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MICHAEL T. COSTELLO
RECORDER OF DEEDS
ST. CLAIR COUNTY
BELLEVILLE, IL

12/21/2012 09:40:08AM

TOTAL FEE: \$65.00

PAGES: 44

CLERK'S CERTIFICATE

STATE OF ILLINOIS)
COUNTY OF ST. CLAIR) ss.
CITY OF O'FALLON)

6500
I, PHILIP A. GOODWIN, City Clerk for said City of O'Fallon, duly elected, qualified, and acting, and keeper of the records and seals thereof, do hereby certify the attached to be a true, complete, and correct copy of Ordinance No. 3788 duly passed by the City Council of the City of O'Fallon at a Regular meeting of said City Council on the 17th day of December 2012, as the said matter appears on file and of record in this office.

I do further certify that prior to the execution of this certificate by me, the said Ordinance has been spread at length upon the permanent records of said City, where it now appears and remains in the book of Ordinances of the City kept by myself, a book labeled Ordinances.

IN WITNESS WHEREOF, I have hereunto set my hand and seal of said City at my office in the City of O'Fallon, Illinois, this 21 day of Dec 2012.

(SEAL)

PHILIP A. GOODWIN,
City Clerk
City of O'Fallon
St. Clair County, Illinois

**CITY OF O'FALLON, ILLINOIS
ORDINANCE NO. 3788**

**AN ORDINANCE OF THE
CITY OF O'FALLON WHICH
AUTHORIZES THE EXECUTION OF
THE REDEVELOPMENT AGREEMENT
WITH CENTRAL PARK RETAIL
CENTER**

- WHEREAS,** the City of O'Fallon, St. Clair County, Illinois (the "City") has the authority to adopt tax increment allocation financing pursuant to the Tax Increment Allocation Redevelopment ("TIF") Act, constituting Section 65 ILCS 5/11-74.4-1, et. seq., as amended (the "TIF Act"), to share a portion of the incremental tax revenue generated by the redevelopment project with the developer of such project to induce the developer's undertaking and performance of such project; and
- WHEREAS,** the City authorized preparation of a redevelopment plan entitled "City of O'Fallon, Illinois Tax Increment Financing Redevelopment Plan – Central Park Redevelopment Area" ("Redevelopment Plan"), with established geographic boundaries (hereinafter the "Redevelopment Project Area") for the City of O'Fallon, St. Clair County, Illinois; and
- WHEREAS,** in accordance with the TIF Act, the City (i) convened a joint review board which performed all actions required under the TIF Act, and (ii) held and conducted a public hearing with respect to the Redevelopment Plan and Redevelopment Project Area described in such Redevelopment Plan at a meeting of the Mayor and City Council (the "Council") held on April 2, 2012, notice of such hearing having been given in accordance with the TIF Act; and
- WHEREAS,** the Council, after giving all notices required by law, and after conducting all public hearings required by law, adopted the following ordinances:
- (1) Ordinance No. 3754, approving the Redevelopment Plan and Project,
 - (2) Ordinance No. 3755 designating the Redevelopment Project Area, and
 - (3) Ordinance No. 3753, adopting Tax Increment Financing for the Redevelopment Project Area and establishing a special tax allocation fund therefore ("Special Tax Allocation Fund"); and
- WHEREAS,** Greenmount Retail Center, LLC, LLC ("Developer") has submitted a Redevelopment Proposal providing for a redevelopment project to be undertaken

by the Developer within a portion of the Redevelopment Project Area (the "Project Area"). The City and Developer reasonably expect that completion of the redevelopment project (as defined in the Redevelopment Agreement to be approved by this Ordinance) will generate additional tax revenues and economic activity in furtherance of the goals of the Redevelopment Plan; and

WHEREAS, the Council desires to enter into an agreement ("Redevelopment Agreement") with the developer to implement certain portions of the Redevelopment Plan and to enable the developer to carry out the development project; and

WHEREAS, the City is desirous of having the Project Area developed for such uses as identified in the Redevelopment Proposal in order to serve the needs of the community, to create jobs, to further the development of O'Fallon, and to produce increased tax revenues and enhance the tax base of the City and the various taxing districts which are authorized to levy taxes within the Redevelopment Area; and the City, in order to stimulate and induce the development of the Project, has agreed to apply TIF revenues under the TIF Act and the Redevelopment Plan to finance the reimbursable redevelopment project costs (as defined in the Redevelopment Agreement) with the Developer; and

WHEREAS, pursuant to the TIF Act, the City is authorized to enter into a Redevelopment Agreement with the Developer.

NOW, THEREFORE, BE IT ORDAINED, by the Mayor and City Council of the City of O'Fallon, St. Clair County, Illinois, as follows:

1. That the preceding recitations in the upper part of this Ordinance are realleged, restated and adopted as paragraph one (1) of this Ordinance; and
2. The Council finds and determines that it is necessary and desirable to enter into an agreement with the Developer to implement certain portions of the Redevelopment Plan and to enable the Developer to carry out the Development Project; and
3. The Council hereby approves the Redevelopment Agreement in substantially the form attached hereto as Exhibit "A" ("Redevelopment Agreement").
4. The Mayor is hereby authorized and directed to execute, on behalf of the City, the Redevelopment Agreement between the City and Developer, and the City Clerk is hereby authorized and directed to attest to the Redevelopment Agreement and to affix the seal of the City thereto. The Redevelopment Agreement shall be in substantially the form attached hereto as Exhibit A, with such changes therein as shall be approved by the officers of the City executing the same, such official signatures thereon being conclusive evidence of their approval and the City's approval thereof; and
5. The City shall, and the officials, agents and employees of the City are hereby authorized and directed to, take such further action and execute


6. The sections, paragraphs, sentences, clauses and phrases of this Ordinance shall be severable. In the event that any such section, paragraph, sentence, clause or phrase of this Ordinance is found by a court of competent jurisdiction to be invalid, the remaining portions of this Ordinance are valid; and
7. This Ordinance shall be governed exclusively by, and construed in accordance with, the applicable laws of the State of Illinois; and
8. All Ordinances, motions or orders in conflict herewith shall be, and the same hereby are, repealed to the extent of such conflict, and this Ordinance shall take effect and be in full force from and after the date of its passage by the City Council and approval by the Mayor as provided by law.

[Signature]

Philip A. Goodwin, City Clerk

OFFICIAL SEAL
O'Fallon
ESTABLISHED 1854
St. Clair County, Illinois

ROLL	Meile	McCoskev	Polites
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Gary L. Graham, Mayor

ROLL CALL:	Meile	McCoskey	Polites	Mouser	Hagarty	Drolet, J.	SUB TOTALS
Aye	X	X	X	X	X		6
Nay						X	1
Absent							0

[illegible]

REDEVELOPMENT AGREEMENT

between

CITY OF O'FALLON, ILLINOIS

and

GREENMOUNT RETAIL CENTER, LLC

dated as of

Dec. 17, 2012

**CITY OF O'FALLON, ILLINOIS TAX INCREMENT FINANCING REDEVELOPMENT PLAN
CENTRAL PARK REDEVELOPMENT AREA**

REDEVELOPMENT AGREEMENT

This Redevelopment Agreement (this "**Agreement**") is made and entered into as of the 17th day of December, 2012 by and between the City of O'Fallon Illinois, an Illinois municipal home rule corporation (the "**City**"), and Greenmount Retail Center, L.L.C., a Illinois limited liability company located at 1331 Park Plaza Drive, Suite 4, O'Fallon, Illinois 62269 ("**Greenmount**").

RECITALS

The following Recitals are incorporated herein and made a part hereof.

- A. The City has the authority, pursuant to the laws of the State of Illinois, to promote the health, safety and welfare of the City and its inhabitants, to prevent the presence of blight, to encourage private development in order to enhance the local tax base, to increase additional tax revenues realized by the City, foster increased economic activity within the City, to increase employment opportunities within the City, and to enter into contractual agreements with third parties for the purpose of achieving the aforesaid purposes, and otherwise take action in the best interests of the City.
- B. The City is authorized under the provisions of the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1, *et seq.*, as amended (the "**TIF Act**"), to finance redevelopment in accordance with the conditions and requirements set forth in the TIF Act.
- C. Pursuant to the TIF Act, a plan for redevelopment known as the "City of O'Fallon, Illinois Tax Increment Financing Redevelopment Plan – Central Park Redevelopment Area" (the "**Redevelopment Plan**") for an area designated therein (the "**Redevelopment Project Area**"), consisting of approximately 145 acres, as legally described in the Redevelopment Plan and on **Exhibit A** hereto, has been prepared and reviewed by the City. Within the Redevelopment Project Area is a parcel of land designated as the "Greenmount Parcel," (defined below and legally described on **Exhibit B** hereto) which is the basis for this Agreement and described more fully within. Greenmount is the owner of the Greenmount Parcel.
- D. In accordance with the TIF Act, the City (i) convened a Joint Review Board which performed all actions required under the TIF Act, and (ii) held and conducted a public hearing with respect to the Redevelopment Plan, the Redevelopment Project Area and Greenmount's Development Project (as herein defined) described in such Redevelopment Plan at a meeting of the City Council (the "**Corporate Authorities**") of the City held on April 2, 2012, notice of such hearing having been given in accordance with the TIF Act.
- E. The Corporate Authorities, after giving all notices required by law and after conducting all public hearings required by law, adopted the following ordinances: (1) Ordinance No. 3754, approving the Redevelopment Plan, (2) Ordinance No. 3754, designating the Redevelopment Project Area, and (3) Ordinance No. 3753, adopting tax increment financing for the Redevelopment Project Area, which contains Greenmount's Parcel, and establishing a special tax allocation fund therefor (the "**Special Tax Allocation Fund**").
- F. Greenmount has presented a Development Project to the City, to be undertaken by Greenmount and the City, in accordance with the terms and conditions of this Agreement.
- G. Greenmount agrees to complete the Greenmount Improvements (as defined herein) in connection with Greenmount's Development Project, subject to the conditions herein and the City's performance of its obligations under this Agreement.

H. The City strongly supports increased economic development to provide additional jobs for residents of the City, to expand retail business and commercial activity within the City and to develop a healthy economy and stronger tax base. The City and Greenmount reasonably expect that completion of Greenmount's Development Project will generate additional tax revenues and economic activity in furtherance of the goals of the Redevelopment Plan.

I. It is necessary for the successful completion of Greenmount's Development Project that the City enter into this Agreement with Greenmount to provide for the redevelopment of Greenmount's Parcel within the larger Redevelopment Project Area, thereby implementing the Redevelopment Plan.

J. Greenmount is unable and unwilling to undertake the redevelopment of Greenmount's Parcel but for certain tax increment financing ("TIF") incentives to be provided by the City in accordance with the TIF Act and the home rule powers of the City, which the City is willing to provide under the terms and conditions contained herein. The parties acknowledge and agree that but for the TIF incentives to be provided by the City, Greenmount cannot successfully and economically develop Greenmount's Parcel in a manner satisfactory to the City. The City has determined that it is desirable and in the City's best interests to assist Greenmount in the manner set forth herein, and as this Agreement may be supplemented and amended.

K. Greenmount proposes to construct the Greenmount Improvements in connection with the Greenmount's Development Project on Greenmount's Parcel and has demonstrated to the City's satisfaction that Greenmount has the experience and capacity to complete the Greenmount Improvements.

L. The City, in order to stimulate and induce development of Greenmount's Parcel, has determined that it is in the best interests of the City to finance certain Greenmount's Development Project Costs through Incremental Property Taxes, all in accordance with the terms and provisions of the constitution and statutes of the State of Illinois, including the TIF Act and this Agreement.

