

Confidential Agreement for Sharing the Economic Development Benefits
of NeuMarkt Tax Increment Financing

This *Confidential Agreement for Sharing the Economic Development Benefits of NeuMarkt Tax Increment Financing* (this "Agreement") is entered as of the Effective Date hereof among

Gluckstadt School Properties, LLC, a Mississippi limited liability company ("GSP"),

NCM, LLC, a Mississippi limited liability company ("NCM"), and

Calhoun Investments, LLC, a Mississippi limited liability company ("CI")

to memorialize certain agreements among GSP, NCM and CI (each a "Party" and collectively the "Parties") intended to facilitate CI's participation in GSP's Plan as embodied herein to share the economic development benefits contemplated to occur from the availability of NeuMarkt Tax Increment Financing ("TIF") and respecting the construction and financing of infrastructure improvements deemed necessary of advisable for the benefit of the Parties.

RECITALS

WHEREAS, the governing body or authorities of the City of Canton, Mississippi (the "City") and Madison County, Mississippi (the "County") have been vested with the power and authority to develop and assist developers in the development of commercial project(s) pursuant to the Mississippi Tax Increment Financing Act, Title 21, Chapter 45, Mississippi Code of 1972, as amended (the "TIF Act"), the Regional Economic Development Act, Title 57, Chapter 64, Mississippi Code of 1972, as amended (the "REDA Act"), and the Public Improvement District Act, Title 19, Chapter 31, Mississippi Code of 1972, as amended (the "PID Act") (the "TIF Act," "REDA Act" and "PID Act" collectively referred to herein after as the "Acts"); and

WHEREAS, as required by the Acts, the governing body or authorities of the City and the County have each duly adopted substantially similar Tax Increment Financing Plans (the "TIF Plans") for a Project Area in Section 16, Township 8 North, Range 1 East, Madison County that has been designated as the NeuMarkt Project Area (the "Project Area"); and

WHEREAS, the TIF Plans provide for the City to issue bonds, notes, and other debt obligations (collectively "Bonds") secured by the independent commitments of the City and County to apply to the redemption of the Bonds one-half (1/2) of the increases City and County may receive in (i) ad valorem real and personal property taxes assessed against lands and improvements within the Project Area and (ii) City's share of sales taxes remitted from merchants, practitioners, businessmen and others sellers in the Project Area (the "Committed Tax Increment"); and

WHEREAS, in order to implement the TIF Plans, GSP and City entered into that certain Development and Reimbursement Agreement dated January 14, 2014, which agreement was amended by Amendment One thereto dated February 3, 2015, (together, the D&RA); and

WHEREAS, the agreements, covenants, commitments, conditions, restrictions, limitations, terms, procedures and provisions of said TIF Plans and D&RA are hereby made a part of this Agreement by this reference and copies of same are attached for the convenience of the Parties at Exhibit "A" hereto; and

WHEREAS, the City TIF Plan, the D&RA dated January 14, 2014 and its Amendment One dated February 3, 2015, may be found respectively in Minute Book ____ at Page ____, Minute Book ____ at Page ____

and Minute Book ____ at Page ____ of the Minutes of the Mayor and Board of Aldermen of the City of Canton; and

WHEREAS, the County TIF Plan may be found in Minute Book ____ at Page ____ of the Minutes of the Board of Supervisors of Madison County; and

WHEREAS, under the provisions of the TIF Plans and the D&RA, from time to time City will proceed to sell Bonds when the receipt of one-half (1/2) of the (i) ad valorem taxes being collected by the County Tax Collector and thereafter remitted to the City and (ii) sales taxes being collected by the State Department of Revenue and thereafter diverted to the City (collectively, "TIF Revenues") are then believed by the City's officers, Bond Counsel and Financial Advisors as likely to continue in sufficiency so that they warrant a sale and issuance of Bonds in accordance with Law, at a private sale, in such principal amount that they in their sole discretion then consider feasible, and on such terms, conditions and rates of interest as then may be mutually agreeable to the City and to the Purchaser of the Bonds; and

WHEREAS, under the provisions of the Acts, the TIF Plans, the D&RA and the Bond Resolution contemplated for adoption for the sale and issuance of Bonds, after first being used to pay City's costs and fees incurred for such issuance, the proceeds thereafter remaining are to be paid to GSP or NCM in order to reimburse either GSP or NCM for the costs that either or both has theretofore paid for construction of qualifying infrastructure improvements ("QIIs") (i) situated within the Project Area or (ii) benefiting lands, Leasehold Owners and merchants, practitioners, businessmen and owners and tenants of buildings in the Project Area, including without limitation CI; and

WHEREAS, CI has acquired and is the lessee of, or soon will acquire and become the lessee of, a long-term commercial lease granted by the Madison County Board of Education for a certain 3.145 acre parcel of School Trust Lands within the Project Area, the legal description of which parcel is attached as Exhibit "A" hereto (the "Leasehold"); and

WHEREAS, in order for CI, or a successor or tenant of CI, to improve, use or occupy the Leasehold, the Parties contemplate the construction of certain QIIs including without limitation infrastructure improvements solely benefitting CI and infrastructure improvements partially benefitting CI (collectively "CI QIIs"); and

WHEREAS, the costs for the construction of said CI QIIs are to be paid by NCM, in accordance with the provisions hereof, contemporaneously with such construction from advances under an Economic Development Benefit Loan (the "EDB Loan") that CI shall make NCM, the terms of which are set out hereinafter, and

WHEREAS, when said EDB Loan is repaid to CI as provided for hereinafter, CI will thereby be reimbursed for the costs of CI QIIs, or as much thereof that can be attributed to CI TIF Revenues, and thereby CI will share in the economic development benefits contemplated to occur from the availability of NeuMarkt Tax Increment Financing; and

WHEREAS, NCM shall be paid a Management Fee for paying NCM's contemplated expenses of fulfilling its responsibilities and obligations hereunder, such Fee to be five (5) percent calculated and paid as hereinafter provided, and

WHEREAS, CI estimates and forecasts that from itself or from the merchants, practitioners, businessmen and other tenants or sellers that may use and occupy the Leasehold that one-half of the Incremented ad valorem tax payments and the sales tax diversions or City revenues expected during the next fifteen years, at the current ad valorem millage and sales tax rates, are forecasted to be approximately a minimum of the

amounts set forth on Exhibit “___” hereto (“Forecasted CI TIF Revenues”), which amounts the Parties acknowledge are speculative and in no way shall bind any of them; and

WHEREAS, if Bonds are sold in accordance the Anticipated Schedule of First Disbursements attached hereto as Exhibit “___,” NCM estimates that Forecasted CI TIF Revenues will allow the City to reimburse NCM for having paid as much as _____ Dollars (\$_____) of the costs of constructing of CI QIIs, which amount shall be the “Estimated Reimbursement Amount Attributable to Forecasted CI TIF Revenues;” which amount the Parties acknowledge is speculative and in no way shall bind any of them; and

