

EXHIBIT E

MASTER DEVELOPMENT AGREEMENT

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12/15/14

MASTER DEVELOPMENT AGREEMENT

THIS MASTER DEVELOPMENT AGREEMENT (this "AGREEMENT") dated the _____ day of _____, 2014 (the "Effective Date") by and among the **CITY OF MIDWAY**, a Kentucky city of the fourth class pursuant to KRS Chapter 81 (the "City"), the **OFFICE OF THE MAYOR**, The City of Midway, Kentucky (the "Agency"), and **ANDERSON COMMUNITIES, INC.**, a Kentucky corporation ("Developer," collectively, with the City and the Mayor, the "Parties" and each a "Party").

RECITALS

WHEREAS, pursuant to the Act, as hereinafter defined, the City by Ordinance No. _____ (the "Development Area Ordinance"), adopted on _____, established The Midway Station Development Area (the "Development Area") and pledged certain Incremental Revenues through the execution of that certain Local Participation Agreement as provided in the Act, dated _____, by and among the City, the Agency and the Developer (the "Local Participation Agreement") for the payment of Administrative Costs and the reimbursement of Approved Public Infrastructure Costs and certain Redevelopment Assistance, as provided for in Section 5 of this Agreement; and

WHEREAS, in the Development Area Ordinance, the City appointed the Office of the Mayor to serve as the Agency; and

WHEREAS, the private development planned within the Development Area is the Midway Station redevelopment project (the "Project"), which will be a mixed-use project consisting of industrial, office, retail, residential uses and similar appropriate uses, together with related public infrastructure, and more specifically described in **Exhibit "B"** attached hereto; and

WHEREAS, the City recognizes that the redevelopment of the Development Area and the construction of the Project, as contemplated by the terms of this Agreement, will not occur without a public-private partnership and financial assistance provided to the Project by the City and the Commonwealth of Kentucky (the “State”); and

WHEREAS, the Parties desire to set forth their mutual agreements, understandings and obligations in order to facilitate the design, financing, development and construction of the Development Area and the Project;

STATEMENT OF AGREEMENT

NOW, THEREFORE, for valuable consideration, the receipt and sufficiency of which is hereby acknowledged by the Parties, and in consideration of the premises and the mutual covenants and undertakings contained in this Agreement, the Parties hereby agree and covenant as follows:

SECTION I

Preambles

The Parties hereto agree that the above “preambles” or “preamble clauses” (the above “Recitals”) are incorporated herein by this reference as if fully restated herein and form a part of this Agreement between the parties hereto.

SECTION II

Definitions

For the purposes of this Agreement, the following words and phrases shall have the meanings assigned in this Section II, unless the context clearly indicates that a contrary or different meaning is intended:

A. “Act”. Shall mean the Kentucky Revised Statutes, Sections 65.7041 to 65.7083, and Sections 154.30-010 to 154.30-090.

B. “Administrative Costs”. Shall mean TWO PERCENT (2.0%) of the Incremental Revenues received by the Special Fund pursuant to the TIF Documents.

C. “Affiliate”. A corporation or other entity controlled by, controlling or under common control of the Developer.

D. “Agency”. Shall mean the Office of the Mayor for the City of Midway, Kentucky, which shall be responsible for administering the Special Fund and the Development Area Ordinance pursuant to the TIF Documents and the Act.

E. “Agreement”. This Master Development Agreement and all Exhibits attached hereto and incorporated herein.

F. “Approved Public Infrastructure Costs”. Shall have the meaning as provided in the Act.

G. “Capital Investment”. Shall have the meaning as provided in the Act.

H. “City”. Shall mean the City of Midway, Kentucky.

I. “County”. Shall mean Woodford County, Kentucky acting by and through the Woodford County Fiscal Court.

J. “Developer”. Shall mean Anderson Communities, Inc., a Kentucky corporation, and its successors, affiliates, subsidiaries or related entities.