M. The Corporate Authorities hereby determine that the implementation of Greenmount's Development Project and the fulfillment generally of the Redevelopment Plan are in the best interests of the City, and the health, safety, morals and welfare of its residents, and in accord with the public purposes specified in the Redevelopment Plan.

N. Pursuant to the provisions of the TIF Act, the City is authorized to enter into this Agreement to evidence the City's obligation to pay certain Greenmount's Development Project Costs incurred in furtherance of the Redevelopment Plan and Greenmount's Development Project, and to pledge the Incremental Property Taxes to the payment of the Reimbursable Greenmount's Development Project Costs to assist in financing of Greenmount's Development Project.

O. This Agreement has been submitted to the Corporate Authorities of the City for consideration and review, the Corporate Authorities have taken all actions required to be taken prior to the execution of this Agreement in order to make the same binding upon the City according to the terms hereof, and any and all actions of the Corporate Authorities of the City precedent to the execution of this Agreement have been undertaken and performed in the manner required by law.

P. Greenmount Retail Center, L.L.C. is a duly formed and validly existing limited liability company under the laws of Illinois. The execution, delivery and performance of this Agreement by Greenmount has been duly and validly authorized by all necessary action on the part of Greenmount.

NOW, THEREFORE, in consideration of the foregoing and of the mutual covenants and agreements herein contained, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties do hereby agree as follows:

ARTICLE ONE

INCORPORATION OF RECITALS

The findings, representations and agreements set forth in the above recitals are material to this Agreement and are hereby incorporated into and made a part of this Agreement as though fully set out in this Article One, and constitute findings, representations and agreements of the City and of Greenmount according to the tenor and import of the statements in such recitals.

ARTICLE TWO

DEFINITIONS

For the purposes of this Agreement, unless the context clearly requires otherwise, words and terms used in this Agreement shall have the meanings provided from place to place herein, including above in the recitals hereto and as follows:

"Agreement" means this Redevelopment Agreement, as the same may be from time to time modified, amended or supplemented in writing by the parties hereto.

"Agreement Term" means the period beginning as of the effective date of the Redevelopment Plan and concluding within 23 years, or, if earlier, after all Reimbursable Greenmount's Development Project Costs (described below) have been paid by the City to Greenmount.

"Approving Ordinance" means the ordinance(s) of the City to be adopted by the Corporate Authorities, from time to time, authorizing tax increment financing for the Redevelopment Project Area , and all related ordinances, resolutions and proceedings.

"Authorized City Representative" means the Mayor of the City, the City Administrator or designees or assigns.

"Business Day" means a day which is not a Saturday, Sunday or any other day on which banking institutions in New York, New York, or the city or cities in which the administrative offices or payment office of the Trustee is located, are required or authorized to close.

"Certificate of Substantial Completion" means a document substantially in the form of **Exhibit D** attached hereto and incorporated by reference herein, delivered by Greenmount to the City, in accordance with this Agreement in connection with and evidencing the substantial completion of Greenmount Improvements as identified on **Exhibit F** attached hereto.

"Certificate of Reimbursable Greenmount's Development Project Costs" means a document, substantially in the form of **Exhibit E** attached hereto and incorporated by reference herein, provided by Greenmount to the City evidencing Reimbursable Greenmount's Development Project Costs incurred by Greenmount with respect to Greenmount Improvements as identified on **Exhibit F** attached hereto, which Greenmount may submit to pay for Reimbursable Greenmount's Development Project Costs associated with Greenmount Improvements.

"City" means the City of O'Fallon, St. Clair County, Illinois, an Illinois home rule municipality.

"City Attorney" means an attorney at law or firm of attorneys acceptable to the City and Greenmount and serving in such capacity at any time on behalf of the City, duly admitted to the practice of law before the highest court of the State of Illinois.

"City Council" means the City Council of the City of O'Fallon, Illinois.

"Commencement Date" means the first day of the month following the first month in which the City receives Incremental Property Taxes pursuant to the TIF Act and such other authority as shall be applicable or any successor statutory revenues that are attributable to Greenmount Improvements to be constructed within any portion of the Redevelopment Project Area pursuant to this Agreement.

"Concept Plan" means the plans for Greenmount's Development Project, together with all supplements, amendments or corrections submitted by Greenmount and approved by the City in accordance with this Agreement, as set forth in **Exhibit C** hereto, as amended from time to time in accordance with this Agreement.

"Corporate Authorities" means the Mayor and the City Council.

"Governmental Approvals" means all plat approvals, re-zonings, text amendments or other zoning changes, site or development plan approvals, planned unit development approvals, conditional use permits, resubdivisions or other subdivision approvals, variances, sign approvals, building permits, grading permits, occupancy permits or similar approvals, utility regulatory approvals, and other approvals pertaining to the roadway widenings and reconfigurations and intersection and other street improvements from the City, St. Clair County, the State of Illinois, the appropriate sewer and other utility authorities, the U.S. Army Corps of Engineers, the Illinois Department of Natural Resources, and other or similar approvals required for the implementation of Greenmount's Development Project.

"Greenmount's Development Project" means the development project for Greenmount's Parcel described in the Concept Plan attached hereto as **Exhibit C**, and consistent with the Redevelopment Plan.

"Greenmount's Development Project Costs" means the sum total of all reasonable or necessary costs actually incurred in performing Greenmount's Development Project and any such costs incidental to Greenmount's Development Project which are authorized for reimbursement under the TIF Act and the Redevelopment Plan. **Exhibit G** provides an itemized list of such costs, which are available for reimbursement under the TIF Act and are included in the Reimbursable Redevelopment Project Costs under the Redevelopment Plan.

"Greenmount Improvements" and "Work" mean all work necessary to prepare Greenmount's Parcel and to construct the improvements for Greenmount's Development Project as more fully described on **Exhibit F** hereto, the completion of which shall be evidenced as set forth in the Certificate of Substantial Completion, and all other work reasonably necessary to effectuate the intent of this Agreement.

"Greenmount's Parcel" means a parcel of real property located within the Redevelopment Project Area (defined below) that is approximately 1.33 acres, more or less, located on Lot 23D of the plat of Central Park Plaza 3rd Addition, 1st Amendment in the City of O'Fallon, County of St. Clair and State of Illinois, and is depicted and more fully described in **Exhibit B**, upon which the Greenmount Improvements will be constructed by Greenmount.

“Incremental Property Taxes” means that portion of the ad valorem taxes, if any, arising from the taxes levied upon Greenmount’s Parcel by any and all taxing districts or municipal corporations having the power to tax real property in Greenmount’s Parcel, which taxes are attributable to the increases in the then current equalized assessed valuation of Greenmount’s Parcel over and above the Total Initial Equalized Assessed Valuation of each such piece of property, all as determined by the County Clerk of the County of St. Clair, Illinois, pursuant to and in accordance with the TIF Act, and includes any replacement, substitute or amended taxes.

“Intergovernmental Agreement” means collectively any agreements and/or settlements entered into by and between the City and any taxing districts, including but not limited to the Central Scholl District No. 104 and O’Fallon High School District No. 203, pursuant to which the City may agree to pledge any portion of the Incremental Property Taxes generated each year within the Redevelopment Project Area to such taxing districts.

“Person” means any individual, corporation, partnership, limited liability company, joint venture, association, trust, or government or any agency or political subdivision thereof.

“Redevelopment Plan” means a plan entitled “City of O’Fallon, Illinois Tax Increment Financing Redevelopment Plan – Central Park Redevelopment Area” dated January 23, 2012, approved by the Corporate Authorities on May 7, 2012 pursuant to Ordinance No. 3754, as such plan may be amended from time to time.

“Redevelopment Project Area” means a certain area of the City known as the City of O’Fallon, St. Clair County, Illinois Tax Increment Finance District, and includes Greenmount’s Parcel upon which Greenmount’s Development Project will be implemented and constructed. The area consists of approximately 145 acres and is more particularly described in **Exhibit A** attached hereto and incorporated by reference herein.

“Reimbursable Greenmount’s Development Project Costs” means those Greenmount’s Development Project Costs that are eligible for reimbursement to Greenmount from Incremental Property Taxes under the Redevelopment Plan and the TIF Act in accordance with this Agreement. Such costs shall include, but not be limited to, all site development and land improvements (exclusive of land acquisition and retail building costs) necessary to implement Greenmount’s Development Project, including but not limited to grading and site preparation, mine remediation, construction and/or relocation of streets, roads, sidewalks, sanitary sewers, water mains, drainage and storm water control and detention facilities, legal, engineering and similar design costs provided in conjunction with constructing the eligible improvements.

“Related Party” means any party or entity related to Greenmount by one of the relationships described in Section 267(b) of the Internal Revenue Code of 1986, as amended.

“Special Tax Allocation Fund” means the Special Tax Allocation Fund created pursuant to the TIF Act and Ordinance No. 3755 adopted by the City Council on May 7, 2012, and includes a Greenmount’s Subaccount and any other subaccounts into which the Incremental Property Taxes are from time to time deposited in accordance with the TIF Act, any Approving Ordinance, and this Agreement.

“State” means the State of Illinois.

“Substantial Completion” or **“Substantially Complete”** or **“Substantially Completed”** means the date on which Greenmount delivers the Certificate of Substantial Completion with respect to a phase of the Greenmount Improvements component of Greenmount’s Development Project to the City.

“TIF Act” means the Tax Increment Allocation Redevelopment Act found at 65 ILCS 5-11-74.4-1, *et seq.*, as amended.

“TIF Ordinance” means Ordinance No. 3753 adopted by the City Council on May 7, 2012, adopting tax increment financing for the Redevelopment Project Area, including Greenmount’s Parcel.

“Total Initial Equalized Assessed Valuation” means the total initial equalized assessed value of the taxable real property within Greenmount’s Parcel as determined by the County Clerk of the County of St. Clair, Illinois, for the calendar year 2013, in accordance with the provisions of Section 11-74.4-9 of the TIF Act.

ARTICLE THREE

CONSTRUCTION

This Agreement, except where the context by clear implication shall otherwise require, shall be construed and applied as follows:

- (a) Definitions include both singular and plural.
- (b) Pronouns include both singular and plural and cover all genders.
- (c) The word “include”, “includes” and “including” shall be deemed to be followed by the phrase “without limitation”.
- (d) Headings of Articles and Sections herein are solely for convenience of reference and do not constitute a part hereof and shall not affect the meaning, construction or effect hereof.
- (e) All exhibits attached to this Agreement shall be and are operative provisions of this Agreement and shall be and are incorporated by reference in the context of use where mentioned and referenced in this Agreement. In the event of a conflict between any exhibit and the terms of this Agreement, the Agreement shall control.
- (f) Any certificate, letter or opinion required to be given pursuant to this Agreement means a signed document attesting to or acknowledging the circumstances, representations, opinions of law or other matters therein stated or set forth. Reference herein to supplemental agreements, certificates, demands, requests, approvals, consents, notices and the like means that such shall be in writing whether or not a writing is specifically mentioned in the context of use.
- (g) The Mayor, unless applicable law requires action by the Corporate Authorities, shall have the power and authority to make or grant or do those things, certificates, requests, demands, notices and other actions required that are ministerial in nature or described in this Agreement for and on behalf of the City and with the effect of binding the City as

limited by and provided for in this Agreement. Greenmount is entitled to rely on the full power and authority of the Persons executing this Agreement on behalf of the City as having been properly and legally given by the City.

- (h) In connection with the foregoing and other actions to be taken under this Agreement, and unless applicable documents require action by Greenmount in a different manner, Greenmount hereby designates its Managing Member, Darrell G. Shelton, as its authorized representative who shall individually have the power and authority to make or grant or do all things, supplemental agreements, certificates, requests, demands, approvals, consents, notices and other actions required or described in this Agreement for and on behalf of Greenmount and with the effect of binding Greenmount in that connection (such individual being an **"Authorized Greenmount Representative"**). Greenmount shall have the right to change its Authorized Greenmount Representative by providing the City with written notice of such change which notice shall be sent in accordance with **Section 8.6** of this Agreement.

