

AN ORDINANCE AUTHORIZING AND APPROVING A DOWNTOWN LINDEN CID CONTRACT BETWEEN THE CITY OF GLADSTONE, MISSOURI, THE DOWNTOWN LINDEN COMMUNITY IMPROVEMENT DISTRICT, AND SREH MAG GLADSTONE PARTNERS, LLC.

WHEREAS, the City Council did on July 29, 2019, pass Ordinance No. 4.482, which approved of the establishment of the Downtown Linden Community Improvement District within the City of Gladstone in accordance with Section 67.1401 *et seq.*, RSMo; and

WHEREAS, the City of Gladstone, SREH MAG Gladstone Partners, LLC, and the Downtown Linden Community Improvement District desire to enter into the attached CID Contract to provide for the administration of the Downtown Linden Community Improvement District.

NOW, THEREFORE, BE IT ORDAINED BY THE COUNCIL FOR THE CITY OF GLADSTONE, MISSOURI, AS FOLLOWS:

SECTION 1. That the City Manager is hereby authorized to enter into the Downton Linden CID Contract between the City of Gladstone, SREH MAG Gladstone Partners, LLC, and the Downtown Linden Community Improvement District in substantially the form presented to and approved by the City Council of the City of Gladstone at this meeting and attached to this Ordinance as **Exhibit A**. The Mayor, the City Manager and other appropriate City Officials are authorized to execute all other documents deemed necessary to the effectuation of this Ordinance on behalf of the City of Gladstone.


SECTION 2. That all ordinances or parts of ordinances in conflict with this ordinance are hereby repealed.

SECTION 3. That this ordinance shall be in full force and effect from and after the date of its passage and approval.

INTRODUCED, READ, PASSED, AND ADOPTED BY THE COUNCIL OF THE CITY OF GLADSTONE, MISSOURI, THIS 22nd DAY OF JUNE, 2020.


Jean B. Moore, Mayor

ATTEST:


Ruth E. Bocchino, City Clerk



Request for Council Action

RES # City Clerk Only

BILL # 20-19

ORD # 4.519

Date: 6/9/2020

Department: Finance

Meeting Date Requested: 6/22/2020

Public Hearing: Yes Date: 6/22/2020

Subject: Downtown Linden CID Contract

Background: On July 29, 2019, the City Council approved the formation of the Downtown Linden Community Improvement District (the "District") for the purpose of remediating blighted conditions and the construction and reconstruction of certain public improvements, including the construction and reconstruction of parking facilities, all within the boundaries of the District. The Downtown Linden CID Contract memorializes the duties and obligations of the City, the District, and SREH MAG Gladstone Partners, LLC, in regard to the use of CID Revenues, as said term is used in the CID Contract, and reimbursement of the parties to the contract for certain actions taken, and to be taken, to carry out the purpose and the projects of the District.

Budget Discussion: NA

Public/Board/Staff Input: City Staff recommends approval of the Ordinance, which authorizes the execution of the Downtown Linden CID Contract, to further the City's stated goal of remediating blighted conditions along the North Oak Corridor and to ensure the appropriate use of CID Revenues. Ordinance and Contract to follow.

Provide Original Contracts, Leases, Agreements, etc. to: City Clerk

Bob Baer
Department Director/Administrator

PC
City Attorney

SW
City Manager

Exhibit A

Downtown Linden CID Contract between the City of Gladstone, Missouri, SREH MAG Gladstone Partners, LLC , and the Downtown Linden Community Improvement District.

Bill 20-19
ORD 4-519

DOWNTOWN LINDEN CID CONTRACT

among the

CITY OF GLADSTONE, MISSOURI,

DOWNTOWN LINDEN COMMUNITY IMPROVEMENT DISTRICT,

and

SREH MAG GLADSTONE PARTNERS, LLC

dated as of

JUNE 22, 2020

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- Exhibit A – Description of District Project and Estimated Reimbursable Project Costs
- Exhibit B – Form of Certificate of Reimbursable Project Costs
- Exhibit C – Legal Description
- Exhibit D – Map of District

DOWNTOWN LINDEN CID CONTRACT

THIS DOWNTOWN LINDEN CID CONTRACT (this “**Cooperative Agreement**”), entered into as of this 22 day of JUNE, 2020, by and among the **CITY OF GLADSTONE, MISSOURI**, a third class city and political subdivision of the State of Missouri (the “**City**”), the **DOWNTOWN LINDEN COMMUNITY IMPROVEMENT DISTRICT**, a Missouri community improvement district (the “**District**”), and **SREH MAG GLADSTONE PARTNERS, LLC**, a Delaware limited liability company (the “**Developer**”) (the City, the District and the Developer being collectively referred to herein as “**Parties,**” and individually as a “**Party,**” as the context so requires).

WITNESSETH:

WHEREAS, pursuant to the Community Improvement District Act, Sections 67.1401 to 67.1571 of the Revised Statutes of Missouri, as amended (the “**CID Act**”), the City is authorized and empowered to establish a community improvement district as proposed by a verified petition; and

WHEREAS, in accordance with the requirements of the CID Act, the City filed a Petition for the creation of the District with the Clerk of the City on July 11, 2019 (the “**Petition**”), to form the District; and

WHEREAS, on July 12, 2019, the City Clerk verified the Petition and set a public hearing for the consideration of the Petition, pursuant to Section 67.1421.1 of the CID Act; and

WHEREAS, after notice of the public hearing was given by publication and individually to each property owner within the District, a public hearing was held on July 29, 2019, regarding the creation of the District; and

WHEREAS, the City, pursuant to Ordinance No. 4.482, passed and approved by the City Council of the City on July 29, 2019, created the District in accordance with the CID Act (the “**CID Ordinance**”), which includes the property described on Exhibit C attached hereto and incorporated herein by reference (“**District Area**”); and

WHEREAS, the District is authorized under the CID Act to undertake the District Project (as defined herein and described in the Petition and in Exhibit A, attached hereto and incorporated herein by reference), which includes certain improvements within the boundaries of the District, and

WHEREAS, the District is authorized under the CID Act and the Petition to impose a special assessment, which will be used to reimburse the City and Developer for Reimbursable Project Costs (as defined herein) and for certain other purposes relating to the administration of the District and the implementation of the District Project;

WHEREAS, the City, the District and the Developer desire to enter into this Cooperative Agreement to set forth the Parties’ respective duties and obligations with respect to the administration, enforcement, and operation of the District; and

WHEREAS, the City, pursuant to Ordinance No. 4.519, passed and approved by the City Council of the City on November 11, 2019, authorized the execution of this Cooperative Agreement; and

WHEREAS, the District passed Resolution No. 2019:___ pursuant to which the District authorized the execution of this Cooperative Agreement; and

AGREEMENT

NOW, THEREFORE, for and in consideration of the premises, and the mutual covenants herein contained, the Parties agree as follows:

ARTICLE I. RECITALS, EXHIBITS AND DEFINITIONS

Section 1.1 Recitals and Exhibits. The representations, covenants and recitations set forth in the foregoing recitals and the exhibits attached to this Agreement are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though they were fully set forth in this Section, and the appropriate exhibits are incorporated into each Section of this Agreement that makes reference to an exhibit.