K. “Development Area”. Shall mean “The Midway Station Development Area” as defined in the Development Area Ordinance.

L. “Effective Date”. Has the meaning given in the introductory paragraph of this Agreement.

M. “Incremental Revenues”. Shall mean the amount of revenues received by the City (and, if participating, revenues received by the Woodford County Fiscal Court) with respect to the Development Area, and the State with respect to the “Footprint” (as defined in the Act), by subtracting “Old Revenues” (as defined in the Act) from “New Revenues” (as defined in the Act) in a calendar year.

N. “KEDFA”. Shall mean the Kentucky Economic Development Finance Authority.

O. “Local Participation Agreement”. Shall mean that certain Local Participation Agreement, dated _____, by and among the City, the Agency and the Developer, a copy which is attached hereto and incorporated herein as **Exhibit “A”**.

P. “Mayor”. Shall mean the Office of the Mayor for the City of Midway, Kentucky who shall serve as the Agency.

Q. “Mixed Use Project or Program”. Shall mean the Commonwealth Participation Program for Mixed Use Redevelopment in Blighted Urban Areas, as provided in the Act.

R. “New Revenues”. Shall have the meaning as provided in the Act.

S. “Old Revenues”. Shall have the meaning as provided in the Act.

T. “Private Project Elements”. Shall mean the elements of the Project that shall be privately developed and owned and operated, including but not limited to industrial, retail, office, residential, restaurants and other similar aspects of the Project.

U. "Private Financing". Shall mean the financing needed to provide for the development and construction of the Private Project Elements or any financing received by the Developer that is not from the City, County or State.

V. "Project". Shall mean improvements within the Development Area, as more particularly described in Section IV and Exhibit "C" attached hereto and incorporated herein.

W. "Project Costs". Shall mean any Capital Investment, as defined in the Act, within the Development Area.

X. "State". Shall mean the Commonwealth of Kentucky, including any of its agencies and departments.

Y. "Tax Incentive Agreement". Shall mean the anticipated agreement between KEDFA and the Agency related to the pledge of State Incremental Revenues to reimburse Approved Public Infrastructure Costs.

Z. "Tax Increment Financing" or "TIF". Shall mean the tax increment financing that is created, regulated and administered in accordance with the TIF Documents and the Act.

AA. "TIF Documents". Shall mean this Master Development Agreement, the Development Area Ordinance, the Local Participation Agreement, the Tax Incentive Agreement, the Development Plan, any Interlocal Cooperation Agreement, and related documents.

BB. "Termination Date". Shall have the meaning as provided in the Development Area Ordinance.

CC. "Unavoidable Delays". Shall mean delays due to labor disputes, lockouts, acts of God, enemy action, civil commotion, riot, governmental regulations not in effect at the date of execution of this Agreement, conditions that could not have been reasonably foreseen by the

claiming party, inability to obtain construction materials or energy, fire, or unavoidable casualty, provided such matters are beyond the reasonable control of the party claiming such delay.

SECTION III

Representations

A. City and the Agency. The City and the Agency possess the requisite authority to enter into this Agreement, and neither the City nor the Agency, in this Agreement or any schedule, exhibit, document or certificate delivered in accordance with the terms of this Agreement, has made any untrue statement of a material fact or failed to state a material fact.

B. Developer. The Developer represents and warrants that: (i) the Developer (a) is a Kentucky corporation possessing the requisite authority to enter into this Agreement; (b) is not a "foreign person" as that term is defined in Section 1445 of the Internal Revenue Code; (c) has not, in this Agreement or any schedule, exhibit, document or certificate delivered in accordance with the terms of this Agreement, made any untrue statement of a material fact or failed to state a material fact necessary in order to make the statements made, in the light of the circumstances under which they were made, not misleading; and (d) would not enter into this Agreement to undertake and construct the Project but for the commitment of the City and Agency to provide financial and other incentives to the Project as provided in this Agreement; (ii) the execution of this Agreement and the construction of the Project by the Developer will not knowingly violate any applicable statute, law, ordinance, code, rule or regulation or any restriction or agreement binding upon or otherwise applicable to the Developer; and (iii) there are no undisclosed actions, suits or proceedings pending or threatened against the Developer which would, if adversely

determined, have a material effect on the Developer's ability to enter into this Agreement or construct the Project in accordance with this Agreement.