ARTICLE FOUR

DEVELOPER DESIGNATION AND REDEVELOPMENT PLAN

Section 4.1. Greenmount Designation. The City hereby selects Greenmount to perform or cause to be performed the Work related to the Greenmount Improvements and to construct or cause to be constructed the Greenmount Improvements as provided in this Agreement.

Section 4.2. Redevelopment Plan. The City and Greenmount agree to cooperate in implementing Greenmount's Development Project in accordance with the Redevelopment Plan and the parties' respective obligations set forth in this Agreement.

ARTICLE FIVE

CONSTRUCTION OF GREENMOUNT'S DEVELOPMENT PROJECT

Section 5.1. Performance of the Work.

(a) **Greenmount Improvements.** Greenmount shall advance funds for and commence and complete each of its obligations (or cause the completion of its obligations by entering into agreements with third parties) under this Agreement with respect to the acquisition, construction and completion of the Greenmount Improvements in accordance on or before May 1, 2014.

(b) **Construction Schedule.** The performance of Greenmount set forth in this section is premised on Greenmount receiving timely approval by the City Council of all planning approvals required to accommodate the Concept Plan, including uses requested by Greenmount for Greenmount's Development Project and the timely review and issuance by the City of all Governmental Approvals within its control. Performance hereunder is also premised on the receipt by Greenmount, with a copy to the City, of an opinion of the City Attorney as to the validity and enforceability under Illinois law of this Agreement.

Section 5.2. Governmental Approvals; Extension of Time.

(a) **Parties to Cooperate.** The City agrees to cooperate with Greenmount and to expeditiously process and timely consider all applications for Governmental Approvals as received, all in accordance with the applicable City ordinances and laws of the State, and this Agreement. The parties specifically agree to use their best efforts to cooperate with each other to obtain all necessary permits and approvals by the Illinois Department of Transportation and other public entities necessary to carry out Greenmount's Development Project. The City agrees to cooperate with Greenmount in Greenmount's attempts to obtain all necessary approvals from any governmental or quasi-governmental entity other than the City and upon request of Greenmount, will promptly execute any applications or other documents (upon their approval by the City) which Greenmount intends to file with such other governmental or quasi-governmental entities in connection with Greenmount's Development Project. The City shall further promptly respond to, or process, and consider reasonable requests of Greenmount for: applicable demolition permits, building permits; driveway permits; curb cut permits, or other permits necessary for the construction of Greenmount's Development Project.

(b) **Extension of Time.** Notwithstanding any provision of this Agreement to the contrary, Greenmount may, upon reasonable cause shown, request the Mayor or his designee to extend or waive times for performance. The Mayor or his designee may, but is not required to, consent to such extensions or waivers for a period not exceeding one year without further action by the Corporate Authorities. In the event that the Mayor or his designee extends or waives time for Greenmount's performance under **Section 5.1(a)** of this Agreement, the City's time for performance under **Section 5.1(b)** shall be extended to conform to Greenmount's extended time for performance.

Section 5.3. Concept Plan.

(a) **Approval of Concept Plan.** The Concept Plan, attached hereto as **Exhibit C** has been approved by the Corporate Authorities.

(b) **Changes.** Greenmount may make changes to the Concept Plan or any aspect thereof as site conditions or other issues of feasibility may dictate, as may be necessary or desirable to address the acquisition of additional real property to be included in Greenmount's Parcel or alterations in the description of the real property to be included in Greenmount's Parcel, or as may be necessary or desirable in the determination of Greenmount to enhance the economic viability of Greenmount's Development Project, in a manner consistent with applicable City ordinance. The Concept Plan shall also be deemed to be modified from time to time to reflect changes to the locations and configurations of the improvements which comprise Greenmount's Development Project to the extent such changes are initiated by Greenmount or are accepted by Greenmount in connection with the processing and approval of a concept plan, a site/improvement plan or other Governmental Approvals for Greenmount's Development Project.

Section 5.4. Construction of Greenmount Improvements.

(a) **Contracts/Greenmount to Control Construction.** Greenmount may enter into one or more construction contracts to complete the Greenmount Improvements. Greenmount shall have discretion and control, free from interference, interruption or disturbance, in all matters relating to the management, development, redevelopment, and construction of the Greenmount Improvements, provided that the same shall, in any event, conform to and comply with the terms and conditions of the Redevelopment Plan and this Agreement, and all applicable state and local laws, ordinances and regulations (including, without limitation, applicable zoning, subdivision, building and fire codes), subject to any variances and other Governmental Approvals.

(b) **Modification of Construction.** Subject to the provisions set forth in **Section 5.1(a)** regarding Greenmount Improvements, during the progress of Greenmount's Development Project, Greenmount may make such reasonable changes, including, without limitation, modification of the construction schedule, modification of the areas in which Greenmount's Development Project is to be performed or on which buildings or other improvements are to be situated, expansion or deletion of items, revisions to the locations and configurations of improvements, revisions to the areas and scope of Greenmount's Development Project, and any and all such other changes as site conditions or orderly development may dictate or as may be required to meet any reasonable requests of prospective tenants or purchasers of any portion of Greenmount's Parcel or as may be necessary or desirable, in the discretion of Greenmount, to enhance the economic viability of Greenmount's Development Project and as may be in furtherance of the general objectives of the Redevelopment Plan; provided, however, that Greenmount's Development Project as modified shall generally conform to the development concept shown on the Concept Plan, and shall comply with applicable law and code, subject to any variances and other Governmental Approvals.

(c) **Modifications After Substantial Completion.** After Substantial Completion of the Greenmount Improvements, the remaining portion of Greenmount's Parcel may be regraded, reconfigured, redeveloped or otherwise modified, improvements within the remaining portion of Greenmount's Parcel may be reconfigured, expanded, contracted, remodeled, reconstructed, replaced, or otherwise modified, and new improvements may be added to the remaining portion of Greenmount's Parcel, and demolition may be undertaken in connection therewith, from time to time and in such manner as Greenmount (or its successor(s) in interest, as owner or owners of the affected portion(s) of Greenmount's Parcel) may determine, provided that any such modifications shall comply with applicable law and code, subject to any variances and other Governmental Approvals.

Section 5.5. Certificate of Substantial Completion.

(a) **Greenmount Improvements.** To establish the completion date of the Greenmount Improvements, Greenmount shall furnish to the City a Certificate of Substantial Completion upon completion of the Greenmount Improvements as described in **Exhibit F** attached hereto.

(b) **City Review.** The City shall, within thirty (30) days following delivery of the Certificate of Substantial Completion with respect to the Greenmount Improvements, carry out such inspections as it deems necessary to verify to its reasonable satisfaction the accuracy of the certifications contained in the Certificate of Substantial Completion. The certificates shall be deemed verified and the Certificate of Substantial Completion shall be deemed accepted by the City unless, prior to the end of such thirty (30)-day period after delivery to the City of the Certificate of Substantial Completion, the City furnishes Greenmount with specific written objections to the status of performance based on failure of the construction to be in accordance with Governmental Approvals issued by the City, describing such objections and the measures required to correct such objections in reasonable detail. Greenmount shall use reasonable efforts to cure such objections. The City shall have no basis to object to the Certificate of Substantial Completion with respect to any aspect of the construction that was previously inspected and approved.

(c) **Recording Certificates of Substantial Completion.** Upon acceptance of the Certificate of Substantial Completion of the Greenmount Improvements by the City or upon the lapse of thirty (30) days after delivery thereof to the City without any written objections by the City or request by the City for additional time for review, not to exceed an additional ten (10) days, Greenmount may record the Certificate of Substantial Completion with respect to each phase of the Greenmount Improvements with the St. Clair County Recorder, and the same shall constitute evidence of the satisfaction of

Greenmount's agreements and covenants to perform the Work with respect to such phase (as applicable) of the Greenmount Improvements pursuant to this Agreement.

ARTICLE SIX

REIMBURSEMENT OF DEVELOPMENT COSTS

Section 6.1. Pledge of Incremental Property Taxes. In consideration of Greenmount's undertaking of Greenmount's Development Project and construction of the Greenmount Improvements, including the incurring of Reimbursable Redevelopment Project Costs under the Redevelopment Plan, the City hereby pledges and agrees to apply the Incremental Property Taxes generated from Greenmount's Parcel and deposited into the Special Tax Allocation Fund in accordance with this Agreement to pay Reimbursable Greenmount's Development Project Costs incurred by Greenmount. Except for a total of up to fifty percent (50%) of Incremental Property Taxes to be designated as "surplus funds" and/or distributed pursuant to the Intergovernmental Agreement, the City agrees that during the Agreement Term, the City shall not further encumber or pledge any portion of the Incremental Property Taxes generated from Greenmount's Parcel to any other project or obligation or take any action inconsistent with the terms and intent of this Agreement.

Section 6.2. Reimbursable Greenmount's Development Project Costs. Upon completion of Greenmount's Development Project, Greenmount may deliver to the City a Certificate of Reimbursable Greenmount's Development Project Costs in substantially the same form as **Exhibit E** attached hereto for all Reimbursable Greenmount's Development Project Costs incurred. Greenmount shall, at the City's request, provide itemized invoices, receipts or other information, if any, requested by the City to confirm that any such costs are so incurred and do so qualify. Greenmount shall also certify that such costs are eligible for reimbursement under the TIF Act. The City shall promptly approve or disapprove such Certificate, but in any event no later than thirty (30) days of the submittal thereof. If the City disapproves of the Certificate, it shall state in writing the reasons therefor, identifying the ineligible costs and the basis for determining the costs to be ineligible, whereupon Greenmount shall have the right to identify and substitute other Greenmount's Development Project Costs as Reimbursable Greenmount's Development Project Costs with a supplemental application for payment. If the City fails to approve or disapprove the Certificate within thirty (30) days of the submittal thereof, the Certificate shall be deemed approved.

Upon approving the Certificate, or the Certificate being deemed approved, the City shall issue Greenmount a non-recourse note ("Greenmount TIF Note") which identifies the total amount City will pay Greenmount for Reimbursable Greenmount's Development Project Costs. As funds become available in the Special Tax Allocation Fund, the City will remit payment to Greenmount within thirty (30) days from the time those funds first become available for distribution.

Section 6.3. Reimbursement from Incremental Property Taxes Limited to Reimbursable Greenmount's Development Project Costs. The parties agree that each of the categories of costs set forth in the Redevelopment Plan constitute Reimbursable Greenmount's Development Project Costs which are eligible for reimbursement in accordance with the TIF Act and this Agreement. Subject to the provisions of the TIF Act, Greenmount shall be entitled to reimbursement for Greenmount's Development Project Costs from any of the categories set forth therein and as agreed to within this Redevelopment Agreement.

Section 6.4. Annual Accounting and Adjustments. After the close of each calendar year during the Agreement Term (in any event not later than February 15th of the February immediately following the close of the calendar year) the City shall cause its Treasurer or other financial officer

charged with responsibility for the Special Tax Allocation Fund to provide to Greenmount an accounting of the receipts and expenditures from the Special Tax Allocation Fund at the close of the calendar year.