Section 1.2 Definitions. Unless otherwise defined herein, all capitalized words or terms used in this Cooperative Agreement and defined in this Agreement shall have the meaning ascribed to them in this Agreement. In addition to words and terms defined elsewhere in this Agreement, the following words and terms shall have the meanings ascribed to them in this Section unless the context in which such words and terms are used clearly requires otherwise.

“**Agreement**” shall mean this Cooperative Agreement, as amended from time to time in accordance with its terms.

“**Authorized City Representative**” means the Mayor, City Manager, Assistant City Manager or City Clerk or such other person or persons from time to time designated by the City Council as the person or persons authorized to act on behalf of the City under this Agreement.

“**Authorized District Representative**” means the Executive Director or the individual or entity duly appointed by the District to act as its agent in connection with the administration and operation of the District Revenues.

“**Board of Directors**” means the board of directors of the District, in accordance with the CID Act, the Petition and the CID Ordinance.

“**CID Act**” means the Community Improvement District Act, Sections 67.1401, et seq., of the Revised Statutes of Missouri, as amended.

“**CID Obligations**” means bonds, loans, debentures, notes, special certificates, or other evidences of indebtedness issued by the District.

“**CID Ordinance**” means Ordinance No. 4.482 passed and approved by the City Council on July 29, 2019, creating the District in accordance with the CID Act.

“**CID Sales Tax**” means a one percent (1%) sales tax levied by the District on taxable sales within the District’s boundaries

“**CID Sales Tax Account**” means the separate segregated account within the CID Revenue Fund into which District Revenues are deposited.

“**CID Special Assessment**” means the special assessment levied by the District on real property as described in the CID Petition within its boundaries pursuant to the CID Act.

“**CID Special Assessment Account**” means the separate segregated account within the CID Revenue Fund into which District Revenues are deposited.

“**City**” means the City of Gladstone, Missouri, a third-class city and political subdivision of the State.

“**City Code**” means the Code of Ordinances of the City, as amended.

“**CID Revenue Fund**” means the fund established pursuant to this Agreement which includes the CID Sales Tax Account and CID Special Assessment Account.

“**City Council**” means the governing body of the City.

“**County Recorder**” means the Clay County Recorder of Deeds.

“**Developer**” means SREH MAG Gladstone Partners, LLC a Delaware limited liability company, together with its successors and/or assigns.

“**Development**” means the project or portion thereof located in the District consisting of construction of a hotel and related site improvements.

“**District**” means the Downtown Linden Community Improvement District, a political subdivision of the State.

“**District Project**” means the improvements within the boundaries of the District as described in Exhibit C, attached hereto and incorporated herein by reference, which may be completed in phases.

“**District Revenues**” means the proceeds of the CID Sales Tax and CID Special Assessment. District Revenues shall not include (a) the charge of up to 1.0% to be retained by the District in connection with the collection of the CID Special Assessment (b) any amount paid under protest until the protest is withdrawn or resolved against the taxpayer, (c) the amount, if any, retained by the Missouri Department of Revenue for the cost of collecting such tax, and (d) any sum received by the District which is the subject of a suit or other claim communicated to the District which suit or claim challenges the collection of such sum.

“**Event of Default**” means any event specified in **Section 7.1** of this Agreement.

“**Excusable Delays**” means delays due to acts of terrorism, acts of war or civil insurrection, strikes, riots, floods, earthquakes, fires, tornadoes, casualties, acts of God, labor disputes, governmental restrictions or priorities, embargoes, national or regional material shortages, failure to obtain regulatory approval from any federal or State regulatory body, unforeseen site conditions, material litigation commenced by parties other than a Party and not caused by any Party’s failure to perform and any other excusable delays as defined in this Agreement. Excusable Delays shall extend the time of performance as further provided in **Section 7.5** hereof.

“**Governmental Approvals**” means all plat approvals, re-zoning or other zoning changes, site plan approvals, conditional use permits, variances, building permits, or other subdivision, zoning, or similar approvals required for implementation and construction of the District Project.

“**Mayor**” means the Mayor of the City.

“Operating Costs” means an amount not to exceed the actual, reasonable expenses that are necessary or desirable for the operation of the District that shall include, but is not limited to, costs associated with notices, publications, meetings, supplies, equipment, photocopying, the engagement of legal counsel, accounting, financial auditing services, insurance, administration collection, and enforcement of the CID Sales Tax and CID Special Assessment, and other consultants or services.

“Permitted Assigns” means any entity controlled by the Developer or the principals of the Developer, or a related entity of either or both.

“Petition” means the petition to establish the Downtown Linden Community Improvement District filed with the City on or about July 11, 2019.

“Property” means all of the real property legally described on Exhibit C, attached hereto and incorporated herein by reference, which constitute the boundaries of the District.

“Reimbursable Project Costs” means all actual and reasonable costs and expenses that are incurred by or at the direction of the Developer with respect to construction of the District Projects, including the actual and reasonable cost of labor and materials payable to contractors, builders, suppliers, vendors and materialmen in connection with the construction contracts awarded for the District Projects that are constructed or undertaken by the Developer, plus all actual and reasonable costs to plan, finance, develop, design and acquire the District Projects, including but not limited to the following:

(a) all actual and reasonable costs of the District Projects as estimated in Exhibit A plus any costs of formation of the District;

(b) all administrative costs of the District advanced by the Developer pursuant to the terms of this Agreement; and

(c) all other items of expense not elsewhere specified in this definition which may be necessary or incidental to the review, approval, acquisition, construction, improvement and financing of the District Project and which may lawfully be paid or incurred by the District under the CID Act.

