

1 An Ordinance authorizing the execution of a project agreement between the
2 City of St. Louis and Northside Regeneration, LLC; prescribing the form and details
3 of said agreement; authorizing other related actions in connection therewith; and
4 containing a severability clause.

5 **WHEREAS**, pursuant to the Real Property Tax Increment Allocation
6 Redevelopment Act, Sections 99.800 through 99.865 of the Revised Statutes of
7 Missouri (2000), as amended (the "TIF Act"), the Board of Aldermen of the City of
8 St. Louis, Missouri (the "City") adopted Ordinance No. 68484 on October 30, 2009
9 (the "Plan Ordinance"), which Plan Ordinance: (i) adopted and approved a
10 redevelopment plan entitled the "NorthSide Regeneration Tax Increment Financing
11 (TIF) Redevelopment Plan" dated September 8, 2009 (the "Redevelopment Plan"), (ii)
12 designated the NorthSide Regeneration Redevelopment Area (as described in the
13 Redevelopment Plan) as a "redevelopment area" as that term is defined in the TIF Act
14 (the "Redevelopment Area"), (iii) adopted and approved the Redevelopment Project
15 Area A and Redevelopment Project Area B as described in the Redevelopment Plan,
16 (iv) adopted tax increment allocation financing within the Redevelopment Project
17 Area A (as legally described in the Redevelopment Plan) and Redevelopment Project
18 Area B (as legally described in the Redevelopment Plan), (v) established the City of
19 St. Louis, Missouri "NorthSide Regeneration Special Allocation Fund," and (vi) made

1 certain findings with respect thereto, all as set forth in the Plan Ordinance and in
2 accordance with the requirements of the TIF Act; and

3 **WHEREAS**, on October 30, 2009, the Board of Aldermen adopted Ordinance
4 No. 68485 (the “Redevelopment Agreement Ordinance”), (i) affirming designation of
5 the Redevelopment Area and approval of the Redevelopment Plan and
6 Redevelopment Projects in RPA A and Redevelopment Projects in RPA B, (ii)
7 designating Northside Regeneration, LLC (the “Developer”), as developer of the
8 Redevelopment Area, and (iii) authorizing the City to enter into the Redevelopment
9 Agreement (the “Redevelopment Agreement”); and

10 **WHEREAS**, on December 14, 2009, the parties executed and delivered the
11 Redevelopment Agreement; and

12 **WHEREAS**, on or about October 8, 2009, certain individuals commenced an
13 action in the Circuit Court of the City of St. Louis against the City, the Tax Increment
14 Financing Commission of the City of St. Louis and the Developer seeking a writ of
15 mandamus and declaratory and injunctive relief to prevent implementation of the Plan
16 Ordinance and the Redevelopment Agreement Ordinance in the case of Smith v TIF
17 Commissioners (City of St. Louis), et al., Case No. 0922-CC09379 (the “Lawsuit”);
18 and

19 **WHEREAS**, on July 2, 2010, the Court entered its Memorandum, Order and
20 Judgment in the Lawsuit stating, among other things, “that this judgment shall not be
21 construed to forbid defendant City of St. Louis to amend or supplement said

1 ordinances in accordance with law.” Memorandum, Order and Judgment at page 51;
2 and

3 **WHEREAS**, on July 23, 2010, the Developer filed the Motion for New Trial or
4 to Amend Judgment and the City joined in said Motion; and

5 **WHEREAS**, on October 22, 2010, the Court entered the Memorandum and
6 Order, denying the Motion for New Trial or to Amend Judgment stating, among other
7 things:

8 Certainly defendant Northside could now seek to procure
9 an executed project agreement from the City and so cure
10 the defect in the ordinances at issue, but the fact that the
11 project comes at the end of the sequence, rather than
12 simultaneously with the adoption of the ordinances
13 designating the redevelopment area and approving the
14 redevelopment plan, does not seem to the Court to be
15 inconsistent with the statute.

16 Memorandum and Order at page 3; and

17 **WHEREAS**, in order to supplement the Plan Ordinance and the
18 Redevelopment Agreement Ordinance, the parties wish to enter into a project
19 agreement (the “Project Agreement”) providing for (i) the construction and
20 development of (a) a recycling center for building materials and building aggregates,
21 denominated the “SMART Center”, and (b) certain infrastructure work for

1 Redevelopment Project Area B, which construction and development shall commence
2 on the later of dates certain or written authorization from the City to proceed, (ii) the
3 submittal by the Developer of certain certificates of commencement of construction
4 and certificates of substantial completion, (iii) the City's assistance to the Developer
5 in undertaking the construction and development, and (iv) indemnification by
6 Developer; and

7 **WHEREAS**, the Board of Aldermen hereby determines that the terms of the
8 Project Agreement, attached as **Exhibit A** hereto and incorporated herein by
9 reference, are acceptable and that the execution, delivery and performance by the City
10 and the Developer of their respective obligations under the Project Agreement are in
11 the best interests of the City and the health, safety, morals and welfare of its residents.

12 **BE IT ORDAINED BY THE CITY OF ST. LOUIS AS FOLLOWS:**

13 **SECTION ONE.** The Board of Aldermen hereby approves, and the Mayor
14 and Comptroller of the City are hereby authorized and directed to execute, on behalf
15 of the City, the Project Agreement by and between the City and the Developer
16 attached hereto as **Exhibit A**, as and for a supplement to the Plan Ordinance and the
17 Redevelopment Agreement Ordinance, and the City Register is hereby authorized and
18 directed to attest to the Project Agreement and to affix the seal of the City thereto. The
19 Project Agreement shall be in substantially the form attached, with such changes
20 therein as shall be approved by said Mayor and Comptroller executing the same and

1 as may be consistent with the intent of this Ordinance and necessary and appropriate
2 in order to carry out the matters herein authorized.

3 **SECTION TWO.** The Mayor and Comptroller of the City or their designated
4 representatives are hereby authorized and directed to take any and all actions to
5 execute and deliver for and on behalf of the City any and all additional certificates,
6 documents, agreements or other instruments as may be necessary and appropriate in
7 order to carry out the matters herein authorized, with no such further action of the
8 Board of Aldermen necessary to authorize such action by the Mayor and the
9 Comptroller or their designated representatives.

10 **SECTION THREE.** The Mayor and the Comptroller or their designated
11 representatives, with the advice and concurrence of the City Counselor, are hereby
12 further authorized and directed to make any changes to the documents, agreements
13 and instruments approved and authorized by this Ordinance as may be consistent with
14 the intent of this Ordinance and necessary and appropriate in order to carry out the
15 matters herein authorized, with no such further action of the Board of Aldermen
16 necessary to authorize such changes by the Mayor and the Comptroller or their
17 designated representatives.

18 **SECTION FOUR.** It is hereby declared to be the intention of the Board of
19 Aldermen that each and every part, section and subsection of this Ordinance shall be
20 separate and severable from each and every other part, section and subsection hereof
21 and that the Board of Aldermen intends to adopt each said part, section and subsection

1 separately and independently of any other part, section and subsection. In the event
2 that any part, section or subsection of this Ordinance shall be determined to be or to
3 have been unlawful or unconstitutional, the remaining parts, sections and subsections
4 shall be and remain in full force and effect, unless the court making such finding shall
5 determine that the valid portions standing alone are incomplete and are incapable of
6 being executed in accord with the legislative intent.

7 **SECTION FIVE.** After adoption of this Ordinance by the Board of Aldermen,
8 this Ordinance shall become effective on the 30th day after its approval by the Mayor
9 or adoption over his veto.

EXHIBIT A
PROJECT AGREEMENT