SECTION IV

Project

A. A detailed description of the individual projects that collectively constitute the Project is set forth in **Exhibit B** hereto.

B. The Project shall be financed with Private Financing and equity provided by the Developer, and its Affiliates, subject to the pledge of City, County and/or State Incremental Revenues to pay for Administrative Costs and reimburse the Developer for Approved Public Infrastructure Costs, and Redevelopment Assistance , as more particularly set forth and described in Section V of this Agreement. The Developer shall keep the City informed as to the status of the Private Financing for the Project. It is understood that the Financing Plan for the Project may be modified as development of the Project progresses and that more specific details of the nature of each aspect of financing the Project shall be more particularly contained in any Private Financing and other documents at the time that each aspect of the financing needed for the Project is obtained. However, notwithstanding anything herein to the contrary, the pledge of Incremental Revenues under any of the TIF Documents shall not be modified without the specific approval of all of the parties to the agreement(s) that establish such pledge.

C. The Project shall be constructed in accordance with local land use and other local and state requirements that govern the development of property within the City of Midway. Developer shall not commence any site improvements without first obtaining the necessary

permits and/or approvals from the relevant government agencies, including but not limited to, the Divisions of Building Inspection, and Engineering, with any relevant approvals by the State.

D. The Developer agrees to proceed expeditiously to complete construction plans and specifications to a level adequate to obtain all permits and approvals necessary to complete construction of the Project.

E. Project Costs. The Developer shall document, certify and attest to the City all Project Costs and Capital Investment expended within the Development Area, including but not limited to (i) costs that represent Approved Public Infrastructure Costs, (ii) costs that represent Redevelopment Assistance costs under KRS 65.7045(30)(e) and (iii) costs that represent Redevelopment Assistance costs under KRS 65.7045(30), excluding those described in KRS 65.7045(30)(e). The Developer shall further certify and attest to the City and to the Agency in a writing signed by the Developer all such Project Costs and Capital Investment expended within the Development Area, in the format to be determined by the City and KEDFA, (i) to enable the City and the Agency to comply with their respective reporting requirements as set forth in the TIF Documents, and (ii) to enable the City and the Agency to verify the Approved Public Infrastructure Costs, and the Redevelopment Assistance costs expended by the Developer in the Development Area.

F. To the extent expended by the Developer within the Development Area, the Approved Public Infrastructure Costs and Redevelopment Assistance costs, as more particularly described in Exhibit "D" to this Agreement, are eligible to be reimbursed from the Special Fund according to the terms of the TIF Documents and in accordance with the Act. It is anticipated that a portion of the Developer's expenditures for improvements within the Development Area

will constitute both Redevelopment Assistance costs and Approved Public Infrastructure Costs that will be eligible costs for reimbursement from both State Incremental Revenues under the Tax Incentive Agreement and KRS 154.30-110 and City and/or County Incremental Revenues under the TIF Documents and the Act.

G. The Developer shall assist the Agency and the City in complying with any reporting requirements mandated by the Local Participation Agreement and Tax Incentive Agreement, in computing the baseline City and State Old Revenues applicable to the Development Area, and in calculating the Incremental Revenues that may be due to the Special Fund from the City, County and/or State. The Developer shall include provisions in any Affiliate agreements, construction agreements or leases relating to the construction or operation of the Project, to require the contractors constructing the Project and businesses operating within the Project to provide information, including federal and state tax identification numbers, etc., to the Agency, or other information as may be required by the Agency relating to the City, County and State taxes that may be generated from the Project.

H. The Developer agrees to notify the City, in writing, when the Developer intends to request that the Agency set the Activation Date (as defined in the Act) for the TIF and/or if the Developer intends to request that the City extend or delay the setting of the Activation Date for the TIF. The Developer agrees to provide the City, for every six (6) month period after KEDFA's preliminary approval of the TIF application and prior to the Activation Date, and in compliance with the reporting requirements required by the TIF Documents, with a written statement certified and attested to by the Developer detailing (i) Project Costs and expenditures that were incurred in the Development Area during the six (6) month period, and (ii) Approved Public

Infrastructure Costs that were expended by the Developer in the Development Area during the six (6) month period, and (iii) Redevelopment Assistance costs described in KRS 65.7045(30)(e), along with other Redevelopment Assistance costs described in KRS 65.7045(30) (excluding subparagraph (e)), that were expended by the Developer in the Development Area during the six (6) month period.