“Reimbursement Certificate” means a certificate identifying Reimbursable Project Costs in substantially the form of Exhibit B, attached hereto and incorporated herein by this reference. Such certificate is only required if this Agreement is no longer effective. Otherwise, the process outlined in this Agreement shall be followed.

“State” means the State of Missouri.

ARTICLE II. REPRESENTATIONS OF PARTIES

Section 2.1 Representations by the District. As of the effective date of this Agreement, the District represents that:

(a) The District is a community improvement district and political subdivision, duly organized and existing under the laws of the State, including particularly the CID Act.

(b) The District, by proper action of its Board of Directors, will be duly authorized to execute and deliver this Agreement and to carry out its obligations hereunder, acting by and through its duly authorized officers.

(c) The execution and delivery of this Agreement, the consummation of the transactions contemplated by this Agreement, and the performance of or compliance with the terms and conditions of this Agreement by the District will not conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any mortgage, deed of trust, lease or any other restriction or any agreement or instrument to which the District is a party or by which it or any of its property is bound, or any order, rule or regulation of any court or governmental body applicable to the District or any of its property, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the District under the terms of any instrument or agreements to which the District is a party.

(d) There is no litigation or proceeding pending or, to the District's knowledge, threatened against the District affecting the right of the District to execute or deliver this Agreement or the ability of the District to comply with its obligations under this Agreement or which would materially adversely affect its financial condition.

(e) The District acknowledges that the funding and construction of the District Projects are of significant value to the District, the property within the District and the general public. The District finds and determines that the District Projects will promote the economic welfare and the development of the City and the State through: (i) the creation of temporary and permanent jobs; (ii) the stimulation of additional development within the District; (iii) the increase in local and state tax revenues; and (iv) the remediation of blighted conditions present in the District. Further, the District finds that the District Projects conform to the purposes of the CID Act.

Section 2.2 Representations by the City. As of the effective date of this Agreement, the City represents that:

(a) The City is duly organized and existing under the Constitution and laws of the State, as a third-class city and is a political subdivision in which the District is located.

(b) The City is authorized to enter into this Agreement and to carry out its obligations under this Agreement and the Mayor has been duly authorized to execute and deliver this Agreement.

(c) The execution and delivery of this Agreement, the consummation of the transactions contemplated by this Agreement, and the performance of or compliance with the terms and conditions of this Agreement by the City will not conflict with or result in a breach of any of the terms, conditions or provisions of, or constitute a default under, any mortgage, deed of trust, lease or any other restriction or any agreement or instrument to which the City is a party or by which it or any of its property is bound, or any order, rule or regulation of any court or governmental body applicable to the City or any of its property, or result in the creation or imposition of any prohibited lien, charge or encumbrance of any nature whatsoever upon any of the property or assets of the City under the terms of any instrument or agreement to which the City is a party.

(d) There is no litigation or proceeding pending or, to the City's knowledge, threatened against the City affecting the right of the City to execute or deliver this Agreement or the ability of the City to comply with its obligations under this Agreement.

Section 2.3 Representations by the Developer. As of the effective date of this Agreement, the Developer represents that:

(a) The Developer is a limited liability company duly organized and existing under the laws of the State of and authorized to do business in the State.

(b) The execution and delivery of this Agreement, the consummation of the transactions contemplated hereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms of conditions of any corporate or organizational restriction or of any agreement or instrument to which it is now a party which would affect or otherwise impede Developer's ability to perform its obligations under this Agreement, and do not and will not constitute a default under any of the foregoing.

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

(d) The execution and delivery of this Agreement, the consummation of the transactions contemplated thereby, and the fulfillment of the terms and conditions hereof do not and will not conflict with or result in a breach of any of the terms or conditions of any organizational restriction or of any agreement or instrument to which it is now a party, and do not and will not constitute a default under any of the foregoing.

(e) No litigation, proceedings or investigations are pending or, to the knowledge of the Developer, threatened against the Developer, the District Projects, or Developer's affiliates or any member or owners of the Developer relating to the District Projects. In addition, no litigation, proceedings or investigations are pending or, to the knowledge of the Developer, threatened against the Developer seeking to restrain, enjoin or in any way limit the approval or issuance and delivery of this Agreement or which would in any manner challenge or adversely affect the existence or powers of the Developer to enter into and carry out the transactions described in or contemplated by the execution, delivery, validity or performance by the Developer of the terms and provisions of this Agreement.

(f) To the Developer's actual knowledge, the Developer is in material compliance with all laws, ordinances, orders, decrees, decisions, rules, regulations and requirements of every duly constituted governmental authority, commission and court having jurisdiction over the District Projects as contemplated by this Agreement.

ARTICLE III. COLLECTION OF FUNDS

Section 3.1 Imposition of the CID Sales Tax . The District has approved a resolution, subject to the approval of the District's qualified voters, that imposes the CID Sales Tax. The CID Sales Tax shall appear before the qualified voters by mail-in ballot. If the ballot measure passes, the District shall notify the Missouri Department of Revenue of the election results.

Section 3.2. Imposition of the CID Special Assessment. The District will approve a resolution that levies the CID Special Assessment. The maximum rate of the CID Special Assessment shall be as set forth in the Petition, as further defined in the Special Assessment Petition attached to the Petition as Exhibit E, and the authorizing resolution of the Board of Directors required pursuant to Section 67.1521 of the CID Act.

Section 3.3 Administration and Collection of the CID Sales Tax. The CID Sales Tax shall be collected by the Missouri Department of Revenue pursuant to the procedures set forth in the CID Act, and shall be deposited in accordance with this Agreement, including without limitation, the amounts to be deposited in the CID Sales Tax Account as defined therein. Upon the expiration or termination of this Agreement, the CID Sales Tax may be deposited by the District in any manner authorized by the Petition, as amended, and the CID Act.

Section 3.4. Administration and Collection of the CID Special Assessment. The proceeds of the CID Special Assessment shall be collected by the District pursuant to the procedures set forth in the CID Act and shall be deposited in the CID Special Assessment Account as defined therein. Upon the expiration or termination of this Agreement, the CID Special Assessment may be deposited by the District in any manner authorized by the Petition and the CID Act.