WHEREAS, at the time of the sale and issuance of Bonds attributable to CI TIF Revenues, using the Actual Schedule of First Disbursements pertinent to the sale, NCM shall calculate the “Actual Reimbursement Amount Attributable to CI TIF Revenues” based on (a) those CI TIF Revenues that theretofore have been paid or diverted to the City and (b) a projection of same throughout the term of the Bond issue; and

WHEREAS, there is set out on Exhibit “___” hereto, generally or specifically, a schedule of anticipated CI QIIs and the estimated and forecasted costs thereof (“Forecasted CI QII Costs”), which amounts the Parties acknowledge are speculative and in no way shall bind any of them; and

WHEREAS, after completion of NCM’s payment(s) of the costs of CI QIIs, the Schedule of Forecasted CI QIIs (i.e., the costs set out on Exhibit “___”) shall be set aside and a schedule of the actual amounts of all such costs for CI QIIs paid by NCM (the “Actual CI QII Costs”) shall be itemized and compiled, without regard to whether the cost was listed on the Schedule of Forecasted CI QII Costs, and when so completed the Schedule of Actual CI QII Costs thus compiled shall be deemed attached to this Agreement and the amount(s) set out thereon, except as they may be adjusted as provided hereinafter just prior to the sale of the Bonds, shall bind the Parties; and

WHEREAS, the Parties agree that the EDB Loan from CI to NCM shall be considered fully satisfied and paid upon payment to CI of the least of (i) the amount calculated as the Actual Reimbursement Amount Attributable to CI TIF Revenues, (ii) the amount of said Actual CI QII Costs plus NCM’s interest payable under the terms of the EDB Loan, or (iii) the amount of Bond proceeds attributable to CI TIF Revenues and QII Costs that are actually reimbursed to NCM by City, provided however the least amount thus determined shall be reduced by the remainder of the five (5) percent Management Fee due NCM and the least amount thus determined so reduced is hereinafter referred to as the “CI EDB Loan Full Satisfaction Amount;” and

WHEREAS, promptly on receipt of Bond proceeds, NCM will pay to CI in full satisfaction and payment of CI’s EDB Loan the CI EDB Loan Full Satisfaction Amount; and

WHEREAS, in order for NCM to be reimbursed by the City for the costs of the construction and installation of Infrastructure Improvements, including the design, supervision and inspection of same and including any activity directly related to the performance, provision or accomplishment of same, is “Work” constituting a CI QII or part thereof; and

WHEREAS, for Work undertaken or carried out by contractors, subcontractors, engineers, service providers, suppliers or vendors in the employ of CI (collectively, “CI Forces”), such Work must be undertaken or carried out in accordance with (i) the provisions of the D&RA, (ii) this Agreement, (iii) the requirements of the City of Canton for obtaining Building Permits or similar approvals, (iv) the requirements of municipal, county, state and federal agencies that may have jurisdiction, (v) the NeuMarkt Property Owners Association, and (vi) the requirements expressed or implied in the hereinafter referenced Declaration of Covenants, Conditions and Restrictions for NeuMarkt; and

WHEREAS, in addition, in order for NCM to be reimbursed by the City for the costs of Work constituting CI QIs undertaken or carried out by CI Forces, NCM must pay directly, from an original Pay Request, Statement, Invoice, Bill or document having a similar purpose (collectively, a "Bill"), or from a good-quality scanned image of the original of same, the contractor, subcontractor, engineer, service provider, supplier or vendor; and

WHEREAS, in order for NCM to be reimbursed by the City for the costs of Work constituting CI QIs undertaken or carried out by Bear Creek Water Association ("BCWA") or Entergy Mississippi, Inc. ("Entergy"), NCM must pay BCWA or Entergy directly from an original BCWA Cost Estimate or from an original Entergy Pro Forma Invoice, or document having a similar purpose, or from a good-quality scanned image of the original of same; and

WHEREAS, to facilitate the accomplishment of the requirement that NCM must pay the costs of a QI in order to be reimbursed by City, promptly on receipt of a duly submitted Bill, BCWA Cost Estimate or Entergy Pro Forma Invoice, NCM will (i) review, approve or otherwise determine that such Bill, Estimate or Invoice, or a certain part of each such Bill, Estimate or Invoice, is (a) for a component of Work constituting a qualifying infrastructure improvement permitted under the D&RA, (b) the amount thereof is within the limitations on costs set out in the D&RA, and (c) is considered to be eligible for future reimbursement to NCM on the sale of the Bonds; (ii) notify CI of its findings, approval or determinations, and (iii) prepare to pay the approved Bill on receipt of an advance under the EDM Loan in an amount sufficient therefor plus an installment of the NCM Management Fee equal to two and one-half (2-1/2) percent of the approved Bill; and

WHEREAS, GSP and NCM are each willing to enter into this Agreement to encourage and aid CI (i) in participating in GSP's Plan to share the economic development benefits contemplated to occur from the availability of NeuMarkt Tax Increment Financing, (ii) in constructing improvements within the Leasehold, and (iii) in opening and operating retail establishments, practices or businesses within the Project Area in contemplation of such directly or indirectly benefitting or encouraging others so to do likewise; and

WHEREAS, CI is willing to enter into this Agreement to facilitate the possibility of receiving reimbursement for costs for infrastructure improvements that the CI would otherwise pay for without the possibility of being reimbursed therefor.

AGREEMENT

IT IS THEREFORE AGREED by each and among all of the Parties as follows:

§ 1. Consideration.

This Agreement is supported by adequate and sufficient consideration, the receipt and sufficiency of which is hereby acknowledged by all of the Parties.

§ 2. Effect of Recitals.

The first paragraph herein above and the Recitals (the paragraphs herein above beginning "WHEREAS") are material contractual terms and not mere recitals, and same are set forth herein and incorporated herein by reference as fully as if same were repeated verbatim in words and phrases.

§ 3. TIF Plans and D&RA Provisions.

- i. The agreements, covenants, commitments, conditions, restrictions, limitations, terms, procedures and provisions of City and County TIF Plans and D&RA including Exhibits thereto, shall govern and control those of this Agreement.
- ii. CI acknowledges and understands each and all of the provisions of said Plans and the D&RA and their potential effect on CI's participation in GSP's Plan to share the economic development benefits contemplated to occur from the availability of NeuMarkt Tax Increment Financing.
- iii. City's agreements under the D&RA are to GSP and NCM, the Developers named therein, and shall not be deemed to accrue to CI by this Agreement.
- iv. CI shall for, or in conjunction with NCM as NCM may elect, perform those "undertakings" set out in subsections (a), (b), (c), (d), (e), (f), (g), (h), (i), (k) and (l) of Section 2 captioned *Undertakings of the Developer* of the D&RA.
- v. CI assumes the risk and accepts the acknowledgements declared in subsection (j) of Section 2 captioned *Undertakings of the Developer* of the D&RA.