ARTICLE SEVEN

SPECIAL TAX ALLOCATION FUND; COLLECTION AND USE OF INCREMENTAL PROPERTY TAXES

Section 7.1. Certificate of Total Initial Equalized Assessed Value. The City will provide to Greenmount, simultaneous with the execution of this Agreement, a true, correct and complete copy of the calculation by the County Clerk of The County of St. Clair, Illinois, of the Total Initial Equalized Assessed Value of all taxable property within the Redevelopment Project Area, determined pursuant to the TIF Act, which calculation shall include a separate calculation of the Total Initial Equalized Assessed Value of Greenmount's Parcel upon which the Greenmount Improvements are to be constructed.

Section 7.2 Special Tax Allocation Fund.

(a) Establishment of the Special Tax Allocation Fund and Other Funds and Accounts. The City hereby agrees to cause its Treasurer to establish and maintain funds in a City of O'Fallon, Illinois Special Tax Allocation Fund ("Special Tax Allocation Fund") as well as a Greenmount's Subaccount and any other accounts or subaccounts as required by the TIF Ordinance and this Agreement.

The Special Tax Allocation Fund shall be maintained by the City as a separate and distinct trust and the moneys therein shall be held, managed, invested, disbursed, and administered by the City. Except for the amounts of Incremental Property Taxes to be distributed pursuant to any Intergovernmental Agreement and/or applied by the City in accordance with the Redevelopment Plan, all moneys deposited in the Special Tax Allocation Fund shall be used solely for the purposes set forth in the applicable Approving Ordinance and as provided herein. The City's Treasurer shall keep and maintain adequate records pertaining to the Special Allocation Fund and any accounts required by the TIF Ordinance and all disbursements therefrom.

(b) Deposits into the Special Tax Allocation Fund. All TIF Revenues generated from Greenmount's Parcel and any taxes, fees, or assessments subsequently enacted and imposed in substitution therefor and allocable to such accounts to the extent authorized by law shall be deposited into the Special Tax Allocation Fund as soon as they become available; provided, however, that Greenmount's Reimbursable Development Project Costs are limited to fifty percent (50%) of the TIF Revenues generated from the Greenmount Parcel. The City agrees to apply any and all interest earnings from moneys on deposit in the Special Tax Allocation Fund to be applied as provided in **Section 7.3** of this Agreement.

Except for the amounts of the Incremental Property Taxes to be distributed pursuant to any Intergovernmental Agreement (which shall not exceed fifty percent [50%] of the Incremental Property Taxes) and/or applied by the City in accordance with the Redevelopment Plan, the City agrees that during the Agreement Term, the City shall not further encumber or pledge, on a superior or parity lien basis, any portion of the Incremental Property Taxes to be deposited in or on deposit in and to the credit of the Special Tax Allocation Fund or take any action inconsistent with the terms and intent of this Agreement.

Section 7.3. Application of Incremental Property Taxes. The City hereby agrees to apply fifty percent (50%) of all Incremental Property Taxes generated from the Greenmount Parcel as provided in this Agreement as follows:

(a) first, transfer to Greenmount an amount sufficient to pay the outstanding amount due to Greenmount for all Reimbursable Greenmount's Development Project Costs and Greenmount Improvements, up to but not to exceed Greenmount's Development Project Costs identified in Exhibit G; and

(b) second, transfer any remaining amount to the City for application in accordance with this Agreement.

Section 7.4. Cooperation in Determining Incremental Property Taxes. The City and Greenmount (or its successors in interest as owner or owners of any portion of Greenmount's Parcel) agree to cooperate and take all reasonable actions necessary to cause the Incremental Property Taxes to be paid into the fund and accounts pursuant to this Agreement, including the City's enforcement and collection of all such payments through all reasonable and ordinary legal means of enforcement.

ARTICLE EIGHT

GENERAL PROVISIONS

Section 8.1. Successors and Assigns.

(a) **Agreement Binding on Successors.** 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.

(b) **Assignment.** Until Substantial Completion of the Greenmount Improvements, the rights, duties and obligations of Greenmount under this Agreement may not be assigned in whole or in part without the prior written approval of the City, which approval shall not be unreasonably withheld or delayed and shall be given upon a reasonable demonstration by Greenmount of the proposed assignee's experience and financial capability to undertake and complete such portions of the Work or any component thereof proposed to be assigned, all in accordance with this Agreement; provided, however, nothing herein shall prevent Greenmount from entering into retail leases with respect to the retail center to be constructed on the Greenmount Parcel allowing such retail tenants to perform tenant improvement work prior to Substantial Completion of the Greenmount Improvements. All or any part of Greenmount's Parcel or any interest therein may be sold, transferred, encumbered, leased, or otherwise disposed of at any time following Substantial Completion of the Greenmount Improvements, and the rights of Greenmount named herein or any successors in interest under this Agreement or any part hereof may be assigned. Upon Greenmount's transfer or conveyance of any part of or interest in Greenmount's Parcel or assignment of any interest under this Agreement, as authorized by and pursuant to the provisions of this subparagraph, Greenmount shall be released from further obligation under this Agreement with respect to such Redevelopment Project Area interest conveyed or rights assigned and such Redevelopment Project Area interest conveyed shall be released from further obligation under this Agreement.

(c) **City Consent to Assignment.** Notwithstanding any provision herein to the contrary, the City hereby approves, and no prior consent shall be required in connection with, (a) the right of Greenmount to encumber or collaterally assign its interest in Greenmount's Parcel or any portion

thereof to secure loans, advances or extensions of credit to finance or from time to time refinance all or any part of Greenmount's Development Project Costs, or the right of the holder of any such encumbrance or transferee of any such collateral assignment (or trustee or agent on its behalf) to transfer such interest by foreclosure or transfer in lieu of foreclosure under such encumbrance or collateral assignment; and (b) the right of Greenmount to assign Greenmount's rights, duties and obligations under this Agreement to a Related Party or among entities comprising Greenmount. Notwithstanding any provision hereof to the contrary, the City hereby approves, and no prior consent shall be required in connection with Greenmount's sale or lease of individual portions of Greenmount's Parcel or subdivided lots in the course of the development of Greenmount's Development Project and any Redevelopment Project Area interest conveyed shall be released from further obligation under this Agreement.

Section 8.2. Remedies. Except as otherwise provided in this Agreement and subject to Greenmount's and the City's respective rights of termination hereof as set forth in **Sections 10.2 and 10.3**, in the event of any default in or breach of any term or condition of this Agreement by either party, or any successor, the defaulting or breaching party (or successor) shall, upon written notice from the other party (or successor), proceed immediately to cure or remedy such default or breach, and, shall, in any event, within sixty (60) days after receipt of notice, commence to cure or remedy such default. If such cure or remedy is not taken or not diligently pursued, or the default or breach is not cured or remedied within a reasonable time, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure and remedy such default or breach, provided that such legal proceedings shall only affect property as to which such default or breach exists and shall not affect any other rights established in connection with this Agreement or any other property in Greenmount's Parcel which has been or is being developed or used in accordance with the provisions of this Agreement.

Section 8.3. Force Majeure and Other Extensions of Time for Performance.

(a) **Force Majeure.** Neither the City nor Greenmount nor any successor in interest shall be considered in breach or default of their respective obligations under this Agreement, and times for performance of obligations hereunder shall be extended, in the event of any delay in Greenmount's construction of any phase of Greenmount's Development Project caused by force majeure, including, without limitation, for purposes of this Agreement, legal proceedings which restrict or impair the orderly development of any phase of Greenmount's Development Project (including, but not limited to, condemnation or eminent domain proceedings), orders of any kind of any court or governmental body which restrict or impair the orderly development of any phase of Greenmount's Development Project, strikes, lockouts, labor disputes, labor shortages, riots, acts of God, epidemics, landslides, lightning, earthquake, fire or other casualties, breakage, explosions, storms, washouts, droughts, tornadoes, cyclones, floods, adverse weather conditions, unusually wet soil conditions, mine subsidence, war, invasion or acts of a public enemy, serious accidents, arrests, failure of utilities, governmental restrictions or priorities, failure to timely process or issue any permits and/or legal authorization by necessary governmental entity, including Governmental Approvals, failure of utilities to timely extend service to the site, shortage or delay in shipment of material or fuel, any actual or threatened litigation relating to the validity of this Agreement, the designation of Greenmount's Parcel, the Redevelopment Plan, Greenmount's Development Project, the adoption of tax increment financing under the TIF Act within Greenmount's Parcel, the City's use and pledge of the Incremental Property Taxes pursuant to this Agreement, or any of the ordinances approving the same, or other causes beyond the responsible party's reasonable control. The party claiming any extension caused by force majeure shall have the burden of proof in establishing such cause.

(b) **Extension of Time for Performance.** In addition to the foregoing, periods provided herein for commencement or Substantial Completion of any phase of the Greenmount Improvements shall be automatically extended for periods of delay in obtaining required planning

approvals with respect to Greenmount's Parcel or Governmental Approvals, and may also be extended, for reasonable cause, from time to time, upon application of Greenmount to the City Council and upon finding by the City Council that the requested delay is reasonably justified, does not materially affect the ultimate completion of the phase of the Greenmount Improvements.

Section 8.4. Actions Contesting the Validity and Enforceability of the Development Plan, the Agreement and Related Matters. If a third party brings an action against the City or the City's officials, agents, employees or representatives contesting the validity or legality of Greenmount's Parcel, any portion thereof, this Agreement, the designation of Greenmount's Parcel, the Redevelopment Plan, Greenmount's Development Project, the adoption of tax increment financing under the TIF Act within Greenmount's Parcel, the City's use and pledge of the Incremental Property Taxes pursuant to this Agreement, or any of the ordinances approving the same, the City shall promptly, and in any event prior to filing any responsive pleadings, notify Greenmount in writing of such claim or action. Greenmount may, at its option, assume the defense of such claim or action (including, without limitation, to settle or compromise any claim or action for which Greenmount has assumed the defense and as to which Greenmount will pay the costs and amounts of any such settlement or compromise) with counsel of Greenmount's choosing, and the parties expressly agree that so long as no conflicts of interest exist between them, the same attorney or attorneys may simultaneously represent the City and Greenmount in any such proceeding. Subject to the provisions of the TIF Act and this Agreement, all costs incurred by Greenmount and the City, as authorized by the Redevelopment Plan and this Redevelopment Agreement, shall be deemed to be Reimbursable Greenmount's Development Project Costs and reimbursable from moneys in the Special Tax Allocation Fund, subject to **Article VI and Article VII** hereof. In the event Greenmount does not elect to assume the defense of such claim or action, the City shall undertake such defense, shall copy Greenmount and its counsel on all correspondence relating to any such action, shall consult with Greenmount and its counsel throughout the course of any such action, and shall not settle or compromise any claim or action without Greenmount's prior written consent.

Section 8.5. Insurance. Prior to the commencement of construction of any buildings that are part of Greenmount Improvements, Greenmount shall obtain or shall ensure that Greenmount obtains workers' compensation and comprehensive general liability insurance coverage in amounts customary in the industry for similar type projects; provided, the City shall not be named as an "additional insured" with respect to any insurance policies and shall not have any rights or claims under any such insurance policies.

Section 8.6. Notice. Any notice, demand, or other communication required by this Agreement to be given by either party hereto to the other shall be in writing and shall be sufficiently given or delivered if dispatched by certified United States first class mail, postage prepaid, or delivered personally, or if deposited with a nationally recognized overnight courier service prepaid and specifying the overnight delivery and addressed to the party at its address as provided herein:

If to City: City Clerk
 City of O'Fallon
 255 South Lincoln
 O'Fallon, Illinois 62269

And: Dale M. Funk
 City Attorney
 807 West Highway 50, Suite 1
 O'Fallon, Illinois 62269

If to Greenmount: Darrel G. Shelton, Managing Member
Greenmount Retail Center, L.L.C.
1331 Park Plaza Drive, Suite 4
O'Fallon, IL 62269

or to such other address with respect to either party as that party may, from time to time, designate in writing and forward to the other as provided in this paragraph.