Section 3.5 District's Administrative Costs. The CID Revenue Fund shall be used to reimburse administrative costs identified in the Petition, and the Operating Costs or for any other lawful purpose of the District, as determined by the Board of Directors and permitted of this Agreement. The expected administrative costs shall be included in the District's annual budget, as provided in **Section 4.1** of this Agreement.

Section 3.6 Records of the District Revenues. The District, shall keep accurate records of the District Revenues collected. Any District records pertaining to the CID Sales Tax or CID Special Assessment shall be provided to any person upon written request, to the extent permitted by law.

Section 3.7 Repeal of the CID Sales Tax or CID Special Assessment. As long as any Reimbursable Project Costs remain unpaid or any CID Obligations remain outstanding, the District shall not repeal or reduce the CID Sales Tax or CID Special Assessment. Upon satisfaction in full of payment of all Reimbursable Project Costs and CID Obligations and if the District expects no further certifications to be made, the District shall immediately implement the procedures in the CID Act for repeal of the CID Sales Tax and the CID Special Assessment and for abolishment of the District. Upon repeal of the CID Sales Tax and CID Special Assessment, the District shall:

- (a) Pay all outstanding Operating Costs; and
- (b) Retain any remaining District Revenues until such time as the District is abolished and the District has provided for the transfer of any funds remaining in a manner permitted by the CID Act.

ARTICLE IV. ANNUAL REPORTING

Section 4.1 Annual Budget; Annual Financial Statements.

(a) Pursuant to Section 67.1471 of the CID Act, for each subsequent fiscal year, the District shall, no earlier than 180 days and no later than 90 days prior to the first day of each fiscal year, submit a proposed budget for the upcoming fiscal year to the City, which shall be approved by the Board of Directors no later than 30 days prior to the first day of each fiscal year. The City may review and comment on such budget and may provide written recommendations, if any, no later than 90 days prior to such new fiscal year; provided that such recommendations shall not be binding upon the District. Within 120 days after the end of each fiscal year, the District shall submit to the City Clerk copies of the written resolutions approved by District during such fiscal year. Each budget for the District shall generally be prepared in accordance with all applicable state statutes including Section 67.010 Revised Statutes of

Missouri, as amended. The fiscal year of the District shall be the same as that of the City, which shall be a fiscal year beginning July 1 and ending June 30.

(b) The District shall promptly, and in any event within 120 days after the end of each fiscal year, provide to the Developer and the City copies of the annual financial statements of the District prepared by an independent certified public accounting firm.

ARTICLE V. FINANCING CID PROJECTS

Section 5.1 Design and Construction of CID Projects. The District and the City hereby acknowledge that the District Projects are being undertaken pursuant to this Agreement. The District and City hereby further acknowledge that the Developer plans to construct the District Projects in accordance with the plans filed and approved by the City and this Agreement. The District's primary role is to fund and/or assist in the funding of the District Projects. The District Projects shall be carried out by or at the direction of the Developer or the City, subject to Applicable Laws and Requirements. The Developer shall comply with all Applicable Laws and Requirements relating to public bidding, posting of bonds, prohibitions and requirements contained in Chapters 67, 107 208, 285, 292, and 650, RSMo (as applicable) and payment of prevailing wages to contractors or subcontractors of Developer for construction of the Development and District Projects, if applicable. The parties agree that the Development and District Projects are "public works" under the provisions of Section 107.010, RSMo. Developer shall indemnify and hold harmless the City and the District for any damage resulting to it from the failure of either Developer or its contractor or subcontractor to comply with applicable laws.

Section 5.2 Priority of District Revenues. District Revenue shall be available annually to first pay the Developer's remaining Reimbursable Project Costs and then to reimburse Developer for any advances for Operating Costs and then for any other lawful purpose of the District. These priority payments are authorized hereunder and under this Agreement in consideration of the City granting access to infrastructure financed and constructed by the City to property in the District as necessary for development to occur which benefits the property in the District.

Section 5.3 Financing the District Projects. Project costs will be certified and allocated as eligible for reimbursement by the District and reimbursed from the CID Sales Tax Account or CID Special Assessment Account or as otherwise provided by this Agreement. Once a project cost amount is certified and reimbursed from the applicable account, it may not be reimbursed again from the applicable account or from District Revenues.

Section 5.4 CID Reimbursable Project Costs .

(a) If this Agreement is effective then Reimbursement Requests shall be submitted pursuant to the procedure described in "Request for Certification" provided in this Agreement. If this Agreement is no longer effective, Developer shall submit its request for certification of CID Reimbursable Project Costs substantially in the form attached hereto as Exhibit B to the District for approval. The District shall review and approve the Reimbursement Certificate to verify that the expenditures are eligible for reimbursement. Developer shall provide itemized invoices, receipts, or other information, if any, to confirm that any submitted cost has been so incurred and qualifies as a CID Reimbursable Project Cost. If the District determines, in its reasonable discretion, that the project costs are CID Reimbursable Project Costs, then the Reimbursement Certificate and the amounts stated therein for payment from the CID Sales Tax Account or Special Assessment Account in accordance with this Agreement shall be approved. If the District decides not to approve the Reimbursement Certificate, the District shall notify the Developer in writing and shall specify in such notice the reason(s) for withholding

its approval. Upon request of the Developer, the District shall hold a hearing at which the Developer may challenge the District's determination, including presentation of new and/or additional evidence.

Section 5.5 Governance of the District.

(a) The Board of Directors shall consist of five (5) members to be appointed by the Mayor with the consent of the City Council pursuant to the CID Act, the Petition and the CID Ordinance. The number of persons constituting the Board of Directors shall not be increased by the District without the consent of both the Developer (but only as long as the Developer owns property in the District or Developer has not been reimbursed for all remaining Reimbursable Project Costs) and the City.

(b) Each director must have all of the following characteristics:

- (i) be a citizen of the United States;
- (ii) be a Missouri resident for at least one year prior to appointment to the Board of Directors;
- (iii) be at least eighteen (18) years of age; and
- (iv) be either:
 - (A) an owner as defined in Section 67.1401.2(11) of the CID Act of real property located within the District (or a legally authorized representative thereof); or
 - (B) a business operating within the District (or a legally authorized representative thereof); or
 - (C) a registered voter residing within the District.

Section 5.6 Ownership and Maintenance of District Projects. The District shall have no ownership of the District Projects. The District Projects shall be owned by the Developer or the City, as applicable. Any District Project to be owned by the City must be affirmatively accepted by the City in writing. The District shall not be responsible for maintenance of the District Projects. The owner of the District Projects shall be responsible for maintenance of the District Projects, except that portion of the District Projects located in public right-of-way.