§ 4. Plan Participation Requirements Incumbent on CI.

The following acts, actions or things shall be required of CI.

CI acknowledges that its failure to do, provide or comply with the following requirements may result in the inability of CI to participate in GSP's Plan to share the economic development benefits contemplated to occur from the availability of NeuMarkt Tax Increment Financing and thus may result in the inability of NCM to satisfy and pay CI's EDB Loan to NCM as contemplated by this Agreement. CI hereby acknowledges that such satisfaction and payment is the essential operative element for CI's participation in GSP's Plan. The provisions hereof to the contrary notwithstanding, NCM agrees to reasonably guide, assist and work with CI to do, provide or comply with these requirements.

CI's requirements without limitation are

- i. To make sure that CI's Leasehold is subject to that certain Declaration of Covenants, Conditions and Restrictions for NeuMarkt filed for record in the office of the Chancery Clerk of Madison County in Book _____ beginning at Page _____, including without limitation any amendments and supplements thereto that affect the Leasehold (collectively the "Declaration").
- ii. To make sure that CI as Leasehold Owner, any successor(s) of CI as Leasehold Owner(s), and the Merchants, Practitioners, Businessmen and other tenants, as such terms are defined in the Declaration, within the Leasehold, each and all improve, use and occupy all of their respective parts of the Leasehold in substantial compliance with the covenants, conditions and restrictions of the Declaration. This requirement shall remain an incumbency of CI as long as CI is the payee of the Note evidencing the EDB Loan.

- iii. For each element of Work constituting CI QIIs to be undertaken or carried out by CI Forces, to make sure that
- a. Each element of such (i) is designed and specified by a Professional Engineer registered to practice in the State of Mississippi, or (ii) is designed and specified by a Professional Designer performing services in a discipline for which such Designer is licensed practice in the State of Mississippi, or (iii) is designed and specified by a person having recognized knowledge and long experience in the construction of such element, in accordance with guidance from and subject to the supervision of a Professional Engineer or Professional Designer selected by NCM retained by NCM to make the certifications set out hereinafter and whose reasonable fees and expenses shall be paid by CI;
 - b. Pre-construction and post-construction certifications by said Professional Engineer or Professional Designer addressed to NCM and City are provided to NCM affirming that the design and the completed construction of the element of Work constituting a CI QII substantially meet/met or exceed/exceeded the requirements of the Declaration, NCM, City, County and each regulatory agency having city, county, state or federal jurisdiction;
 - c. All required letters of regulatory approval pertinent to a CI QII are provided to NCM, and
 - d. Documentation is provided to NCM of plan and construction approval by any entity, other than BCWA, Entergy or the NeuMarkt Property Owners Association, that is to accept ownership and be responsible for operation, maintenance and repair of the CI QII or element thereof and documentation of such acceptance by such entity on completion of such construction;
 - e. Documentation of all required approvals is retained in CI's files and promptly furnished to NCM on a request therefor.

Construction of CI QIIs by Bear Creek Water Association or Entergy Mississippi, Inc., that are paid by NCM using funds advanced NCM by CI as well as construction designed and undertaken by NCM and paid by NCM using funds advanced NCM by CI are not considered to be construction undertaken by CI Forces.

- iv. To make sure that construction of CI QIIs undertaken by CI Forces complies with the provisions affecting Infrastructure Improvements set out in the D&RA and the provisions of subsection ii captioned *Construction by CI* of Section 8 hereof captioned *Construction of CI QIIs*.
- v. Prior to their being submitted to NCM for review and payment, to make sure (a) that each Bill for Work constituting a CI QII undertaken by CI Forces sufficiently identifies or describes what the Bill is for and that the amounts thereof are accurate, correct and due under the terms of CI's construction agreements, (b) that each such Bill is so marked by an officer of CI, the Professional Engineer or the Design Professional of record, and (c) that, unless sufficient (10% or more) retainage is being withheld, said Engineer or Professional has certified that the work invoiced has been properly and substantially performed in accordance with the approved plans and specifications therefor.
- vi. Upon receipt of the notification by NCM mentioned in subsection iv of Section 5 hereof captioned *Plan Participation Requirements Incumbent on NCM*, to advance sufficient funds to NCM to pay (a) approved Bills and (b) an installment of the NCM Management Fee equal

to two and one-half (2-1/2) percent of the approved amount of the Bill. It is understood by the Parties that the NCM Management Fee shall only be paid with respect to those Bills and amounts thereof for Work constituting CI QIIs that are eligible for reimbursement unless on a case by case basis, CI and NCM agree to continue this procedure for NCM to pay same. Otherwise Bills not approved by NCM will be returned to CI for payment.

- vii. Until the EDB Loan is satisfied and paid as provided herein, not less frequently than annually, to collect and provide to NCM from all ad valorem tax payers within the Leasehold, including Merchants, Practitioners, Businessmen and other tenants within the Leasehold, copies of paid receipts for ad valorem taxes paid on real and personal property within the Leasehold, or to have a national title insurance company to prepare and furnish to NCM a report listing all such paid tax receipts. CI acknowledges that such receipts are essential in order to accurately compute CI TIF Revenues.
- viii. Until the EDB Loan is satisfied and paid as provided herein, during the first month of each calendar quarter to collect and furnish to NCM, from among the Merchants, Practitioners, Businessmen and others operating and making taxable sales within the Leasehold each Sales Tax Return each such entity filed during the preceding quarter or such other period as the Parties may agree. CI acknowledges that such Returns are essential in order to accurately compute CI TIF Revenues, and there is no other way to segregate this amount from other TIF Revenues being diverted to City. NCM agrees that such Returns shall be treated as Proprietary Information and held in confidence to be used solely for the purpose of calculating CI TIF Revenues.
- ix. To remain continually in substantial compliance with the requirements of this Agreement and in strict compliance with the provisions hereof that affect the contemplated reimbursement for CI QIIs.
- x. When requested, to certify to City and NCM that while acting as NCM's agent or to fulfill an undertaking of NCM under the RD&A, that no principal, officer, partner, owner, employee, agent, representative, contractor, subcontractor, service provider or vendor is known or believed to have secured through any collusion, conspiracy, connivance or unlawful agreement any advantage against City.
- xi. When requested, to assist NCM in preparing for the submission of appropriate documentation of CI QII Costs and TIF Revenues to City.

§ 5. Plan Participation Requirements Incumbent on NCM.

The following acts, actions or things shall be required of NCM.