Section 8.7. Conflict of Interest. No member of the Corporate Authorities, the Joint Review Board, or any branch of the City's government who has any power of review or approval of any of Greenmount's undertakings, or of the City's contracting for goods or services for Greenmount's Parcel, shall participate in any decisions relating thereto which affect that member's personal interests or the interests of any corporation or partnership in which that member is directly or indirectly interested. As provided in the TIF Act, any person having such interest shall immediately, upon knowledge of such possible conflict, disclose, in writing, to the City Council the nature of such interest and seek a determination by the City Council with respect to such interest and, in the meantime, shall not participate in any actions or discussions relating to the activities herein proscribed.

Section 8.8. Choice of Law. This Agreement shall be taken and deemed to have been fully executed, made by the parties in, and governed by the laws of the State of Illinois for all purposes and intents.

Section 8.9. Entire Agreement; Amendment. The parties agree that this Agreement constitutes the entire agreement between the parties and that no other agreements or representations other than those contained in this Agreement have been made by the parties. This Agreement shall be amended only in writing and effective when signed by the authorized representatives of both parties.

Section 8.10. Counterparts. This Agreement may be executed in multiple counterparts, each of which shall constitute one and the same instrument.

Section 8.11. Severability. If any term or provision of this Agreement is held to be unenforceable by a court of competent jurisdiction, the remainder shall continue in full force and effect, to the extent the remainder can be given effect without the invalid provision.

Section 8.12. Representatives Not Personally Liable. No official, agent, employee, City Attorney, or representative of the City (the "City Representatives") shall be personally liable to Greenmount, and no shareholder, director, officer, agent, employee, consultant or representative of Greenmount shall be personally liable to the City or the City Representatives in the event of any default or breach by any party under this Agreement, or for any amount which may become due to any party under the terms of this Agreement.

Section 8.13. Recordation of Agreement. The parties agree to record a memorandum of this Agreement with the St. Clair County Recorder of Deeds. The City shall pay the recording fees for same.

Section 8.14. Third Parties. Nothing in this Agreement, whether expressed or implied, is intended to confer any rights or remedies under or by reason of this Agreement on any other person other than the City and Greenmount, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to either the City or Greenmount, nor shall any provision give any third parties any rights of subrogation or action over or against either the City or Greenmount. This Agreement is not intended to and does not create any third party beneficiary rights whatsoever.

Section 8.15. No Joint Venture, Agency or Partnership. Nothing in this Agreement, or any actions of the parties to this Agreement, shall be construed by the parties or any third person to create the relationship of a partnership, agency or joint venture between or among such parties.

Section 8.16. Repealer. To the extent that any ordinance, resolution, rule, order or provision of the City's code of ordinances, or any part thereof, is in conflict with the provisions of this Agreement, the provisions of this Agreement shall be controlling, to the extent lawful.

ARTICLE NINE

RELEASE AND INDEMNIFICATION

Section 9.1. City. The City and its governing body members, officers, agents and employees and the City Attorney shall not be liable to Greenmount for damages or otherwise in the event that all or any part of the TIF Act, the Redevelopment Plan, Greenmount's Development Project 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 Greenmount is prevented from enjoying the rights and privileges herein; provided that nothing in this paragraph shall limit: (i) Claims by Greenmount to Incremental Property Taxes pledged to payment of Reimbursable Greenmount's Development Project Costs pursuant to this Agreement, or (ii) Actions by Greenmount seeking specific performance of this Agreement, other relevant contracts, or of zoning or planning approvals or Governmental Approvals issued by the City.

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. No elected or appointed official, employee or representative of the City shall be personally liable to Greenmount in the event of a default or breach by any party under this Agreement.

The City releases from, and covenants and agrees that Greenmount, its members, officers, agents, and employees shall not be liable for any and all claims, suits, damages, expenses or liabilities arising out of (1) the acquisition of the portion of Greenmount's Parcel owned by Greenmount, (2) the operation of all or any part of Greenmount's Parcel, or the condition of Greenmount's Parcel, including, without limitation, any environmental cost or liability, (3) negotiations, inspections, acquisitions, preparations, construction, leasing, operations, and other activities of the City or its agents in connection with or relating to Greenmount's Development Project or Greenmount's Parcel, except for matters arising out of the negligence or malfeasance, misfeasance or nonfeasance of Greenmount or any official, agent, employee, consultant, contractor or representative of Greenmount.

Section 9.2. Greenmount. Greenmount releases from, and covenants and agrees that the City and its governing body members, officers, agents, and employees and the City Attorney shall not be liable for any and all claims, suits, damages, expenses or liabilities arising out of (1) the acquisition of the portion of Greenmount's Parcel owned by Greenmount, (2) the operation of all or any part of Greenmount's Parcel, or the condition of Greenmount's Parcel, including, without limitation, any environmental cost or liability, (3) negotiations, inspections, acquisitions, preparations, construction, leasing, operations, and other activities of Greenmount or its agents in connection with or relating to Greenmount's Development Project or Greenmount's Parcel, and (4) any loss or damage to Greenmount's Parcel or any injury to or death of any person occurring at or about or resulting from any defect in the performance of the Greenmount Improvements, except for matters arising out of the negligence or malfeasance, misfeasance or nonfeasance of the City or any official, agent, employee, consultant, contractor or representative of the City.

ARTICLE TEN

TERM

Section 10.1. Term of Agreement. This Agreement, and all of the rights and obligations of the parties hereunder, shall terminate on expiration of the Agreement Term; provided that this Agreement may terminate sooner upon the earlier of the delivery of a written notice by Greenmount or the City (and recordation of a copy of such notice with the St. Clair County Recorder) that this Agreement has been terminated pursuant to **Section 10.2, 10.3 or 10.4** hereof.

Section 10.2. Greenmount's Right of Termination. Greenmount has the right to terminate this Agreement at any time upon not less than sixty (60) days written notice to the City.

Section 10.3. City's Right of Termination. The City may only terminate this Agreement if Greenmount fails to satisfy the provisions of **Section 5.1(a)** within the times specified therein and on such termination all rights and obligations of Greenmount and the City hereunder shall terminate.

Section 10.4. Cancellation. In the event Greenmount or the City shall be prohibited, in any material respect, from performing covenants and agreements or enjoying the rights and privileges herein contained, or contained in the Redevelopment Plan, including Greenmount's duty to construct Greenmount Improvements, by the order of any court of competent jurisdiction, or in the event that all or any part of the TIF Act or any ordinance or resolution adopted by the City in connection with Greenmount's Development Project, shall be declared invalid or unconstitutional, in whole or in part, by a final decision of a court of competent jurisdiction and such declaration shall materially affect the Redevelopment Plan or the covenants and agreements or rights and privileges of Greenmount or the City, then and in any such event, the party so materially affected may, at its election, cancel or terminate this Agreement in whole (or in part with respect to that portion of Greenmount's Development Project materially affected) by giving written notice thereof to the other within thirty (30) days after such final decision or amendment. If the City terminates this Agreement pursuant to this **Section 10.4**, the cancellation or termination of this Agreement shall have no effect on the authorizations granted to Greenmount for buildings permitted and under construction to the extent permitted by said court order; and the cancellation or termination of this Agreement shall have no effect on perpetual easements contained in any recorded, properly executed document.

Section 10.5. Obligations Remain Outstanding. On termination of this Agreement pursuant to **Sections 10.2, 10.3 or 10.4**, all outstanding obligations of the City to reimburse Greenmount from Incremental Property Taxes, and its outstanding Greenmount TIF Note, as the case may be, shall remain

outstanding. If Greenmount has submitted to the City, within 60 days after the termination of this Agreement pursuant to this section, a Certificate of Reimbursable Greenmount's Development Project Costs, but the City has not yet approved such certificate, the City shall review and process such certificates in accordance with **Section 5.5** hereof.

ARTICLE ELEVEN

REPRESENTATIONS OF THE PARTIES

Section 11.1. Representations of the City. The City hereby represents and warrants that (a) the City has full constitutional and lawful right, power and authority, under current applicable law, to execute and deliver this Agreement and to perform all terms and obligations of this Agreement, and (b) this Agreement constitutes the legal, valid and binding obligation of the City, enforceable in accordance with its terms.

Section 11.2. Representations of Greenmount. Greenmount hereby represents and warrants that (a) Greenmount has full power to execute and deliver and perform the terms and obligations of this Agreement and all of the foregoing has been duly and validly authorized by all necessary corporate proceedings, (b) this Agreement constitutes the legal, valid and binding obligation of Greenmount, enforceable in accordance with its terms.

ARTICLE TWELVE

EFFECTIVENESS

The Effective Date for this Agreement shall be the day on which this Agreement is approved by the City, with said date being inserted on page 1 hereof.

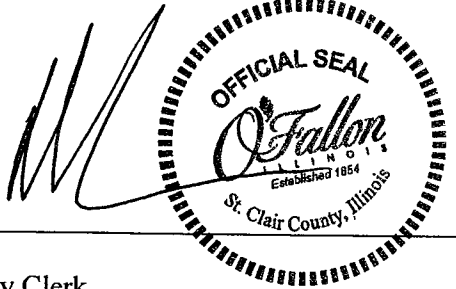
[Remainder of page intentionally left blank]

IN WITNESS WHEREOF, the City and Greenmount have caused this Agreement to be executed in their respective names and caused their respective seals to be affixed thereto, and attested as to the date first above written.

(SEAL)

CITY OF O'FALLON, ILLINOIS

Attest:




Name:

Title: City Clerk

By:

Name:

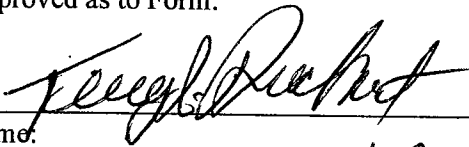
Title: Mayor



Approved as to Form:

Name:

Title: City Attorney / Special Counsel



GREENMOUNT RETAIL CENTER, L.L.C., an
Illinois limited liability company

By: 

Name: Wayne S. Schmitz

Title: Member

STATE OF ILLINOIS)
)
COUNTY OF ST. CLAIR)

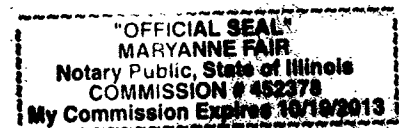
On this 21st day of December, 2012, before me appeared Gary L. Graham, who being, by me duly sworn, did say that he is the Mayor, City of O'Fallon, Illinois, a home rule unit of government of the State of Illinois, and did say that the seal affixed to the foregoing instrument is the seal of said City, and that said instrument was signed and sealed on behalf of said City, by authority of the City Council of the City; and said Mayor acknowledged said instrument to be the free act and deed of said City.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.

Maryanne Fair
Notary Public

My term expires:

10-19-2013

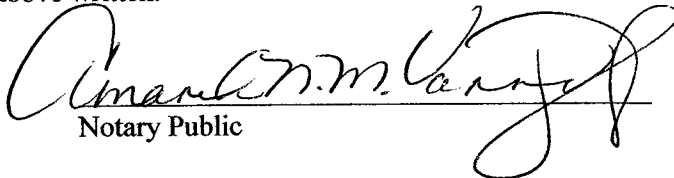


STATE OF Illinois

COUNTY OF ST. CLAIR

On this 18th day of December, 2012, before me appeared Wayne S. Schmidt, to me personally known, who being, by me duly sworn, did say that he is a Member of Greenmount Retail Center, L.L.C., an Illinois limited liability company, and that the foregoing instrument was signed on behalf of said company, and he further acknowledged said instrument to be the free act and deed of said company.

IN TESTIMONY WHEREOF, I have hereunto set my hand and affixed my official seal in the County and State aforesaid, the day and year first above written.