**ARTICLE VI.
SPECIAL COVENANTS**

Section 6.1 Records of the District.

(a) The District shall keep proper books of record and account in which full, true and correct entries will be made of all dealings or transactions of or in relation to its business affairs in accordance with generally accepted accounting principles consistently applied. Pursuant to Section 67.1471 of the CID Act, the District shall, within 120 days after the end of each fiscal year, submit a report to the City and the Missouri Department of Economic Development stating the services provided, revenues collected and expenditures made by the District during such fiscal year, and copies of written resolutions approved by the Board of Directors during the fiscal year.

(b) The District shall make its books and records available to the City and will furnish to the City such information as it may reasonably request concerning the District, including such statistical and other operating information requested on a periodic basis, in order to determine whether the covenants, terms and provisions of this Agreement have been met. The City may retain such consultants as it deems necessary in connection with such review, the cost of which shall be an Operating Cost payable by the District or the Developer in accordance with this Agreement. For that purpose, all pertinent books, documents and vouchers relating to the District's business, affairs and properties shall at all times during regular business hours be open to the inspection of such consultants (who may make copies of all or any part thereof provided that the confidentiality of all records shall be maintained pursuant to such confidentiality agreements as the District reasonably requires).

Section 6.2 Developer's Covenants Related to the District. The Developer covenants and agrees as follows:

(a) The Developer shall in good faith cooperate and assist the District by taking all reasonable actions necessary to cause District Revenues to be paid and deposited in accordance with this Agreement, including its cooperation with the District, Clay County, Missouri, or the Authorized District Representative in the enforcement and collection of all such payments through all reasonable and ordinary means of enforcement.

(b) The Developer shall not cause the District to impose any other sales taxes, special assessments, real property taxes or other fees or charges for use of property owned by the District not authorized by the Petition without the prior written consent and requisite approval of the City.

(c) The Developer shall notify the District in writing of any sale, lease, transfer or other disposition of any real property within the District that is owned by the Developer or a related entity, which notice shall be given within 15 days after the date of said sale, lease, transfer or other disposition. Said notice shall specify the name and address of the person or entity that acquired any or all of the real property located within the District and shall identify the real property sold, leased, transferred or otherwise disposed, whether by voluntary transfer or otherwise.

(d) The Developer shall cooperate with the District and the City to obtain approval of any proposal for the abolishment of the District pursuant to the CID Act, subject to the terms of this Agreement and the CID Act.

The Developer's covenants in this Section shall run with the land to any purchaser, tenant or transferee of any of the real property within the District owned by the Developer, or a related entity and the Developer shall record or cause to be recorded this Agreement or a memorandum of such covenants with the County Recorder. Upon execution of this Agreement, the Developer shall, or shall cause a related entity to use reasonable efforts to specifically include the covenants in this Section in all deeds, leases and other instruments by which the Developer conveys an interest in real property within the District; provided that, the Developer shall have no obligation to include such covenants in any deeds, leases or other instruments by which the Developer has conveyed an interest in real property within the District prior to the execution of this Agreement.

Section 6.3 Governmental Approvals. The City agrees to employ reasonable and good faith efforts to cooperate with the Developer and the District and to process and timely consider and respond to all applications for Governmental Approvals as received, all in accordance with the applicable Sections of the City Code and laws of the State. The City shall cooperate with the Developer and the District in their efforts to obtain all approvals for the construction of the District Projects and to provide the Developer

and the District with all reasonable assistance in expediting any and all permits necessary to proceed with the District Projects.

**ARTICLE VII.
DEFAULTS AND REMEDIES**

Section 7.1 Events of Default. If any Party fails in the performance of any covenant, agreement or obligation imposed or created by this Agreement, and such default continues for 60 days (or such longer period of time required if the defaulting Party determines, with the consent of the other Parties, that such default cannot reasonably be cured within such 60-day period) after a non-defaulting Party has given written notice to the defaulting Party specifying such default and an opportunity to cure, such event shall constitute an Event of Default under this Agreement.

Section 7.2 Remedies on Default. If any Event of Default has occurred and is continuing, then any non-defaulting Party may, upon its election or at any time after its election while such Event of Default continues, by mandamus or other suit, action or proceedings at law or in equity, enforce its rights against the defaulting Party and its officers, agents and employees, and may require and compel duties and obligations required by the provisions of this Agreement.

Section 7.3 Rights and Remedies Cumulative. The rights and remedies reserved by the Parties under this Agreement and those provided by law shall be construed as cumulative and continuing rights. No one of them shall be exhausted by the exercise thereof on one or more occasions. The Parties shall be entitled to specific performance and injunctive or other equitable relief for any breach or threatened breach of any of the provisions of this Agreement, notwithstanding availability of an adequate remedy at law, and each Party hereby waives the right to raise such defense in any proceeding in equity.

Section 7.4 Waiver of Breach. No waiver of any breach of any covenant or agreement contained in this Agreement shall operate as a waiver of any subsequent breach of the same covenant or agreement or as a waiver of any breach of any other covenant or agreement, and in case of an Event of Default, a non-defaulting Party may nevertheless accept from the defaulting Party, any payment or payments without in any way waiving the non-defaulting Party's right to exercise any of its rights and remedies as provided herein with respect to any such default or defaults in existence at the time when such payment or payments were accepted by the non-defaulting Party.

Section 7.5 Excusable Delays. No Party shall be deemed to be in default of this Agreement because of Excusable Delays; provided, an Excusable Delay shall not be deemed to exist (a) as to any matter that could have been avoided by the exercise of due care, (b) as to any matter initiated or unreasonably sustained by the Party claiming the Excusable Delay, and (c) unless the Party claiming the Excusable Delay provides written notice to the other Parties within 30 days after such Party has actual notice of the claimed event.

**ARTICLE VIII.
MISCELLANEOUS**

Section 8.1 Effective Date. This Agreement shall become effective against the Developer and the City on the date set forth herein following the passage of an ordinance by the City Council approving the same, and against the District on the date that the Board of Directors adopts a resolution authorizing execution of the same.