SECTION V

Priority of the Use of Incremental Revenues

Pursuant to the provisions of the Act and the Local Participation Agreement, the City and the Agency anticipate activating the TIF on _____, 20____, which will potentially allow for Incremental Revenues to be available to the Special Fund beginning in calendar year _____. In consideration of the Developer constructing the Project and complying with the requirements and conditions of Sections IV and VI of this Agreement, the City, the Agency and the Developer agree that Incremental Revenues shall be paid out of the Special Fund in the following order:

A. Each year following the Activation Date of the Development Area until its termination, the City shall withhold the Administrative Costs from the Special Fund, being TWO PERCENT (2.0%) of the Incremental Revenues received by the Special Fund in that particular year pursuant to the TIF Documents, to cover administrative and other expenses incurred by the City for the administration and implementation of the Development Area Ordinance and the Special Fund, including but not limited to (i) the costs of complying with any reporting requirements set forth in the TIF Documents, (ii) the costs of professional services, auditing

services and attorneys' fees utilized by the City and/or the Office of the Mayor in connection with their oversight, administration and implementation of the Development Area Ordinance and the Special Fund, and (iii) any other costs related to this Agreement, the Development Area, the Special Fund, and/or finalizing any amendments to the TIF Documents.

B. After the annual obligations set forth in Section V(A) of this Agreement have been satisfied in full, and after the obligations set forth in Section IV of this Agreement have been satisfied, Incremental Revenues remaining in the Special Fund shall be paid to the Developer on an annual basis, to the extent permitted by the TIF Documents and the Act, and until the Developer has been paid \$31,500,000 in reimbursements from the Special Fund, (i) to reimburse the Developer for Approved Public Infrastructure Costs to the extent expended by the Developer within the Development Area, as certified and attested to by the Developer to the City pursuant to Section IV of this Agreement, but not to exceed the maximum amount approved by KEDFA, and (ii) to reimburse the Developer for Redevelopment Assistance costs described in KRS 65.7045(30)(e) to the extent expended by the Developer within the Development Area and certified and attested to by the Developer to the City pursuant to Section IV of this Agreement. Notwithstanding anything herein to the contrary, no Incremental Revenues shall be reimbursed to the Developer pursuant to this paragraph until the Minimum Capital Investment of \$20,000,000 within the Development Area has been certified by or on behalf of KEDFA.

C. Each year, after the annual obligations set forth in Sections V(A) and V(B) have been satisfied, and until the Developer has been paid \$31,500,000 in reimbursements from the Special Fund, any Incremental Revenues remaining in the Special Fund shall carry-forward and be used and paid out of the Special Fund to reimburse the Developer for Approved Public

Infrastructure Costs and Redevelopment Assistance pursuant to the terms set forth in Section V(B).

D. After the Developer has been paid \$31,500,000 in total reimbursements from the Special Fund, for as long as this Agreement remains in effect, any Incremental Revenues remaining or paid into the Special Fund each year pursuant to the Local Participation Agreement and/or Tax Incentive Agreement may at the City's discretion be used for reimbursement of other Approved Public Infrastructure Costs, other Redevelopment Assistance within the TIF Development Area as described in KRS 65.7045(30), and/or any other costs, to the extent permitted by the Act.

E. It is understood by the Parties that after the activation of the TIF, any State Incremental Revenues that may be generated and available to be paid by the State into the Special Fund pursuant to the provisions of the Tax Incentive Agreement shall be held in escrow in the Special Fund, without interest accruing thereon, until the Minimum Capital Investment of \$20,000,000 in documented Project Costs in the Development Area, required for the release of State Incremental Revenues, have been certified by or on behalf of KEDFA as may be provided in the Tax Incentive Agreement. It is further understood that the payment of State Incremental Revenues to the Special Fund will be limited to reimbursements for Approved Public Infrastructure Costs and other approved costs identified in the Tax Incentive Agreement, and to the extent certified by the Agency to the State and approved by the State in accordance with the TIF Documents and the Act.