NCM acknowledges that its failure to do, provide or comply with the following requirements (a) may result in the inability of CI to participate in GSP's Plan to share the economic development benefits contemplated to occur from the availability of NeuMarkt Tax Increment Financing and thus may result in the inability of NCM to repay CI's EDB Loan to NCM as fully as contemplated herein. NCM hereby acknowledges that such repayment is the essential operative element for CI's participation in GSP's Plan. To assist CI in remaining in full compliance with the Declaration including without limitation those provisions that are mentioned in subsection ii of Section 4 captioned *Requirements of CI*, including providing limited assistance to CI's Professional Engineers attempting to comply with the provisions hereof.

NCM's requirements for the benefit of CI without limitation are

- i. To advise and assist CI in complying with the Requirements Incumbent on CI when an officer or agent of NCM becomes aware that CI is not meeting doing, providing or complying with such requirements.
- ii. To assist CI in dealing with City
- iii. To represent CI in dealing with BCWA.
- iv. Upon request or when deemed necessary or advisable, to assist CI in the design, contracting, construction supervision and construction management for CI QIIs being undertaken by CI; however the costs incurred by NCM for so doing shall be contemporaneously reimbursed to NCM by CI and shall be in addition to the NCM Management Fee.
- v. To (a) review, affirm, approve or otherwise determine that each Bill submitted by CI, or a definitive part of each such Bill is for construction, services, expenses of Work constituting a CI QIIs qualifies as an Infrastructure improvement under the D&RA and as a part of such review affirm that each such Bill is sufficiently documented and the costs and particulars thereof will likely will be sustained in the event of an audit, (b) notify CI of its findings, affirmations, approvals and determinations, and (c) request an advance under CI's loan to NCM in the appropriate amount, plus the appurtenant installment of the NCM Management Fee, to pay such approved request and invoice.
- vi. Promptly on receipt of the pertinent CI EDB Loan advance, to pay each approved Bill and provide notice to CI of each such payment.
- vii. To properly book and account for all payments of costs for CI QIIs and for receipt of all CI EDB Loan advances.
- viii. To monitor amounts of paid ad valorem taxes and sales tax remittances diverted to City attributable to CI in order to anticipate when CI TIF Revenues will become sufficient for a sale and issuance of Bonds predicate to satisfaction of the EDB Loan.
- ix. To transform Exhibit “__” hereto using actual CI TIF Revenues theretofore paid or remitted and projecting same using actual receipts and remittances as a guide for projecting CI TIF Revenues during the anticipated term of the contemplated TIF Bond issue.
- x. Prior to issuance of the Bonds, to audit with City officers the documentation and costs of CI QIIs and the Schedule of Actual CI QII Costs as such may be necessary or advisable to affirm each item of Actual CI QII Costs as being eligible for reimbursement. The Schedule of Actual CI QII Costs shall be adjusted to include the NCM Management Fee and the interest accrued as provided in subsection iv captioned *Interest Rate* of Section 6 hereof captioned *CI's EDB Loan to NCM*. The provisions of this Agreement to the contrary notwithstanding, the Schedule of Actual CI QII Costs shall be adjusted to remove the cost of any item disallowed or not reimbursed by City.
- xi. To file appropriately documented schedules of costs, approved Bills and NCM cancelled checks documenting payments for CI QIIs when advised by City officers or advisors that such is appropriate in contemplation of NCM being reimbursed for same from the proceeds of a TIF Bond sale.

- xii. To compile the Actual Schedule of First Disbursements for the Bonds when sold.
- xiii. Unless there is an unwillingness or inability of CI to comply with the requirements of this Agreement or unless there is breach or attempted breach by CI of a material provision of this Agreement, fully comply with its covenants and agreements declared herein and fully satisfy and pay to CI the EDB Loan Full Satisfaction Amount as provided in subsection ii captioned *Collateral* of Section 6 hereof captioned *CI's EDB Loan to NCM*.

§ 6. CI's EDB Loan to NCM.

- i. Note. An instrument evidencing CI's EDB Loan to NCM shall be in form a non-recourse, conditional, promissory note (the "Note") drafted to facilitate implementation as set out herein of GSP's Plan to share with CI the economic development benefits contemplated to occur from the availability of NeuMarkt Tax Increment Financing.
- ii. Collateral. The Note's collateral shall be only the CI EDB Loan Full Satisfaction Amount of funds from City's sale of Bonds after NCM's receipt of same. The collateral shall not include, and CI shall have no right or claim to, a prospective TIF reimbursement; CI's collateral shall only exist after NCM's receipt of such reimbursement.
- iii. Due Date. Unless there is an unwillingness or inability of CI to comply with the requirements of this Agreement or unless there is breach or attempted breach by CI of a material provision of this Agreement, within twenty-one (21) days after NCM receives from the proceeds of Bonds sold and issued attributable to CI, as full payment and satisfaction of the EDB Loan, NCM covenants and agrees to pay to CI said CI EDB Loan Full Satisfaction Amount.
- iv. Interest Rate. The Note's Interest Rate shall be the Mid-Term Applicable Annual Federal Rate by Pillsbury Winthrop Shaw Pittman LLP (<http://www.pmstax.com/afr/index.shtml>). Interest shall be compounded annually. NCM shall treat interest on the Note as a cost of constructing the CI QIIs provided such is not disallowed as a reimbursable cost by City.
- v. Term. The Note shall have a term of seven (7) years from the date of this Agreement. If by the end of said seven year period, NCM has not received reimbursement of the costs of CI QIIs, unless there is a breach or default hereof by NCM, notwithstanding other provisions of this Agreement or of the Note to the contrary, (a) the Actual Reimbursement Amount Attributable to CI TIF Revenues shall then be deemed to be Ten Dollars, (b) the Full Satisfaction Amount shall be deemed to be Nine Dollars, (c) NCM shall pay this amount to CI, (d) the EDB Loan and Note evidencing same shall be fully satisfied and paid, (e) the EDB Loan and Note shall terminate, (f) CI shall pay NCM any remaining unpaid portion of the NCM Management Fee, and (g) NCM shall thereafter have no any obligations to CI thereunder.
- vi. Termination Prior to End of Term. On payment of the Full Satisfaction Amount, (a) the EDB Loan and Note evidencing same shall be satisfied paid and (b) the obligations of NCM under the Note shall terminate without any further act or action by either Party.
- vii. Payment on Demand. The Note shall not be subject to repayment on demand for any reason until twenty-one (21) days after NCM receives reimbursement of the Full Satisfaction Amount from the City following the sale and issuance of Bonds attributable to CI TIF Revenues and QII costs.

- viii. GSP. GSP shall have no obligations to CI with respect to or under the terms of CI's EDB Loan to NCM or the Note evidencing same.

§ 7. Contingent Payment by GSP.