Section 8.2 Federal Work Authorization Program. The Developer acknowledges that Section 285.530 of the Revised Statutes of Missouri, prohibits any business entity or employer from knowingly

employing, hiring for employment, or continuing to employ an unauthorized alien to perform work within the State, and that, to the extent that the employees of the Developer working in connection with the District Projects and the Development apply, the Developer is required to comply with the provisions of Section 285.530 of the Revised Statutes of Missouri, as a condition to the receipt of the incentives described herein with respect to the such employees working in connection with the District Projects and the Development.

Section 8.3 Release and Indemnification. The indemnifications and covenants contained in this Section shall survive termination or expiration of this Agreement.

(a) Notwithstanding any other provision of this Agreement to the contrary, the City and its governing body members, officers, agents, servants, employees and independent contractors shall not be liable to the District or the Developer for damages or otherwise if all or any part of the CID Act or any resolution or ordinance adopted in connection with the creation of the District, the imposition of the District Revenues, the District Projects or this Agreement, is declared invalid or unconstitutional in whole or in part by the final (as to which all rights of appeal have expired or have been exhausted) judgment of any court of competent jurisdiction, and by reason thereof either the City is prevented from performing any of the covenants and agreements herein or the District or the Developer are prevented from enjoying the rights and privileges hereof; however, if such an event does occur, then the City agrees to cooperate with the Developer to use reasonable good faith efforts to take such actions as are reasonably necessary to re-form the District in a manner consistent with this Agreement.

(b) The District and the Developer release from and covenant and agree that the City, its governing body members, officers, employees, agents and independent contractors shall not be liable for, and agrees, to the extent permitted by law, to hold harmless and indemnify the City, its governing body members, officers, employees, agents and independent contractors, from and against all suits, claims, costs of defense, damages, injuries, liabilities, costs and/or expenses, including court costs and reasonable attorneys' fees and expenses, resulting from, arising out of, or in any way connected with: (1) the creation of the District, (2) the imposition and collection of the District Revenues, (3) the construction of the District Projects, (4) the negligence or willful misconduct of the District or the Developer or any affiliate of Developer which owns an interest in the District Projects, their respective employees, agents or independent contractors in connection with the design management, development, redevelopment and construction of the District Projects, and (5) the District's or the Developer's failure to comply with any applicable state, federal or local laws, regulations and ordinances as applicable to the property within the boundaries of the District.

(c) All covenants, stipulations, promises, agreements and obligations of the City contained herein shall be deemed to be the covenants, stipulations, promises, agreements and obligations of the City and not of any of its governing body members, officers, agents, servants or employees in their individual capacities.

(d) No official, employee or representative of the City shall be personally liable to the District or the Developer or their affiliates (1) in an Event of a Default or breach by any Party under this Agreement or (2) for any amount or any District Obligations which may become due to any Party under the terms of this Agreement.

Section 8.4 Successors and Assigns. This Agreement shall be binding on and shall inure to the benefit of the parties named herein and their respective heirs, administrators, executors, personal representatives, successors and assigns. The District and the City hereby consent that all or any portion of the rights, interests, powers, privileges and benefits accruing to or vested in the Developer under this Agreement may be (a) assigned to an individual or entity related to the Developer or to the Permitted

Assigns; or (b) collaterally assigned by the Developer to secure loans, advances or extensions of credit to finance or from time to time refinance all or any part of the District Projects or the Development, or the right of the transferee of any such collateral assignment to transfer such interest by foreclosure or transfer in lieu of foreclosure under such collateral assignment.

Section 8.5 Immunities. No recourse shall be had for any claim based upon any representation, obligation, covenant or agreement in this Agreement maintained against any past, present or future elected official, officer, member, employee, director or agent of the City or the District, or of any successor thereto, as such, either directly or through the City or the District, or any successor thereto, under any rule of law or equity, statute or constitution or by the enforcement of any assessment or penalty or otherwise, and all such liability of any such elected officials, officers, members, employees, directors or agents as such is hereby expressly waived and released as a condition of and consideration for the execution of this Agreement. The District, as a separate political subdivision of the State, is responsible for compliance with all applicable State laws and agrees to hold harmless and indemnify the City from and against all suits, claims, costs of defense, damages, injuries, liabilities, costs and/or expenses, including court costs and attorneys' fees and expenses, resulting from, arising out of, or in any way connected with the District's failure to comply with any applicable State law.

Section 8.6 Modification. The terms, conditions, and provisions of this Agreement can be neither modified nor eliminated except in writing and by mutual agreement among the Parties. Any modification to this Agreement as approved shall be attached hereto and incorporated herein by reference.

Section 8.7 Notices. Notices required by this Agreement shall be deemed given if deposited in the United States mail, first class, postage prepaid or reputable overnight carrier and addressed as hereinafter specified.

(a) In the case of the District to:

with a copy to:

(b) In the case of the Developer to:

(c) In the case of the City to:

City of Gladstone, Missouri
7010 N Holmes Street
Gladstone, Missouri 64118
Attention: Scott Wingerson

with a copy to:

Williams and Campo, P.C.
400 SW Longview Blvd. #210
Lee's Summit, Missouri 64081
Attention: Chris Williams

or to such other address with respect to any Party as that Party may, from time to time, designate in writing and forward to the other.

Section 8.8 Applicable Law; Common Representation. This Agreement shall be governed by and construed in accordance with the laws of the State. The District and the Developer agree that the engagement of common special legal counsel among such Parties does not materially limit the representation of those Parties and will not adversely affect the relationship among such Parties. To the extent that such common legal representation presents a conflict of interest, the District and the Developer hereby consent to common representation. The District and the City agree that the engagement of common special legal counsel among such Parties does not materially limit the representation of those Parties and will not adversely affect the relationship among such Parties. To the extent that such common legal representation presents a conflict of interest, the District and the City hereby consent to common representation.

Section 8.9 Validity and Severability. It is the intention of the Parties that the provisions of this Agreement shall be enforced to the fullest extent permissible under the laws and public policies of State, and that the unenforceability (or modification to conform with such laws or public policies) of any provision hereof shall not render unenforceable, or impair, the remainder of this Agreement. Accordingly, if any provision of this Agreement is deemed invalid or unenforceable in whole or in part, this Agreement shall be deemed amended to delete or modify, in whole or in part, if necessary, the invalid or unenforceable provision or provisions, or portions thereof, and to alter the balance of this Agreement in order to render the same valid and enforceable.