Notary Public

My Commission expires:

June 22, 2015



EXHIBIT A

LEGAL DESCRIPTION OF THE REDEVELOPMENT PROJECT AREA

1213 TIF-1

A TRACT OF LAND BEING A PART OF LOT 22D OF CENTRAL PARK PLAZA 2ND ADDITION, 2ND AMENDMENT AS RECORDED IN DOCUMENT A02005516, ALL OF LOTS 22B AND 22C OF CENTRAL PARK PLAZA 2ND ADDITION, 1ST AMENDMENT AS RECORDED IN PLAT BOOK 104 PAGE 61, DOCUMENT A01854886, ALL OF LOT 24 OF MINOR SUBDIVISION OF LOT 24 OF CENTRAL PARK PLAZA 3RD ADDITION AS RECORDED IN PLAT BOOK 103 PAGE 59, DOCUMENT A01807519, ALL OF OUTLOT 1 OF CENTRAL PARK PLAZA 2ND ADDITION AS RECORDED IN PLAT BOOK 95 PAGE 5, DOCUMENT A01379449, ALL OF LOTS 26, 28 AND 30 OF CENTRAL PARK PLAZA 4TH ADDITION AS RECORDED IN PLAT BOOK 97 PAGE 75, DOCUMENT A01500041, ALL OF OUTLOT 2 OF CENTRAL PARK PLAZA 3RD ADDITION AS RECORDED IN PLAT BOOK 97 PAGE 38, DOCUMENT A01475405, ALL OF LOT 1 OF THE RESUBDIVISION OF LOT 2 OF PARKWAY LAKESIDE APARTMENT HOMES AS RECORDED IN DOCUMENT A02227637, ALL OF LOT 1 OF PARKWAY LAKESIDE APARTMENT HOMES AS RECORDED IN DOCUMENT A02206495, SAID TRACT BEING A PART OF THE SOUTHWEST QUARTER OF SECTION 25 AND THE NORTHWEST, NORTHEAST AND SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 2 NORTH, RANGE 8 WEST OF THE THIRD PRINCIPAL MERIDIAN, CITY OF O'FALLON, ST. CLAIR COUNTY, ILLINOIS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID LOT 30 OF CENTRAL PARK PLAZA 4TH ADDITION; THENCE ALONG THE WEST LINE OF NORTH GREENMOUNT ROAD, SOUTH 02 DEGREES 46 MINUTES 45 SECONDS EAST FOR A DISTANCE OF 285.46 FEET; THENCE LEAVING SAID WEST LINE, SOUTH 89 DEGREES 39 MINUTES 03 SECONDS WEST FOR A DISTANCE OF 241.18 FEET; THENCE SOUTH 00 DEGREES 23 MINUTES 07 SECONDS WEST FOR A DISTANCE OF 374.09 FEET TO THE NORTH LINE OF FRANK SCOTT PARKWAY; THENCE NORTH 84 DEGREES 16 MINUTES 40 SECONDS WEST FOR A DISTANCE OF 136.57 FEET; THENCE NORTH 89 DEGREES 59 MINUTES 37 SECONDS WEST FOR A DISTANCE OF 328.10 FEET; THENCE SOUTH 86 DEGREES 00 MINUTES 19 SECONDS WEST FOR A DISTANCE OF 164.57 FEET; THENCE NORTH 85 DEGREES 45 MINUTES 32 SECONDS WEST FOR A DISTANCE OF 256.68 FEET; THENCE LEAVING SAID NORTH LINE OF FRANK SCOTT PARKWAY, NORTH 14 DEGREES 47 MINUTES 21 SECONDS EAST FOR A DISTANCE OF 588.73 FEET; THENCE NORTH 51 DEGREES 11 MINUTES 37 SECONDS WEST ALONG THE SOUTHWESTERLY LINE OF SAID LOT 26 OF CENTRAL PARK PLAZA 4TH ADDITION FOR A DISTANCE OF 740.74 FEET TO THE MOST EASTERLY CORNER OF SAID LOT 1 OF THE RESUBDIVISION OF LOT 2 OF PARKWAY LAKESIDE APARTMENT HOMES; THENCE LEAVING SAID SOUTHWESTERLY LINE, SOUTH 35 DEGREES 44 MINUTES 56 SECONDS WEST FOR A DISTANCE OF 12.52 FEET; THENCE NORTH 51 DEGREES 11 MINUTES 37 SECONDS WEST FOR A DISTANCE OF 461.74 FEET; THENCE

NORTH 70 DEGREES 47 MINUTES 53 SECONDS WEST FOR A DISTANCE OF 166.69 FEET; THENCE NORTH 89 DEGREES 52 MINUTES 31 SECONDS WEST FOR A DISTANCE OF 365.62 FEET; THENCE SOUTH 22 DEGREES 52 MINUTES 05 SECONDS WEST FOR A DISTANCE OF 35.93 FEET; THENCE SOUTH 07 DEGREES 29 MINUTES 37 SECONDS EAST FOR A DISTANCE OF 45.01 FEET; THENCE SOUTH 30 DEGREES 53 MINUTES 51 SECONDS EAST FOR A DISTANCE OF 180.71 FEET; THENCE SOUTH 36 DEGREES 52 MINUTES 55 SECONDS EAST FOR A DISTANCE OF 33.94 FEET; THENCE SOUTH 38 DEGREES 27 MINUTES 35 SECONDS WEST FOR A DISTANCE OF 222.44 FEET; THENCE SOUTH 02 DEGREES 22 MINUTES 02 SECONDS WEST FOR A DISTANCE OF 207.79 FEET; THENCE SOUTH 35 DEGREES 46 MINUTES 55 SECONDS EAST FOR A DISTANCE OF 25.71 FEET; THENCE SOUTH 07 DEGREES 32 MINUTES 09 SECONDS WEST FOR A DISTANCE OF 360.70 FEET; THENCE SOUTH 12 DEGREES 23 MINUTES 54 SECONDS EAST FOR A DISTANCE OF 7.06 FEET; THENCE SOUTH 49 DEGREES 44 MINUTES 30 SECONDS EAST FOR A DISTANCE OF 22.19 FEET; THENCE SOUTH 20 DEGREES 58 MINUTES 37 SECONDS EAST FOR A DISTANCE OF 6.85 FEET TO THE NORTH LINE OF SAID LOT 1 OF PARKWAY LAKESIDE APARTMENT HOMES; THENCE SOUTH 89 DEGREES 58 MINUTES 51 SECONDS EAST FOR A DISTANCE OF 563.81 FEET; THENCE SOUTH 03 DEGREES 54 MINUTES 16 SECONDS EAST FOR A DISTANCE OF 47.80 FEET; THENCE SOUTH 01 DEGREES 23 MINUTES 11 SECONDS WEST FOR A DISTANCE OF 298.05 FEET TO THE NORTH LINE OF SAID FRANK SCOTT PARKWAY; THENCE NORTH 88 DEGREES 36 MINUTES 49 SECONDS WEST FOR A DISTANCE OF 119.42 FEET; THENCE NORTH 88 DEGREES 29 MINUTES 34 SECONDS WEST FOR A DISTANCE OF 291.04 FEET; THENCE NORTH 80 DEGREES 50 MINUTES 02 SECONDS WEST FOR A DISTANCE OF 120.20 FEET; THENCE NORTH 85 DEGREES 29 MINUTES 44 SECONDS WEST FOR A DISTANCE OF 179.99 FEET; THENCE LEAVING SAID NORTH LINE OF FRANK SCOTT PARKWAY, NORTH 00 DEGREES 07 MINUTES 29 SECONDS EAST FOR A DISTANCE OF 2127.64 FEET TO THE WESTERLY LINE OF SAID LOT 24 OF THE MINOR SUBDIVISION PLAT OF LOT 24 OF CENTRAL PARK PLAZA 3RD ADDITION; THENCE LEAVING SAID WESTERLY LINE, NORTH 35 DEGREES 51 MINUTES 04 SECONDS WEST FOR A DISTANCE OF 493.59 FEET; THENCE SOUTH 89 DEGREES 28 MINUTES 51 SECONDS EAST FOR A DISTANCE OF 107.57 FEET TO SAID WESTERLY LINE OF SAID LOT 24; THENCE NORTH 30 DEGREES 18 MINUTES 33 SECONDS WEST ALONG SAID WESTERLY LINE FOR A DISTANCE OF 540.97 FEET TO THE SOUTHEAST CORNER OF SAID OUTLOT 1 OF CENTRAL PARK PLAZA 2ND ADDITION; THENCE SOUTH 87 DEGREES 57 MINUTES 57 SECONDS WEST FOR A DISTANCE OF 125.00 FEET; THENCE NORTH 02 DEGREES 02 MINUTES 03 SECONDS WEST FOR A DISTANCE OF 100.00 FEET; THENCE NORTH 46 DEGREES 35 MINUTES 36 SECONDS WEST FOR A DISTANCE OF 501.21 FEET; THENCE NORTH 00 DEGREES 06 MINUTES 23 SECONDS EAST FOR A DISTANCE OF 1165.24 FEET TO THE SOUTHEAST CORNER OF DP GOLF CENTER INCORPORATED AS RECORDED IN DEED BOOK 2815 PAGE 2227; THENCE NORTH 89 DEGREES 42 MINUTES 27

SECONDS WEST FOR A DISTANCE OF 1240.97 FEET; THENCE SOUTH 00 DEGREES 31 MINUTES 29 SECONDS EAST FOR A DISTANCE OF 138.43 FEET; THENCE NORTH 89 DEGREES 42 MINUTES 27 SECONDS WEST FOR A DISTANCE OF 400.04 FEET TO THE SOUTHWEST CORNER OF SAID DP GOLF CENTER INCORPORATED; THENCE NORTH 00 DEGREES 31 MINUTES 29 SECONDS WEST FOR A DISTANCE OF 700.07 FEET TO THE NORTHWEST CORNER OF SAID DP GOLF CENTER INCORPORATED; THENCE SOUTH 89 DEGREES 42 MINUTES 27 SECONDS EAST FOR A DISTANCE OF 1644.03 FEET TO THE NORTHEAST CORNER OF SAID DP GOLF CENTER INCORPORATED; THENCE SOUTH 00 DEGREES 06 MINUTES 23 SECONDS WEST FOR A DISTANCE OF 275.84 FEET TO THE NORTHWEST CORNER OF SAID LOT 22 D OF CENTRAL PARK 2ND ADDITION, 2ND AMENDMENT; THENCE SOUTH 89 DEGREES 26 MINUTES 43 SECONDS EAST ALONG THE NORTH LINE OF SAID LOT 22 D FOR A DISTANCE OF 403.88 FEET TO THE WEST LINE OF CENTRAL PARK (60.00 FEET WIDE) DRIVE; THENCE IN A SOUTHEASTERLY DIRECTION ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1030.00 FEET, AN ARC LENGTH OF 160.85 FEET AND A CHORD BEARING OF SOUTH 13 DEGREES 56 MINUTES 04 SECONDS EAST FOR A DISTANCE OF 160.69 FEET TO THE SOUTHEAST CORNER OF SAID LOT 22D, ALSO BEING THE NORTHEAST CORNER OF SAID LOT 22B OF CENTRAL PARK PLAZA 2ND ADDITION, 1ST AMENDMENT; THENCE SOUTHEASTERLY ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 1030.00 FEET, AN ARC LENGTH OF 213.94 FEET; THENCE SOUTH 30 DEGREES 18 MINUTES 33 SECONDS EAST FOR A DISTANCE OF 1036.68 FEET TO THE SOUTHEAST CORNER OF SAID LOT 22C OF CENTRAL PARK PLAZA 2ND ADDITION, 1ST AMENDMENT, ALSO BEING THE NORTHEAST CORNER OF SAID LOT 24 OF MINOR SUBDIVISION OF LOT 24 OF CENTRAL PARK PLAZA 3RD ADDITION; THENCE SOUTH 30 DEGREES 18 MINUTES 33 SECONDS EAST FOR A DISTANCE OF 1500.00 FEET TO THE SOUTHEAST CORNER OF SAID LOT 24; THENCE LEAVING SAID CENTRAL PARK DRIVE, SOUTH 59 DEGREES 41 MINUTES 27 SECONDS WEST FOR A DISTANCE OF 822.22 FEET; THENCE SOUTH 32 DEGREES 51 MINUTES 27 SECONDS EAST FOR A DISTANCE OF 662.08 FEET; THENCE SOUTH 89 DEGREES 52 MINUTES 31 SECONDS EAST FOR A DISTANCE OF 55.00 FEET TO THE NORTHWEST CORNER OF SAID LOT 26 OF CENTRAL PARK PLAZA 4TH ADDITION; THENCE NORTH 46 DEGREES 32 MINUTES 58 SECONDS EAST FOR A DISTANCE OF 820.00 FEET TO THE SOUTHWESTERLY LINE OF SAID CENTRAL PARK DRIVE; THENCE SOUTH 43 DEGREES 27 MINUTES 02 SECONDS EAST FOR A DISTANCE OF 400.00 FEET; THENCE IN A SOUTHEASTERLY DIRECTION ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 3244.00 FEET, AN ARC LENGTH OF 547.44 FEET AND A CHORD BEARING OF SOUTH 38 DEGREES 36 MINUTES 57 SECONDS EAST FOR A DISTANCE OF 546.79 FEET; THENCE SOUTH 33 DEGREES 46 MINUTES 53 SECONDS EAST FOR A DISTANCE OF 462.83 FEET; THENCE IN A SOUTHEASTERLY DIRECTION ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 430.00 FEET, AN ARC LENGTH OF 204.03 FEET AND A CHORD BEARING OF SOUTH 47 DEGREES 22