The provisions of Section 6 of this Agreement captioned *CI's EDB Loan to NCM* notwithstanding, should the CI EDB Loan Full Satisfaction Amount be less than the amount of Actual CI QII Costs, such difference shall be the "EDB Loan Deficiency" and treated as hereinafter provided.

GSP hereby agrees, at its sole election

- i. To pay CI in cash the EDB Loan Deficiency; however in no event shall this amount be more than seventy-five thousand Dollars (\$75,000.00), or
- ii. To deliver a non-recourse promissory note (the "Deficiency Note") payable to CI for the principal amount of the EDB Loan Deficiency, however in no event shall this amount be more than seventy-five thousand Dollars (\$75,000.00). This note shall bear a floating interest rate at the prime lending rate of Trustmark National Bank of Jackson, Mississippi, however in no event shall the interest rate for any period be greater than four and one-half (4½) percent, with such interest being paid and compounded semi-annually thereafter, with at least one-tenth (1/10th) of the initial principal amount together with the interest due thereon being due and payable by the end of each yearly anniversary of the Deficiency Note and subject to the necessity of being paid in full at its fifth yearly anniversary.

§ 8. Termination of this Agreement

- i. On payment of the CI EDB Loan Full Satisfaction Amount, the EDB Loan shall be deemed fully paid and satisfied, and if there is no EDB Loan Deficiency, this Agreement shall terminate and the Parties shall have no further obligations hereunder except for (i) CI's obligation to ensure that the NCM Management Fee has been paid in full, and (ii) any other obligation which by its express terms survives termination of this Agreement.
- ii. On payment of the CI EDB Loan Full Satisfaction Amount, the EDB Loan shall be deemed fully paid and satisfied; however, should there then be an EDB Loan Deficiency as defined in Section 7 of this Agreement captioned *Contingent Payment by GSP* and GSP elects to pay CI in cash the lower of (a) the EDB Loan Deficiency or (b) \$75,000.00, on such payment this Agreement shall terminate and the Parties shall have no further obligations hereunder except for (i) CI's obligation to ensure that the NCM Management Fee has been paid in full, and (ii) any other obligation which by its express terms survives termination of this Agreement.
- iii. On payment of the CI EDB Loan Full Satisfaction Amount, the EDB Loan shall be deemed fully paid and satisfied; however, should there then be an EDB Loan Deficiency as defined in Section 7 of this Agreement captioned *Contingent Payment by GSP*, and GSP elects to execute and deliver to CI said Deficiency Note, on GSP's satisfaction and payment of its Deficiency Note, then this Agreement shall terminate and the Parties shall have no further obligations hereunder except for (i) CI's obligation to ensure that the NCM Management Fee has been paid in full, and (ii) any other obligation which by its express terms survives termination of this Agreement.

§ 9. Construction of CI QILs.

i. Construction by CI Forces.

- a. To make sure that construction of CI QILs undertaken by CI substantially complies with (i) the provisions affecting infrastructure improvements set out in the D&RA, (ii) the plans approved by and the specifications, standards and requirements of the City, County, the Declaration and Design Guidelines promulgated thereunder, GSP as Declarant of the Declaration, and any entity that will assume ownership or maintenance of the facilities constructed as CI QILs, (iii) any other specification, standard or requirement that NCM considers reasonably necessary or advisable for such construction, and (iv) the provisions of Section 4 hereof captioned *Plan Participation Requirements Incumbent on CI*.
- b. Each element of any Work constituting a CI QIL undertaken by CI that is to be paid by NCM must (i) be subject to a written agreement of other instrument which may be a construction agreement, a contractor's proposal, a supplier's quote, agreement for services or other instrument acceptable to NCM ("Contract Document") that must be furnished to NCM after being fully executed; or (ii) be on a form instrument furnished by NCM for such purpose and furnished to NCM after being fully executed. Such Contract Document shall include a standard non-collusion affidavit affirming none of the principals, officers, partners, owners, employees, agents or representatives in the employ of the CI Forces is known or believed to have colluded, conspired, connived or agreed, directly or indirectly, to fix the price or prices of any cost or expense for which NCM shall be obligated to pay and intends to seek reimbursement therefor.
- c. Each such agreement shall contain provisions that clearly declare (i) that payment by NCM is solely being done as an accommodation to CI, (ii) that such payment is subject to funds for such payment being first advanced to CI by NCM, (iii) that CI and not NCM is fully responsible for payment or satisfaction of all claims that may arise under the agreement, (iv) that CI and/or its contractor, vendor or service provider indemnifies and holds NCM and its officers and agents harmless from all cost, damage, claim and expense that NCM or its officers or agents they may incur as a result of the contractor, vendor or service provider failing to meet and perform as required by its agreement with CI, and (v) that NCM is not obligated to provide or use any of its monies to pay for anything other than the acts, actions, or things necessary for its compliance with the requirements of Section 5 hereof captioned *Plan Participation Requirements Incumbent on NCM*.
- d. For construction of CI QILs within CI's Leasehold, CI may or may not require in its agreements with contractors, vendors and service providers that retainage be withheld and may or may not require the submission of lien waiver affidavits. However, for CI QILs constructed outside of CI's Leasehold which could permit a claim or lien against properties other than those within CI's leasehold, CI or NCM may or may not require in CI's agreements with contractors, vendors and service providers that contractors withhold retainage but they shall require the submission of lien waiver affidavits.
- e. NCM shall be a named additional insured in and a certificate holder of the Contractor's liability insurance certificate.

- ii. Construction by Bear Creek Water Association ("BCWA") and Entergy Mississippi, Inc. ("Entergy").
- a. GSP has informal understandings and agreements with the pertinent officers of Madison County Board of Education, City, BCWA and Entergy about the construction of water distribution system facilities, sanitary waste water collection and disposal system facilities and electrical distribution system facilities. GSP is responsible for attempting to ensure that BCWA's and Entergy's facilities first constructed are considered sufficient in capacity to meet the presently contemplated service requirements of the commercial enterprises that may operate or do business in the Project Area.
 - b. CI acknowledges that BCWA and Entergy each maintain sole control of all activities involved in the design, specification, regulatory approval, construction, inspection of and payment for their respective facilities and each requires that all funds required for such activities, the amount of which they each exclusively estimate, must be deposited with the company prior to said design and construction.
 - c. CI hereby agrees that NCM shall be the Party responsible for communicating with BCWA and Entergy about any and all matters related to the design, construction and extension of their facilities to serve CI. NCM hereby agrees to keep CI informed about all such communications.
 - d. NCM shall ensure that funds advanced to NCM for payment of the BCWA pre-construction deposit that are in excess of the amounts BCWA actually spends, when returned to NCM, are paid to CI to reduce the principal of the EDB Loan.