Section 8.10 Execution of Counterparts; Electronic Documents. This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed to be an original, but all of which together shall constitute one and the same instrument. The arrangement described herein may be conducted and related documents may be stored by electronic means. Copies, telecopies, facsimiles, electronic files and other reproductions of original documents shall be deemed to be authentic and valid counterparts of such original documents for all purposes, including the filing of any claim, action or suit in the appropriate court of law.

[The remainder of this page has intentionally been left blank]

SREH MAG Gladstone Partners, LLC

By: Robert Sadoff
ROBERT SADOFF, Manager

ACKNOWLEDGMENT

STATE OF Illinois)
) SS.
COUNTY OF Cook)

On this 2nd day of June, 2020, before me, the undersigned, a Notary Public in and for said State, personally appeared Robert Sadoff, to me personally known, who, being by me duly sworn, did say that said individual is the Manager of SREH MAG Gladstone Partners, a Delaware limited liability company, and that said instrument was signed on behalf of said limited liability company by authority of its members, and said officer acknowledged said instrument to be the free act and deed of said limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the day and year last above written.

Suzanne M. Tam
Notary Public in and for said State



please affix seal firmly and clearly in this box

**EXHIBIT A
DESCRIPTION OF DISTRICT PROJECTS
AND ESTIMATED REIMBURSABLE PROJECT COSTS**

The District Projects consist generally of the following:

(i) causing certain infrastructure and site improvements to be made for the benefit of the entire District, including but not limited to rough grading the land within the District; installation of electricity, water, storm sewer, sanitary sewer, natural gas, data/telecommunications transmission lines within the District in order that said utility services may be available to all lots or parcels within the District; installation of any signs, sidewalks, streetlights, landscaping or other amenities benefiting the entire District; and the construction of parking improvements, streets, access roads, drive lanes and similar improvements within the District;

(ii) causing the necessary engineering, planning, administrative, and legal work to be done for formation and development of the District as a whole;

(iii) employing persons for, or contracting for the provision of, landscape and streetscape maintenance services to access drives, lawns, and parking areas on property open to public view (whether owned by the District or by persons within the District) in the District to improve the appearance and image of the District, including but not limited to purchasing, installing and maintaining trees, shrubs, flowers and other vegetation; maintaining pots and planters; planting and replacing trees located along or adjacent to public rights-of-way and private drives; purchasing, installing, operating and maintaining lighting and public art; mowing, seeding and fertilizing grass and other vegetation located in parks, boulevards and public rights-of-way;

(iv) hiring or contracting for personnel to staff and provide services to the District, and furnishing and equipping such staff necessary to provide the services described above;

(v) establishing a reserve fund for future maintenance expenses and the replacement or repair of capital improvements which constitute the District Project; and

(vi) performing any other services and improvements authorized under the Act.

The estimated Project Costs to be reimbursed by the District shall include, but not be limited to the following costs necessary for the construction of the following public improvements within the District:

Project Costs	Total
Public Improvements:	
Grading and site prep	\$ 350,000
Reconstruction of Parking Lot	\$ 250,000
Construction and Extension of Utilities	\$ 75,000
Total Public Improvements	\$ 675,000
 Soft Costs	
Professional Services	\$ 175,000
Total Soft Costs	\$ 175,000
TOTAL PROJECT COSTS	\$ 850,000

Amounts set forth above are net estimated cost reimbursements and do not include (other than certain limited interest and financing costs during the construction and ramp-up period to stabilization) interest expenses, financing expenses, fees, or costs of issuance for bonds, notes, or any other financing instrument, all of which are eligible costs of the District.

The cost estimates set forth in this Budget are reasonable best estimates at the time of approval of this District and it is agreed to and understood that such estimates are subject to change as part of the development process. The amounts and descriptions set forth in the above line items are not caps or limitations. Any such limitation on reimbursement shall only be subject to statutory restrictions.

General Description of Improvements to be Funded by the District:

The District will fund the budgeted expenditures as set forth above, including, without limitation site improvements such as demolition, environmental remediation, public utilities, parking, remediation of blighting conditions, and other improvements and services authorized by the CID Act necessary to carry out the purposes of the District.

EXHIBIT B
CERTIFICATE OF REIMBURSABLE PROJECT COSTS

To: Chair, Downtown Community Improvement District
City Manager, City of Gladstone, Missouri

Re: Certificate of Reimbursable Project Costs

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Cooperative Agreement dated as of _____, 20__ (the "Agreement"), among the City of Gladstone, Missouri (the "City"), the Downtown Linden Community Improvement District (the "District") and SREH MAG GLADSTONE PARTNERS, LLC (the "Developer"). In connection with said Agreement, the undersigned hereby states and certifies that:

1. Each item listed on Schedule 1 attached hereto is a Reimbursable Project Cost and was incurred in connection with the construction of the District Project.
2. These Reimbursable Project Costs have been paid by the Developer and are reimbursable under the Agreement and the CID Act.
3. Each item listed on Schedule 1 has not previously been paid or reimbursed from money derived from the District, and no part thereof has been included in any other certificate previously filed with the District.
4. There has not been filed with or served upon the Developer any notice of any lien, right of lien or attachment upon or claim affecting the right of any person, firm or corporation to receive payment of the amounts stated in this request, except to the extent any such lien is being contested in good faith.
5. All necessary permits and approvals required for the work for which this certificate relates have been issued and are in full force and effect.
6. All work for which payment or reimbursement is requested has been performed in a good and workmanlike manner and in accordance with the Agreement.
7. If any cost item to be reimbursed under this Certificate is deemed not to constitute a Reimbursable Project Cost within the meaning of the Agreement and the CID Act, the Developer shall have the right to substitute other eligible Reimbursable Project Costs for payment hereunder.
8. The Developer is not in default or breach of any term or condition of the Agreement, and no event has occurred and no condition exists which constitutes an Event of Default by the Developer under the Agreement.
9. Attached to this Certificate is a sworn affidavit and supporting documentation affirming participation in a qualified work authorization program as evidence of its compliance with Section 285.530 of the Revised Statutes of Missouri with respect to the employees of the Developer working in connection with the District Project and the Development.

10. All of the Developer's representations set forth in the Agreement remain true and correct as of the date hereof.
11. Receipts are attached and spreadsheet submitted showing budget amount and costs, payee, percentage of budget amount paid, remaining amount to be paid.

Dated this ____ day of _____, 20 ____.