F. Notwithstanding anything to the contrary, nothing in this Agreement shall be interpreted to commit the City or the Agency to pay for or reimburse any Approved Public

Infrastructure Costs or Redevelopment Costs, or the Developer to pay for or reimburse the Administrative Costs, except to the extent that Incremental Revenues are generated within the Development Area and actually received into and available to be paid from the Special Fund as provided in the TIF Documents.

G. Notwithstanding anything herein to the contrary, even if the State reimbursement has reached its maximum cap as may be provided for in the Tax Incentive Agreement, this Agreement shall continue in full force and effect to reimburse the Developer for Redevelopment Assistance costs and Approved Public Infrastructure Costs (to the extent they also satisfy the definition of Redevelopment Assistance costs) pursuant to the terms set forth in Section V of this Agreement and to the extent expended by the Developer within the Development Area and certified pursuant to Section IV hereof. For purposes of clarity, this Agreement shall not automatically terminate upon the State reimbursement reaching its maximum cap as may be provided for in the Tax Incentive Agreement.

SECTION VI

Additional Duties and Obligations of Developer

The Developer shall have the following additional duties and responsibilities in connection with the development of the Development Area:

A. The Developer shall undertake and construct the Project within the Development Area subject to any required permits or other approvals from City or other agency. The Project shall be constructed in substantial conformity (in relation to capital investment and scope) to the Project described in the Development Plan for the Development Area.

B. The Developer shall comply with all applicable state and local building codes,

laws, statutes, rules, ordinances, regulations and procedures regarding development of the Development Area, including but not limited to the bonding and maintaining of roads, water and sewer lines, electrical and gas lines in the Development Area (collectively the “Building Rules”). Until the Developer has been paid \$31,500,000 in reimbursements from the Special Fund, the City shall be under no obligation to accept any public improvements in the Development Area for public maintenance by the City. Before the Developer has been paid \$31,500,000 in reimbursements from the Special Fund, the City will in its discretion consider requests for the City’s acceptance of public improvements in the Development Area that comply with applicable Building Rules for public maintenance by the City. After the Developer has been paid \$31,500,000 in reimbursements from the Special Fund, the City shall accept all public improvements in the Development Area that comply with applicable Building Rules for public maintenance by the City.

C. The Developer shall be solely responsible for obtaining Project Financing for the Project, and neither City nor the Agency shall have any responsibility or liability for the Project Financing other than reimbursing the Developer from Incremental Revenues for Approved Public Infrastructure Costs and Redevelopment Assistance costs to the extent expended by the Developer, pursuant to the terms set forth in the TIF Documents.

D. The Developer shall meet at least quarterly with the City and the Mayor for the purpose of reviewing the progress of the development of the Development Area.

SECTION VII

Default

If any Party (the “Defaulting Party”) materially breaches or defaults on any of its obligations under this Agreement, the other Parties may give notice that remedial action must be taken by the Defaulting Party within sixty (60) days of the notice. The Defaulting Party shall correct such breach or default within sixty (60) days after such notice; provided, however, if (i) the default is one which cannot with due diligence be remedied by the Defaulting Party within sixty (60) days, and (ii) the Defaulting Party proceeds as promptly as reasonably possible after such notice and with all due diligence to remedy such default, the period after such notice within which to remedy such default shall be extended for such period as may be necessary to remedy the same with all due diligence. If such action is not taken, the non-defaulting parties may, in addition to all other remedies available at law or in equity (including but not limited to specific performance and/or recovery of damages, including but not limited to reasonable attorneys’ fees and other costs and expenses), terminate this Agreement, or the portion of it affected by the default, by giving ten (10) days written notice to the defaulting Party or Parties.

In the event this Agreement is terminated, all Parties shall be (i) relieved of any executory obligations under this Agreement, and (ii) released from undertaking any additional obligations as provided in this Agreement.