§ 10. NCM Management Fee.

NCM estimates its cost in fulfilling its responsibilities and obligations under this Agreement will likely be or exceed five (5) percent of the monies it pays for CI QII Costs. NCM declares that its profit, if any, in so doing shall be nominal and that this Fee is imposed solely for the purpose of covering its expenses pertaining thereto. CI acknowledges its duty and obligation to pay NCM its Management Fee in the amount of five (5) percent of the total of those Bills, BCWA Estimates and Entergy Invoices that NCM pays, with one-half (1/2) of the total fee to be paid contemporaneously with NCM's payment of Bills, Estimates and Invoices for CI QII Costs and the remaining portion to be paid by deduction from the proceeds of the Bond issue that are reimbursed by City. If such proceeds are insufficient to pay the remaining portion of the NCM Management Fee, CI will pay such remaining portion using other monies available to it. In addition to the NCM Management Fee, CI shall be obligated to pay NCM its costs under subsection (iv) of Section 5 hereof captioned *Plan Participation Requirements Incumbent on NCM*. The Parties agree that payments to NCM by CI, if any, declared in settlement agreements or arbitration decisions provided for in Section 16 hereof captioned *Dispute Resolution* shall stand alone and not be deemed a part of the NCM Management Fee or such other obligations of CI hereunder.

§ 11. Disclaimers.

- i. CI acknowledges that neither GSP or NCM are responsible for the payment or remittance of TIF Revenues, for obtaining ad valorem tax receipts and Sales Tax Returns emanating from the Leasehold, the collection, payment, rebate or diversion of same to redeem Bonds, for the sale of Bonds, for the solicitation of a purchaser for Bonds, or for any aspect of any of same; and that the parties responsible for same, being state, county or municipal officers, departments, agents or employees, are not parties to this Agreement and are not parties to

which CI by virtue of the Acts, the TIF Plans, the D&RA or this Agreement acquires any right of action or any claim for damage or grievance.

- i. The Acts are statutes of the State of Mississippi and are subject to amendment by the State Legislature and Governor and interpretation by the State Courts, Attorney General and City Bond Counsel and Financial Advisors. The representations herein made by GSP and NCM are made to the best knowledge, information and belief of their principals and professional advisors. GSP and NCM make no representation that the Acts will not be amended or interpreted to have meanings different from the prevailing current interpretation of same.
- ii. The principals, agents and professional advisors of GSP and NCM are of the opinion that the following are qualifying Infrastructure Improvements under the D&RA, and the costs for the construction and installation of the following Infrastructure Improvements, including the design, supervision and inspection of same and including any activity directly related to the performance, provision or accomplishment of same, are eligible for reimbursement from the proceeds of the Bonds:
 - a. Domestic and fire suppression water distribution system facilities, sanitary waste water collection and disposal system facilities, storm water drainage system facilities, and electrical distribution system facilities that post-construction will be owned, used or maintained by City, County, a certificated utility company or the NeuMarkt Property Owners Association, and
 - b. Privately owned streets and parking facilities that are owned, operated, used, maintained, repaired, replaced, improved, patrolled and controlled in a lawful and non-discriminatory manner permitting public use and access in accordance with City's ordinances pertaining thereto, including without limitation the design, construction or installation of the soil foundation, aggregate or asphalt base, concrete or asphalt pavements, curbs, gutters and driveway aprons, medians and islands, street identification and traffic warning and traffic control signs and signals, pavement markings, street and area lights, traffic and area monitoring systems accessible by City and County police, fire and emergency response departments, and right-of-way, median and island grassing, landscaping and irrigation that are parts thereof or appurtenances thereto.

§ 12. Negation of Partnership.

None of the terms or provisions of this Agreement (a) shall be deemed to make or render GSP, NCM or CI a partner of the any of the others for any purpose, (b) shall be deemed to create a partnership between or among the Parties in their respective businesses or otherwise, nor (c) shall cause them to be considered joint venturers or members of any joint enterprise. Each Party shall be considered a separate owner. No Party shall have the right to act as an agent for another Party, unless expressly authorized to do so herein or by separate written instrument signed by the Party to be charged.

§ 13. Proprietary Information.

- i. Each receiving Party (a) shall only disclose Proprietary Information from a disclosing Party to those of its principals and professional advisors who need to know that information, (b) shall advise each of its principals and professional advisors of his obligation to maintain the confidentiality of Proprietary Information, and (c) shall be responsible for the conduct of its principals and professional advisors.

- ii. Each Party agrees for itself and for its principals and professional advisors that Proprietary Information (a) shall be held and used exclusively for facilitating the purposes and objectives of this Agreement, (b) shall not be used for any other purpose, and (c) shall not be disclosed except with the prior written consent of the disclosing Party.
- iii. Each disclosing Party agrees that it shall make a good faith effort to provide accurate, relevant and complete Proprietary Information upon request from another party having a bona fide need to know same.
- iv. If a receiving Party or one of its principals or professional advisors receives a legally enforceable subpoena or other discovery request compelling the disclosure of Proprietary Information, the Party receiving same shall promptly provide a copy of the subpoena or request to the other Parties. A Party shall be deemed to consent to compliance with the subpoena or request if it does not initiate an action to dismiss the subpoena or request or to protect or prevent the disclosure of such information as is demanded within the time period permitted for so responding.
- v. A receiving Party shall promptly return or affirm that it has destroyed the originals and any scanned images, copies, excerpts, notes or other documents containing Proprietary Information upon the request of the disclosing Party.

§ 14. Confidentiality.

- i. Each Party agrees that this Agreement nor any memorandum or instrument referencing this Agreement shall be filed or recorded in public records.
- ii. Each Party (a) shall advise each of its principals and professional advisors of his obligation to maintain the confidentiality of details concerning this Agreement or the business affairs of another Party that are or may be pertinent to this Agreement and (b) shall be responsible for the conduct of its principals and professional advisors.
- iii. Except with the prior written consent of the other Parties or as required by law, no Party nor any of its principals and professional advisors shall disclose to the public or persons not a Party to this Agreement, including without limitation City, County or Madison County Board of Education or any officer, employee or affiliate of any of them, any details concerning this Agreement or the business affairs of another Party that are or may be pertinent to this Agreement. Such disclosure shall be a material breach of this Agreement.
- iv. If a Party or one of its principals or professional advisors receives a legally enforceable subpoena or other discovery request compelling the disclosure of details concerning this Agreement or the business affairs of another Party that are or may be pertinent to this Agreement, the Party receiving same shall promptly provide a copy of the subpoena or request to the other Parties. A Party shall be deemed to consent to compliance with the subpoena or request if it does not initiate an action to dismiss the subpoena or request or to protect or prevent the disclosure of such information as is demanded within the time period permitted for so responding.