MINUTES 28 SECONDS EAST FOR A DISTANCE OF 202.12 FEET; THENCE IN A SOUTHEASTERLY DIRECTION ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 430.00 FEET, AN ARC LENGTH OF 139.75 FEET AND A CHORD BEARING OF SOUTH 67 DEGREES 30 MINUTES 55 SECONDS EAST FOR A DISTANCE OF 139.13 FEET; THENCE IN A SOUTHEASTERLY DIRECTION ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 430.00 FEET, AN ARC LENGTH OF 78.03 FEET AND A CHORD BEARING OF SOUTH 82 DEGREES 01 MINUTES 28 SECONDS EAST FOR A DISTANCE OF 77.92 FEET; THENCE SOUTH 89 DEGREES 36 MINUTES 56 SECONDS EAST FOR A DISTANCE OF 148.16 FEET TO THE POINT OF BEGINNING, ENCOMPASSING AN AREA OF 128.00 ACRES MORE OR LESS.

1213 TIF-2

A TRACT OF LAND BEING ALL OF LOTS 23A AND 23B OF CENTRAL PARK PLAZA 3RD ADDITION, 1ST AMENDMENT AS RECORDED IN PLAT BOOK 104 PAGE 66, DOCUMENT A01856670, A SUBDIVISION BEING A PART OF THE NORTHWEST, NORTHEAST AND SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 2 NORTH, RANGE 8 WEST OF THE THIRD PRINCIPAL MERIDIAN, CITY OF O'FALLON, ST. CLAIR COUNTY, ILLINOIS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWESTERLY CORNER OF SAID LOT 23A, LOCATED ON THE NORTHEASTERLY LINE OF CENTRAL PARK (60.00 FEET WIDE) DRIVE; THENCE NORTH 59 DEGREES 41 MINUTES 27 SECONDS EAST ALONG THE NORTHWESTERLY LINES OF SAID LOT 23A AND 23B FOR A DISTANCE OF 472.95 FEET TO THE NORTHEASTERLY LINE OF SAID LOT 23B; THENCE SOUTH 37 DEGREES 32 MINUTES 33 SECONDS EAST ALONG SAID NORTHEASTERLY LINE FOR A DISTANCE OF 250.74 FEET; THENCE LEAVING SAID NORTHEASTERLY LINE, SOUTH 52 DEGREES 32 MINUTES 48 SECONDS WEST FOR A DISTANCE OF 168.82 FEET; THENCE SOUTH 18 DEGREES 23 MINUTES 50 SECONDS WEST FOR A DISTANCE OF 79.17 FEET TO THE NORTHWESTERLY LINE OF CENTRAL PARK (50.00 FEET WIDE) CIRCLE; THENCE IN A NORTHWESTERLY DIRECTION ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 90.00 FEET, FOR AN ARC LENGTH OF 76.51 FEET TO THE COMMON CORNER OF SAID LOT 23A AND 23B; THENCE SOUTH 59 DEGREES 41 MINUTES 27 SECONDS WEST FOR A DISTANCE OF 197.91 FEET; THENCE NORTH 75 DEGREES 18 MINUTES 33 SECONDS WEST FOR A DISTANCE OF 16.97 FEET TO THE NORTHEASTERLY LINE OF SAID CENTRAL PARK DRIVE; THENCE NORTH 30 DEGREES 18 MINUTES 33 SECONDS WEST ALONG SAID NORTHEASTERLY LINE FOR A DISTANCE OF 279.38 FEET TO THE POINT OF BEGINNING, ENCOMPASSING AN AREA OF 3.18 ACRES.

1213 TIF-3

A TRACT OF LAND BEING ALL OF LOT 23D OF CENTRAL PARK PLAZA 3RD ADDITION, 1ST AMENDMENT AS RECORDED IN PLAT BOOK 104 PAGE 66, DOCUMENT A01856670, A SUBDIVISION BEING A PART OF THE NORTHWEST, NORTHEAST AND SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 2 NORTH, RANGE 8 WEST OF THE THIRD PRINCIPAL MERIDIAN, CITY OF O'FALLON, ST. CLAIR COUNTY, ILLINOIS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE POINT OF INTERSECTION OF THE SOUTHEASTERLY LINE OF CENTRAL PARK (50.00 FEET WIDE) CIRCLE WITH THE NORTHEASTERLY LINE OF CENTRAL PARK (60.00 FEET WIDE) DRIVE; THENCE ALONG SAID CENTRAL PARK CIRCLE THE FOLLOWING COURSES, NORTH 14 DEGREES 41 MINUTES 27 SECONDS EAST FOR A DISTANCE OF 16.97 FEET; THENCE NORTH 59 DEGREES 41 MINUTES 27 SECONDS EAST FOR A DISTANCE OF 197.91 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 40.00 FEET, FOR AN ARC LENGTH DISTANCE OF 57.84 FEET; THENCE SOUTH 37 DEGREES 27 MINUTES 12 SECONDS EAST FOR A DISTANCE OF 138.07 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 40.00, FOR AN ARC LENGTH DISTANCE OF 63.54 FEET; THENCE SOUTH 53 DEGREES 33 MINUTES 47 SECONDS WEST FOR A DISTANCE OF 214.09 FEET; THENCE NORTH 80 DEGREES 37 MINUTES 57 SECONDS WEST FOR A DISTANCE OF 16.72 FEET TO THE SAID NORTHEASTERLY LINE OF CENTRAL PARK DRIVE; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 1970.00, FOR AN ARC LENGTH OF 148.69 FEET; THENCE NORTH 30 DEGREES 18 MINUTES 33 SECONDS WEST FOR A DISTANCE OF 68.40 FEET TO THE POINT OF BEGINNING, ENCOMPASSING AN AREA OF 1.33 ACRES.

1213 TIF-4

A TRACT OF LAND BEING A PART OF LOTS 25C AND 25D OF CENTRAL PARK PLAZA 4TH ADDITION, 1ST AMENDMENT AS RECORDED IN PLAT BOOK 104 PAGE 9, DOCUMENT A01830816, A SUBDIVISION BEING A PART OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 2 NORTH, RANGE 8 WEST OF THE THIRD PRINCIPAL MERIDIAN, CITY OF O'FALLON, ST. CLAIR COUNTY, ILLINOIS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST NORTHWESTERLY CORNER OF SAID LOT 25C LOCATED ON THE NORTHEASTERLY LINE OF CENTRAL PARK (60.00 FEET WIDE) DRIVE; THENCE NORTH 46 DEGREES 29 MINUTES 08 SECONDS EAST ALONG THE NORTHWESTERLY LINE OF SAID LOT 25C FOR A DISTANCE OF 434.46 FEET; THENCE SOUTH 09 DEGREES 48 MINUTES 12 SECONDS EAST FOR A DISTANCE OF 163.04 FEET; THENCE ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 711.94 FEET, AN ARC LENGTH OF 392.26 FEET AND A CHORD BEARING OF SOUTH 28 DEGREES 00 MINUTES 15 SECONDS EAST FOR A DISTANCE OF 387.32 FEET; THENCE SOUTH 44 DEGREES 04 MINUTES 16 SECONDS EAST FOR A DISTANCE OF 102.37 FEET; THENCE SOUTH 61 DEGREES 12 MINUTES 36 SECONDS EAST FOR A DISTANCE OF 19.78 FEET TO THE SOUTHEASTERLY LINE OF SAID LOT 25 D; THENCE SOUTH 46 DEGREES 29 MINUTES 08 SECONDS WEST ALONG SAID SOUTHEASTERLY LINE FOR A DISTANCE OF 316.35 FEET TO THE SAID NORTHEASTERLY LINE OF CENTRAL PARK DRIVE; THENCE NORTH 33 DEGREES 46 MINUTES 53 SECONDS WEST ALONG SAID NORTHEASTERLY LINE FOR A DISTANCE OF 129.45 FEET; THENCE IN A NORTHWESTERLY DIRECTION ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 3,304.00 FEET, FOR AN ARC LENGTH OF 505.10 FEET, ENCOMPASSING AN AREA OF 4.60 ACRES.

1213 TIF-5

A TRACT OF LAND BEING ALL OF LOT 29A OF CENTRAL PARK PLAZA 4TH ADDITION, 1ST AMENDMENT AS RECORDED IN PLAT BOOK 104 PAGE 9, DOCUMENT A01830816, A SUBDIVISION BEING A PART OF THE SOUTHEAST QUARTER OF SECTION 36, TOWNSHIP 2 NORTH, RANGE 8 WEST OF THE THIRD PRINCIPAL MERIDIAN, CITY OF O'FALLON, ST. CLAIR COUNTY, ILLINOIS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE MOST SOUTHEASTERLY CORNER OF SAID LOT 29A; THENCE SOUTH 83 DEGREES 52 MINUTES 04 SECOND WEST FOR A DISTANCE OF 132.08 FEET TO THE NORTHEASTERLY LINE OF CENTRAL PARK (VARIABLE WIDTH) DRIVE; THENCE NORTH 89 DEGREES 36 MINUTES 56 SECONDS WEST FOR A DISTANCE OF 9.37 FEET; THENCE ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 370.00 FEET, AN ARC LENGTH OF 72.44 FEET AND A CHORD BEARING OF NORTH 86 DEGREES 54 MINUTES 03 SECONDS WEST FOR A DISTANCE OF 72.32 FEET; THENCE ALONG A CURVE OF THE RIGHT HAVING A RADIUS OF 370.00 FEET, AN ARC LENGTH OF 59.18 FEET AND A CHORD BEARING OF NORTH 76 DEGREES 42 MINUTES 37 SECONDS WEST FOR A DISTANCE OF 59.12 FEET; THENCE LEAVING SAID NORTHEASTERLY LINE OF CENTRAL PARK DRIVE, NORTH 00 DEGREES 23 MINUTES 07 SECONDS EAST FOR A DISTANCE OF 297.69 FEET; THENCE SOUTH 90 DEGREES 00 MINUTES 00 SECONDS EAST FOR A DISTANCE OF 245.42 FEET; THENCE SOUTH 03 DEGREES 25 MINUTES 03 SECONDS WEST FOR A DISTANCE OF 25.43 FEET; THENCE SOUTH 05 DEGREES 04 MINUTES 34 SECONDS EAST FOR A DISTANCE OF 276.84 FEET TO THE POINT OF BEGINNING, ENCOMPASSING AN AREA OF 1.84 ACRES.