_____, LLC

By: _____
_____, MANAGER

Approved for Payment this ____ day of _____, 20 ____:

DOWNTOWN LINDEN COMMUNITY IMPROVEMENT
DISTRICT

By:
Chair

Approved for Payment this ____ day of _____, 20 ____:

ACKNOWLEDGE RECEIVED BY:
CITY OF GLADSTONE, MISSOURI

By:
Authorized City Representative

SCHEDULE 1 TO CERTIFICATE OF REIMBURSABLE PROJECT COSTS

Itemization of Reimbursable Expenses

Description

Payee

Amount

EXHIBIT C
LEGAL DESCRIPTION OF THE DISTRICT

LOTS 4, 5, 6, 7, 8, 9, 10, 11 AND S. 10.72 FEET OF LOT 12, BLOCK 25, LINDEN SUBDIVISION.

COMMENCING AT THE NORTHWEST CORNER OF SAID LOT 1, BLOCK 25, LINDEN SUBDIVISION; THENCE S. 89° 37'44" E. ALONG THE NORTH LINE OF SAID LOT 1, A DISTANCE OF 80.00 FEET TO THE POINT OF BEGINNING OF SAID TRACT OF LAND; THENCE CONTINUING ALONG SAID NORTH LINE OF S. 89° 37'44" E, A DISTANCE OF 43.91 FEET TO THE NORTHEAST CORNER OF SAID LOT 1; THENCE ALONG THE EAST LINE OF SAID LOTS 1, 2 AND 3 S. 00° 25'15" W., A DISTANCE OF 160.38 FEET TO THE SOUTHEAST CORNER OF SAID LOT 3; THENCE ALONG THE SOUTH LINE OF SAID LOT 3 N. 89° 50'09" W., A DISTANCE OF 124.17 FEET TO THE SOUTHWEST CORNER OF SAID LOT 3; THENCE ON THE WEST LINE OF SAID LOTS 2 AND 3 N. 00° 30'41" E., A DISTANCE OF 80.83 FEET; THENCE PARALLEL WITH THE WEST LINE OF SAID LOTS 1,2, AND 3 N. 00° 30'41" E., A DISTANCE OF 80.00 FEET TO THE POINT OF BEGINNING, BEING TRACT 2 AS SHOWN ON THE CERTIFICATE OF SURVEY RECORDED DECEMBER 7, 2016 AS DOCUMENT NO. 2016043750 IN BOOK H, PAGE 177.

EXHIBIT D MAP OF THE DISTRICT

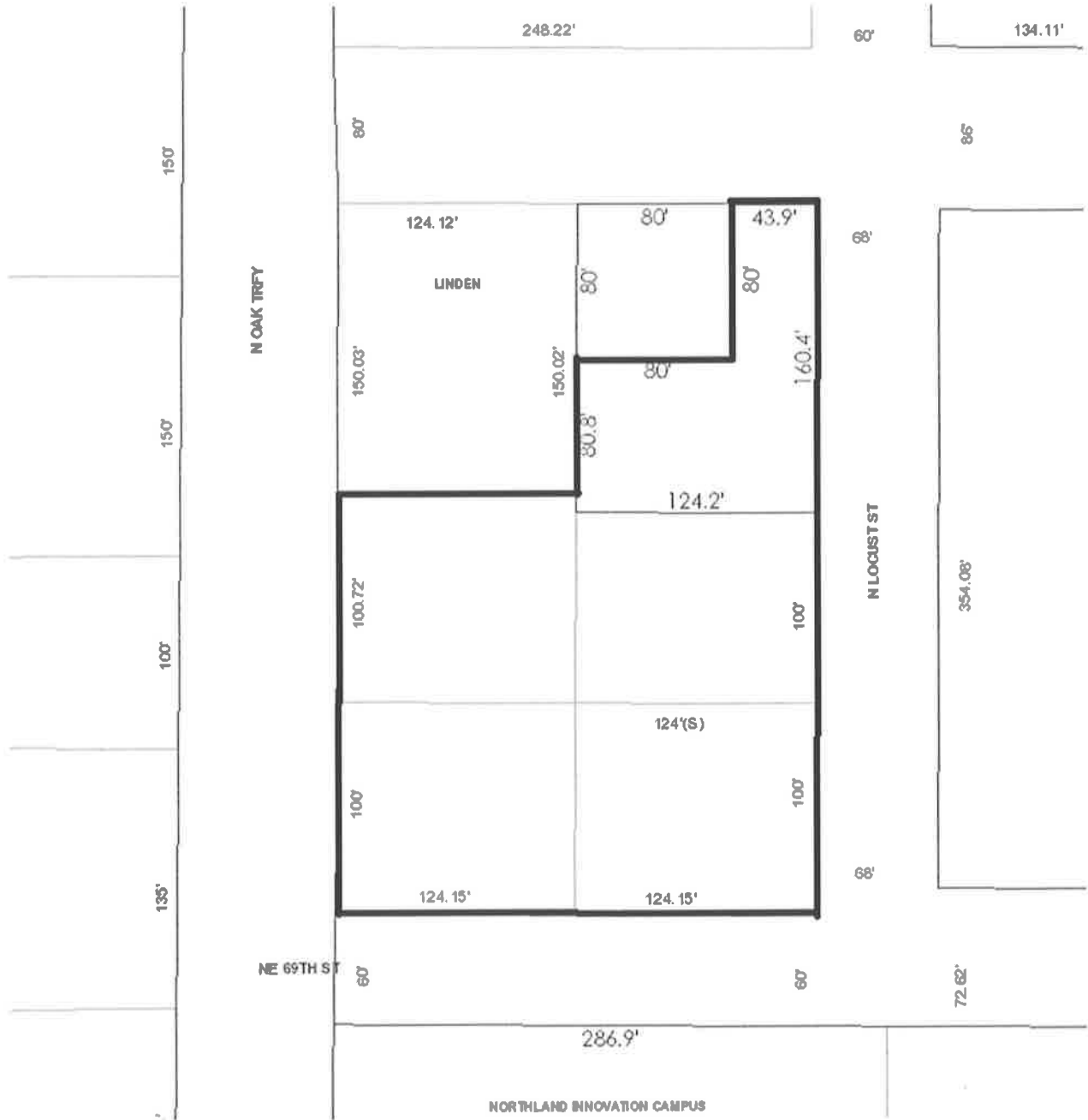


Exhibit D-1