§ 15. Transmission of Information and Notices.

- i. Transmissions of Information and Notices. All transmissions of information, including without limitation Requests for Payment or Invoices, and notices contemplated, required

or permitted in this Agreement shall be in writing and delivered at the address for each Party or Authorized Recipient set forth in this Agreement by

- a. By electronic mail provided that if receipt is not acknowledged by the recipient by the end of the next banking day, a paper copy of the information or notice shall be delivered by a courier service or U.S. Post pursuant to subsections *i.b* and *i.c* of this Section. Delivery of the information or notice transmitted by electronic mail shall be deemed satisfactorily completed as of the date and time its receipt is electronically or otherwise acknowledged by the recipient or deemed completed as provided in subsections *b* and *c* hereof, whichever first occurs. Electronic Mail transmission should be used for the delivery of information provided the attachments are good-quality clear, legible scanned images.
 - b. Pre-paid shipment using nationally recognized, reputedly dependable, overnight courier service (e.g., Airborne Express, Federal Express, DHL Express, United Parcel Service, U.S. Postal Service) providing proof of delivery when requested, in which event delivery of the information or notice shall be deemed satisfactorily completed when delivery is recorded by the courier service;
 - c. U.S. Post, postage prepaid, registered or certified with return receipt requested, in which event delivery of the information or notice shall be deemed satisfactorily completed when delivery is recorded by the Postal Service; or
 - d. Personal delivery acknowledged by written receipt, in which event delivery shall be deemed satisfactorily completed.
- ii. Time of Delivery of Notices. The delivery methods of this Section notwithstanding, a contemplated, required or permitted notice shall be deemed to have been delivered as of the date and time the recipient becomes aware of the information contained in the notice without regard to the means of delivery, transmission or communication.
 - iii. Addresses. Addresses for the purposes of this Section may be changed by delivering written notice by any means provided herein. Unless and until written notice of a change of address is delivered hereunder, the last addresses as provided in this Agreement shall be deemed to continue in effect for all purposes hereunder.
 - iv. Authorized Recipients of Notices.
 - a. Gluckstadt School Properties, LLC ("GSP")
 - Authorized Recipient: James T. Weaver, President
Mississippi Investment Properties, Inc. and a corporate Member of GSP
Mailing Address: Post Office Box 1666, Ridgeland, MS 39158-1666
Delivery Address: 357 Town Center Boulevard Suite 204
Ridgeland, MS 39157
Office Telephone Number: 601-957-0370
Cellular Telephone Number: (601) 503-6772
Electronic Mail Address: tim@jamesweaverco.com

b. NeuMarkt Construction Management (“NCM”)

- Authorized Recipient: James T. Weaver, President
Mississippi Investment Properties, Inc. and a corporate Member of GSP
Mailing Address: Post Office Box 1666, Ridgeland, MS 39158-1666
Delivery Address: 357 Town Center Boulevard Suite 204
Ridgeland, MS 39157
Office Telephone Number: 601-957-0370
Cellular Telephone Number: (601) 503-6772
Electronic Mail Address: tim@jamesweaverco.com
- Authorized Co-Recipient: Horace B. Lester, Jr., P.E.
Delivery & Mailing Address: 854 Wilson Drive Suite A
Ridgeland, MS 39157
Telephone Number: (601) 946-3255
Electronic Mail Address: hlester@fairviewdevelopment.com

c. Calhoun Investments, LLC (“CI”)

- Authorized Recipient: Justin Siverd
Delivery & Mailing Address: 327 East 15th Avenue, Covington, LA 70433
Telephone Number: (985) 264-8526
Electronic Mail Address: justinsiverd@gmail.com
- Authorized Co-Recipient: Christopher S. Pace
Mailing Address: P O Box 427, Jackson, MS 39205-0427
Delivery Address: 190 E Capitol St Suite 800, Jackson, MS 39201
Telephone Number: (601) 949-4839
Electronic Mail Address: cpace@joneswalker.com

§ 16. Dispute Resolution.

- i. Performance to Continue. The existence of any dispute shall in no way affect the duty of GSP, NCM and CI to continue to perform their obligations pursuant to this Agreement pending resolution of their dispute.
- ii. Dual Representation Permitted. In his respective capacities for GSP and NCM, James T. Weaver, at his option, may represent GSP and NCM in any dispute resolution conference.
- iii. Timing of Intra-Party Dispute Resolution. The disputing Parties may resolve any dispute between or among themselves at any time.
- iv. Negotiation Conference First Required. In the event of a dispute, GSP, NCM and CI agree to meet, confer and negotiate in good faith in an informal, confidential Negotiation Conference and therein attempt to resolve the dispute between themselves. Upon prior notice

to the other Parties naming the person(s) and the relationship(s) of such person(s) to the Party, a disputing Party may have such person(s) attend the Negotiation Conference. All conference participants shall be bound to the confidentiality provisions of this Agreement.

- v. Mediation Conference Required. In the event a dispute cannot be resolved during a Negotiation Conference, NCM/GSP and CI agree to participate in good faith in a formal, confidential Mediation Conference facilitated by a mutually acceptable, neutral third party Mediator having the knowledge and experience to understand the dispute, communicate well with each Party, and explore and formulate practical dispute resolution options. The Mediator shall not decree or declare the solution to the dispute, but should the Parties agree to a solution, the Mediator can prepare or assist with the preparation of a written and legally enforceable dispute resolution agreement. If the Mediation Conference does not result in a dispute resolution agreement that each disputing Party signs, there shall be no agreement reached, and any concessions made by a Party in an attempt to induce a settlement may not thereafter be used against the Party making such concessions. Because each Party will be situated in different rooms and shall confer with the Mediator separately, each Party shall be expected to have its attorney and such other person(s) attend and participate or be available by telecommunication to allow any settlement to be fully confirmed. All conference participants shall be bound to the confidentiality provisions of this Agreement. The Mediation Conference shall be conducted in Madison County, Mississippi, unless the Parties agree upon some other venue.
- vi. Binding Arbitration Required. In the event a dispute cannot be resolved during a Negotiation Conference or Mediation Conference, GSP, NCM and CI agree to submit the dispute by binding arbitration conducted in accordance with the Commercial Rules of the American Arbitration Association, unless the Parties mutually agree to an alternative dispute resolution agency or procedure. The Arbitrator shall be required to issue a written decision explaining the basis of his decision and whether which may be an modification or interpretation of any provision hereof, an award for damages, a direction to act or action to be taken, a decree of estoppel or a decree terminating this Agreement. The Arbitrator may not award punitive, exemplary damages and must base the decision on the terms of this Agreement and applicable law of the State of Mississippi. The Arbitrator's decision may be entered and enforced in any State or Federal court having jurisdiction. The Arbitrator's decision may only be vacated, modified or corrected (a) for the reasons set forth in Sections 10 or 11 of the United States Arbitration Act, (b) because it contains material errors of law or (c) because it is arbitrary and capricious. Arbitration shall be conducted in Madison County, Mississippi, unless the Parties agree upon some other venue.
- vii. Judicial Adjudication. No dispute under this Agreement shall be adjudicated in a federal or state court unless GSP, NCM and CI formally agree to such adjudication, and no Party shall be under any obligation to agree to judicial adjudication. The provision hereof does not apply to enforcement of an Arbitrator's decision.
- viii. Dispute Resolution Cost Allocation. GSP and CI shall equally divide the fees and costs of Negotiation, Mediation and Arbitration. However, each Party shall be responsible for the fees of its attorneys and each person participating in any dispute resolution conference or proceeding on its behalf.

