to which it is held invalid or unenforceable, shall not be affected by the partial invalidity, and each term, covenant, condition and provision of this Funding Agreement shall be valid and be enforced to the fullest extent permitted by law.

22. **Survival.** The terms, agreements, covenants and conditions set forth in this Funding Agreement, which by their nature involve performance after the termination of this Funding Agreement, or which cannot be ascertained to have been fully performed until after the termination of this Funding Agreement, shall survive the termination of this Funding Agreement.

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

24. **Binding Effect.** The covenants, conditions and agreements contained in this Funding Agreement shall bind and inure to the benefit of Port KC, its successors and assigns, and Developer and its successors and assigns.

25. **Time of the Essence**. Time is of the essence in the performance of all obligations under the terms of this Funding Agreement.

26. **Electronic Storage.** The Parties hereto agree that the obligations under this Funding Agreement may be conducted, and related documents may be stored, by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original executed documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

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IN WITNESS WHEREOF, the Parties have signed this Funding Agreement on the Effective Date.

PORT AUTHORITY OF KANSAS CITY, MISSOURI

By: _____
Jon D. Stephens
President and CEO

Approved as to form:

_____
Brian T. Rabineau
Deputy General Counsel

_____

By: _____