SECTION VIII

Miscellaneous Provisions

A. Term; Survival; Termination. The term of this Agreement shall be from the date of this Agreement until the Termination Date. This Agreement shall not terminate upon the

execution of any agreements required or contemplated by or referred to in this Agreement, and the provisions of this Agreement shall not be deemed to be merged into any such agreements, it being the intent of the Parties that this Agreement shall survive the execution and delivery of any such agreements and shall continue throughout the entire development of the Development Area.

B. Governing Law. The laws of the State shall govern as to the interpretation, validity and effect of this Agreement.

C. Severability. If any provision of this Agreement or the application thereof to any person or circumstance shall to any extent be held in any proceeding to be invalid or unenforceable, the remainder of this Agreement, or the application of such provision to persons or circumstances other than those to which it was held to be invalid or unenforceable, shall not be affected thereby, and shall be valid and enforceable to the fullest extent permitted by law, but only if and to the extent such enforcement would not materially and adversely frustrate the parties' essential objectives as expressed herein.

D. Force Majeure. City, Agency or Developer shall not be deemed to be in default in the performance of any obligation on such parties' part to be performed under this Agreement, other than an obligation requiring the payment of a sum of money, if and so long as the non-performance of such obligation shall be directly caused by Unavoidable Delays; provided, however, that within fifteen (15) days after the commencement of such Unavoidable Delay, the non-performing party shall notify the other party in writing of the existence and nature of any such Unavoidable Delay and the steps, if any, which the non-performing party shall have taken or planned to take to eliminate such Unavoidable Delay; provided, further, however, that a failure to give such notice timely shall not be a default hereunder or impair the non-performing

party's immunities hereunder or account of Unavoidable Delay, unless the failure to give such notice timely actually prejudices the other party. Thereafter, the non-performing party shall, from time to time, on written request of the other party, keep the other party fully informed, in writing, of further developments concerning such Unavoidable Delay and the effort being made by the non-performing party to perform such obligation as to which it is in default.

E. Notices. Any notice to be given under this Agreement shall be in writing, shall be addressed to the party to be notified at the address set forth below or at such other address as each party may designate for itself from time to time by notice hereunder, and shall be deemed to have been given upon the earliest of (i) three (3) days following deposit in the U.S. Mail with proper postage prepaid, Certified or Registered, Return Receipt Requested, (ii) the next business day after delivery to a regularly scheduled overnight delivery carrier with delivery fees either prepaid or an arrangement, satisfactory with such carrier, made for the payment of such fees, or (iii) receipt of notice given by telecopy or personal delivery:

If to the City or Agency: Midway City Hall
101 East Main Street
Midway, Kentucky 40347
Attn: Mayor of Midway

With a Copy to: Midway City Hall
101 East Main Street
Midway, Kentucky 40347
Attn: Midway Legal Counsel

If to the Developer: Dennis Anderson, President
Anderson Communities, Inc.
1720 Sharkey Way
Lexington, KY 40511

With Copies Christine N. Westover, Esq., Matt Koch, Esq. and
(which shall not James H. Frazier, III, Esq.
constitute notice) to: McBrayer, McGinnis, Leslie & Kirkland, PLLC

201 E. Main Street, Suite 900
Lexington, KY 40507

F. Approvals. Whenever a party to this Agreement is required to consent to, or approve, an action by the other party, or to approve any such action to be taken by another party, unless the context clearly specifies a contrary intention, or a specific time limitation, such approval or consent shall be given within ten (10) business days and shall not be unreasonably withheld, conditioned or delayed by the party from whom such approval or consent is required, unless expressly provided otherwise in this Agreement.

G. Entirety of Agreement. As used herein, the term "Agreement" shall mean this Master Development Agreement and all Exhibits attached hereto and incorporated herein. This Agreement and the TIF Documents together embody the entire agreement and understanding of the parties hereto with respect to the subject matter herein contained, and supersede all prior agreements, correspondence, arrangements, and understandings relating to the subject matter hereof. No representation, promise, inducement, or statement of intention has been made by any party which has not been embodied in this Agreement or the TIF Documents, and no party shall be bound by or be liable for any alleged representation, promise, inducement, or statement of intention not so set forth. This Agreement may be amended, modified, superseded, or cancelled only by a written instrument signed by all of the Parties hereto, and any of the terms, provisions, and conditions hereof may be waived only by a written instrument signed by the waiving party. Failure of any party at any time or times to require performance of any provision hereof shall not be considered to be a waiver of any succeeding breach of any such provision by any party.