§ 17. General Provisions.

- i. Assignment by GSP or NCM. Neither GSP nor NCM shall assign this Agreement to any entity that is not a Developer under the terms of the RD&A and that does not have the right to be reimbursed by City for CI QIIs.
- ii. Assignment by CI. CI shall not assign this Agreement to any entity except a construction lender or mortgagee and then only by succinct reference and notification of same to GSP and NCM. No other assignment of CI's rights under this Agreement shall be binding unless the assignee is approved by GSP and NCM. Any approved assignee shall be bound to fulfill all the terms, provisions, covenants, requirements and representations of the assignor. The approval of an assignee having demonstrated the capability to perform under the provisions of this Agreement shall not unreasonably be delayed, denied or conditioned.
- iii. Banking Day. A banking day is any week-day that is not a major holiday, the Friday after Thanksgiving or Christmas Eve or a day that the major local banks collectively post notices that they will be closed and collectively do not open for teller service.
- iv. Binding Effect. This Agreement is for the benefit of, and shall be binding upon, the Parties and their respective heirs, personal representatives, successors and assigns.
- v. Counterparts. This Agreement may be executed in one or more counterparts, all of which together shall constitute a single Agreement and each of which shall be an original for all purposes. A signature in an electronically transmitted instrument shall be treated as if originally manually affixed unless the context is clearly otherwise. This Agreement may be executed in any number of identical counterparts, each of which shall be considered an original, but together shall constitute but one and the same Agreement.
- vi. Effective Date. The Effective Date of this Agreement shall be either (i) the date of CI's Commercial Lease of this Leasehold with the Madison County Board of Education or (ii) the date the above cited Amendment One to the D&RA, whichever date is the later to occur.
- vii. Entire Agreement. This Agreement constitutes the sole and entire understanding and agreement among the Parties on the Effective Date hereof related to CI's participation in GSP's plan to share the availability of NeuMarkt Tax Increment Financing. No other agreements, covenants, conditions, restrictions, limitations, terms, procedures, provisions, understandings or representations exist between them with respect thereto. This Agreement shall be deemed to be a full, final and completed integration of all prior or contemporaneous understandings or agreements among the Parties related to CI's participation in GSP's plan to share in the economic development benefits contemplated to occur from the availability of NeuMarkt Tax Increment Financing. No representation, understanding, agreement, representation, promise, or inducement not set out in this Agreement shall be deemed included. CI agrees that no presumption shall be deemed to exist in favor of GSP or NCM as a result of the negotiation and preparation of this Agreement.
- viii. Modification. No modification of this Agreement shall be binding unless signed by all Parties. Neither this Agreement, nor any provision hereof, shall be waived, modified, amended, discharged, conditioned or terminated, except in an instrument signed by the Party against whom the enforcement of such waiver, modification, amendment, discharge, condition or termination is sought or by decree of an Arbitrator, and then only to the extent set forth in such instrument or decree.

- ix. Number and Gender. As used in this Agreement, as the context may require, the singular shall mean the plural and vice versa; all pronouns shall mean and include the person, entity, firm, company or corporation to which they relate; and the masculine shall include the feminine and the neuter.
- x. Responsibility to Cooperate. GSP, NCM and CI each agree to take such actions and produce, execute, and/or deliver such information and documentation as is reasonably necessary to carry out the responsibilities and obligations of this Agreement in a timely manner.
- xi. Section and Subsection Captions. The section and subsection captions or headings (a) are inserted for convenience and ease of reference only, (b) shall not be construed to limit, modify or alter the terms of this Agreement, and (c) are in no way to be used to define, describe, or limit the scope of the intent of the Parties.
- xii. Severability. If any provision of this Agreement shall be held to be invalid, illegal or unenforceable, this Agreement shall be construed without same and shall remain in full force and effect subject to termination by GSP, NCM and CI or by an Arbitrator. Unless the context thereof is clearly inappropriate or incorrect, the un-severed and non-conflicting provisions of this Agreement shall be interpreted to facilitate CI's participation in GSP's plan for sharing the economic development benefits contemplated to occur from the availability of NeuMarkt Tax Increment Financing.
- xiii. Signatures. A signature in an electronically transmitted instrument shall be treated as if originally manually subscribed unless the context is clearly otherwise. Any electronic data that carries (a) the intent of a signature, (b) a Party's signature affixed by another person at his request and in his presence or (c) any bona fide form of signature permitted by Law shall be valid.

IN WITNESS WHEREOF, CI has caused this Agreement to be duly executed as of the 05TH day of FEBRUARY, 2015.

CALHOUN INVESTMENTS, LLC,
A Mississippi limited liability company

By: Justin M. Siverd
Justin M. Siverd, Member

IN WITNESS WHEREOF, GSP has caused this Agreement to be duly executed as of the _____ day of _____, 2015.

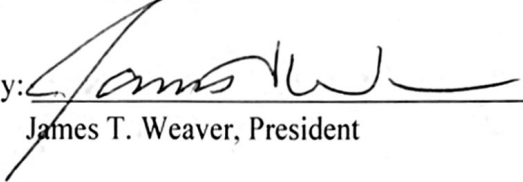
GLUCKSTADT SCHOOL PROPERTIES, LLC

A Mississippi limited liability company

By Its Member

Mississippi Investment Properties, Inc.

A Mississippi corporation

By: 
James T. Weaver, President

IN WITNESS WHEREOF, NCM has caused this Agreement to be duly executed as of the 05 day of FEBRUARY, 2015.

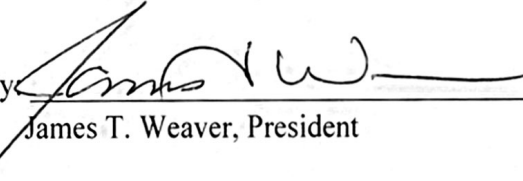
NCM, LLC

A Mississippi limited liability company

By Its Member

Mississippi Investment Properties, Inc.

A Mississippi corporation

By: 
James T. Weaver, President