H. Successors and Assigns. This Agreement shall be binding upon and inure to the benefit of the parties and their respective successors and permitted assigns. This provision is not

intended to approve or give consent to any assignment of this Agreement. Except as otherwise set forth herein this Agreement, any attempted assignment of this Agreement or any of the TIF Documents shall not relieve the assignor from its obligations thereunder, unless the release of the assignor has been expressly agreed and consented to in writing by all of the other parties thereto.

I. Headings. The headings in this Agreement are included for purposes of convenience only and shall not be considered a part of this Agreement in construing or interpreting any provision hereof.

J. Exhibits. All exhibits to this Agreement shall be deemed to be incorporated herein by reference and made a part hereof, above the signatures of the parties hereto, as if set out in full herein.

K. No Waiver. No waiver of any condition or covenant of this Agreement to be satisfied or performed by the City, the Agency or Developer shall be deemed to imply or constitute a further waiver of the same, or any like condition or covenant, and nothing contained in this Agreement nor any act of either party, except a written waiver signed by such party, shall be construed to be a waiver of any condition or covenant to be performed by the other party.

L. Construction. No provisions of this Agreement shall be construed against a Party by reason of such Party having drafted such provisions.

M. Multiple Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute an original document.

N. Relationship of the Parties. Except as expressly stated and provided for herein, neither anything contained in this Agreement nor any acts of the Parties hereto shall be deemed or construed by the Parties hereto, or any of them, or by any third person, to create the

relationship of principal and agent, or of partnership, or of joint venture, or of association between any of the Parties of this Agreement.

O. No Third Party Beneficiary. Except as otherwise specified herein, the provisions of this Agreement are for the exclusive benefit of City, Agency and the Developer, any lender providing financing to Developer, and their successors and permitted assigns, and not for the benefit of any other person or entity, nor shall this Agreement be deemed to have conferred any rights, express or implied, upon any other person or entity.

P. Diligent Performance. With respect to any duty or obligation imposed on a party to this Agreement, unless a time limit is specified for the performance of such duty or obligation, it shall be the duty or obligation of such party to commence and perform the same in a diligent and workmanlike manner and to complete the performance of such duty or obligation as soon as reasonably practicable after commencement of the performance thereof. Notwithstanding the above, time is of the essence with respect to any time limit specified herein.

Q. Assignment of Rights and Delegation of Duties. Neither the City nor the Agency shall assign this Agreement without the prior written consent of the Developer, which shall not be unreasonably withheld. The Developer shall have the right to assign this Agreement, or any part hereof, to an Affiliate, provided (i) the Developer shall provide the City with a written instrument signed by the assignee in which the assignee expressly assumes and agrees to perform all of the Developer's liabilities and obligations pursuant to the TIF documents, (ii) the Developer provides the City with prior written notice that includes written copies of all assignment documents intended to effectuate the proposed assignment, and (iii) the City consents to the proposed assignment in advance in writing, which consent shall not be unreasonably

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withheld. Any unauthorized attempted assignment of this Agreement by any Party shall be null and void and of no force or effect.

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12/15/14

IN WITNESS WHEREOF, the parties hereto have hereunto set their hands on the date and year first above set forth herein, to be effective as of the Effective Date.

CITY OF MIDWAY, a Kentucky city of
the fourth class pursuant to KRS Chapter 81

By: _____
Tom Bozarth, Mayor

Date: _____

(the "City")

OFFICE OF THE MAYOR, The City of
Midway, Kentucky

By: _____
Tom Bozarth, Mayor

Date: _____

(the "Agency")

ANDERSON COMMUNITIES, INC.

By: _____
Dennis Anderson, President

Date: _____

(the "Developer")