1213 TIF-6

A TRACT OF LAND BEING ALL OF LOT 10C OF MINOR SUBDIVISION LOT 10 AND OULOT 1 AMENDED PLAT OF CENTRAL PARK PLAZA 1ST ADDITION, 1ST AMENDMENT AS RECORDED IN PLAT BOOK 105 PAGE 8, DOCUMENT A001879246, A SUBDIVISION BEING A PART OF THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 2 NORTH, RANGE 8 WEST OF THE THIRD PRINCIPAL MERIDIAN, CITY OF O'FALLON, ST. CLAIR COUNTY, ILLINOIS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE SOUTHEAST CORNER OF SAID LOT 10C LOCATED ON THE NORTH LINE OF PARK PLAZA (50.00 FEET WIDE) DRIVE; THENCE NORTH 89 DEGREES 22 MINUTES 05 SECONDS WEST ALONG SAID NORTH LINE FOR A DISTANCE OF 193.10 FEET; THENCE LEAVING SAID NORTH LINE, NORTH 37 DEGREES 59 MINUTES 58 SECONDS WEST FOR A DISTANCE OF 12.33 FEET; THENCE NORTH 15 DEGREES 00 MINUTES 30 SECONDS WEST FOR A DISTANCE OF 130.49 FEET; THENCE NORTH 37 DEGREES 48 MINUTES 42 SECONDS EAST FOR A DISTANCE OF 24.17 FEET; THENCE SOUTH 89 DEGREES 22 MINUTES 05 SECONDS EAST FOR A DISTANCE OF 219.13 FEET; THENCE SOUTH 00 DEGREES 11 MINUTES 51 SECONDS EAST FOR A DISTANCE OF 154.56 FEET TO THE POINT OF BEGINNING, ENCOMPASSING AN AREA OF 0.77 ACRES.

1213 TIF-7

A TRACT OF LAND BEING ALL OF LOT 16 AND OUTLOT 2 AMENDED PLAT OF CENTRAL PARK PLAZA 1ST ADDITION, AS RECORDED IN PLAT BOOK 95 PAGE 31, DOCUMENT A0134823, A SUBDIVISION BEING A PART OF THE SOUTHWEST QUARTER OF SECTION 25, TOWNSHIP 2 NORTH, RANGE 8 WEST OF THE THIRD PRINCIPAL MERIDIAN, CITY OF O'FALLON, ST. CLAIR COUNTY, ILLINOIS AND BEING MORE PARTICULARLY DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHEAST CORNER OF SAID OUTLOT 2, LOCATED ON THE SOUTH LINE OF PARK PLAZA (50.00 FEET WIDE) DRIVE; THENCE LEAVING SAID SOUTH LINE, SOUTH 00 DEGREES 11 MINUTES 51 SECONDS EAST FOR A DISTANCE OF 651.88 FEET; THENCE NORTH 89 DEGREES 26 MINUTES 43 SECONDS WEST FOR A DISTANCE OF 110.01 FEET; THENCE NORTH 00 DEGREES 11 MINUTES 51 SECONDS WEST FOR A DISTANCE OF 450.00 FEET; THENCE NORTH 89 DEGREES 26 MINUTES 43 SECONDS WEST FOR A DISTANCE OF 280.20 FEET; THENCE IN A NORTHWESTERLY DIRECTION ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 100.00, AN ARC LENGTH OF 90.92 FEET; THENCE IN A NORTHWESTERLY DIRECTION ALONG A CURVE TO THE RIGHT HAVING A RADIUS OF 100.00 FEET, AN ARC LENGTH OF 89.01 FEET; THENCE NORTH 15 DEGREES 00 MINUTES 30 SECONDS WEST FOR A DISTANCE OF 60.00 FEET TO THE SOUTH LINE OF SAID PARK PLAZA DRIVE; THENCE SOUTH 89 DEGREES 22 MINUTES 05 SECONDS EAST ALONG SAID SOUTH LINE FOR A DISTANCE OF 425.93 FEET; THENCE IN A NORTHEASTERLY DIRECTION ALONG A CURVE TO THE LEFT HAVING A RADIUS OF 325.00 FEET, AN ARC LENGTH OF 92.56 FEET TO THE POINT OF BEGINNING, ENCOMPASSING AN AREA OF 3.16 ACRES.

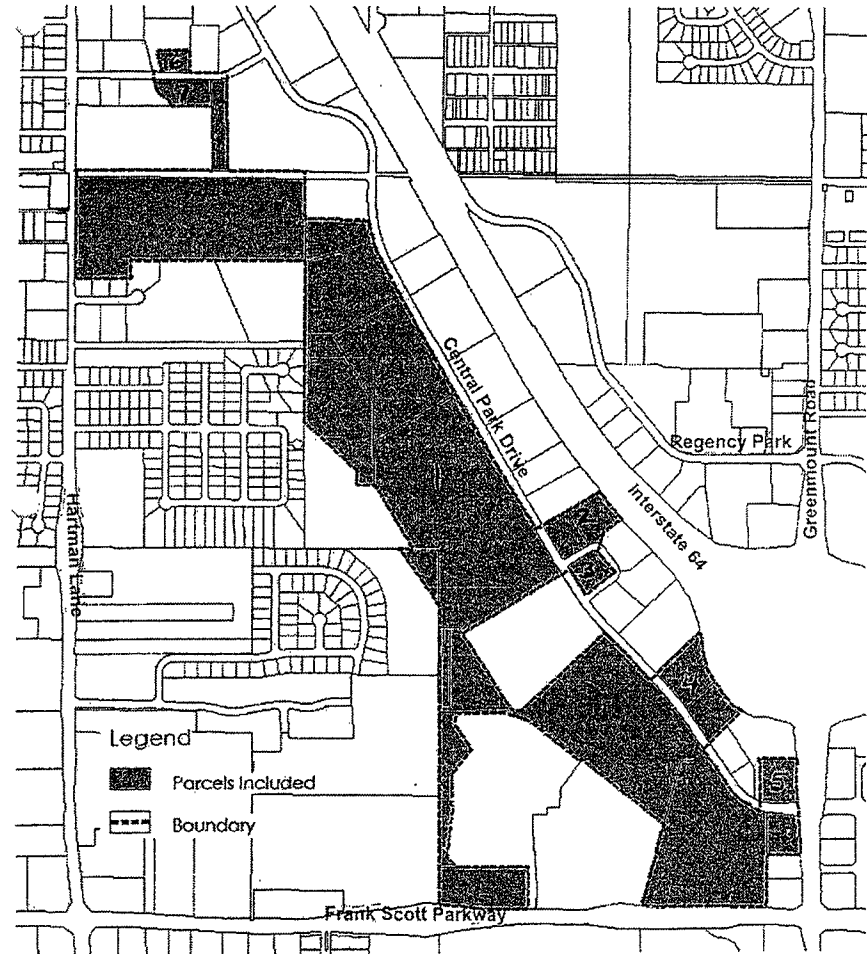


EXHIBIT B

LEGAL DESCRIPTION OF GREENMOUNT'S PARCEL

Lot 23D of Central Park Plaza 3rd Addition, 1st Amendment A Resubdivision of Lot 23 of "Central Park Plaza 3rd Addition" and Outlot 1 of "Central Park Plaza 4th Addition, 1st Amendment", being a part of the northwest, northeast and southeast quarter of Section 36, Township 2 North, Range 8 west of the third principal meridian, City of O'Fallon, Illinois, St. Clair County, Illinois; Reference being had to the Plat Book thereof recorded in the Recorder's Office St. Clair County, Illinois, in Book of Plats 104 on Page 66 as Document No. A01856670.

CONCEPT PLAN



EXHIBIT D

FORM OF CERTIFICATE OF SUBSTANTIAL COMPLETION

The undersigned, Greenmount Retail Center, L.L.C. ("**Greenmount**"), pursuant to that certain Redevelopment Agreement dated as of _____, 2012, between the City of O'Fallon, Illinois (the "**City**") and Greenmount (the "**Agreement**"), hereby certifies to the City as follows:

1. That as of _____, _____, the construction and installation of [a phase of] the Greenmount Improvements in connection with Greenmount's Development Project (as such term is defined in the Agreement) has been substantially completed in accordance with the Agreement.
2. Such Greenmount Improvements have been performed in a workmanlike manner.
3. This Certificate of Substantial Completion is being issued by Greenmount to the City in accordance with the Agreement to evidence Greenmount's satisfaction of all obligations and covenants with respect to [a phase of] the Greenmount Improvements.
4. The City's acceptance (below) or the City's failure to object in writing to this Certificate within 30 days of the date of delivery of this Certificate to the City (which written objection, if any, must be delivered to Greenmount prior to the end of such thirty (30) day period), shall evidence the satisfaction of Greenmount's agreements and covenants to perform the Work related to Greenmount Improvements.

This Certificate may be recorded in the office of the St. Clair County Recorder. This Certificate is given without prejudice to any rights against third parties which exist as of the date hereof or which may subsequently come into being. Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Agreement.

EXHIBIT E

FORM OF CERTIFICATE OF REIMBURSABLE GREENMOUNT'S DEVELOPMENT PROJECT COSTS

Certificate of Reimbursable Greenmount's Development Project Costs

TO: City of O'Fallon, Illinois
Attention:

Re: City of O'Fallon, Illinois Tax Increment Finance District (Greenmount Retail Center, L.L.C.)

Terms not otherwise defined herein shall have the meaning ascribed to such terms in the Development Agreement dated as of _____, 2012 (the "Agreement") between the City and Greenmount. In connection with said Agreement, the undersigned hereby states and certifies that:

1. Each item listed on **Schedule 1** hereto is a Reimbursable Development Project Cost and was incurred in connection with the construction of the Greenmount Improvements in connection with Greenmount's Development Project.
2. These Greenmount's Development Project Costs have been have been paid by Greenmount and are reimbursable under the TIF Ordinance and the Agreement.
3. Each item listed on **Schedule 1** has not previously been paid or reimbursed from Incremental Property Taxes and no part thereof has been included in any other certificate previously filed with the City.
4. There has not been filed with or served upon Greenmount 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 component of 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.

Dated this ____ day of _____, ____.

GREENMOUNT, INC

By: _____
Name: _____
Title: _____

EXHIBIT F

GREENMOUNT IMPROVEMENTS

The Greenmount Improvements involve the construction of a 9,800 square foot retail center. These improvements, in particular, will be built to accommodate certain retail businesses. Improvements also include, but are not limited to, all necessary support facilities such as:

- (1) utilities, including construction, reconstruction and/or relocation of utilities;
- (2) a parking lot and all parking lot improvements;
- (3) two curb cuts along Central Park Circle;
- (4) street improvements and landscaping;
- (5) storm water detention and drainage facilities and other infrastructure improvements required by the U.S. Army Corps of Engineers, St. Clair County or any other entity in order to obtain all necessary approvals and permits ; and
- (6) other infrastructure improvements appurtenant thereto, which are necessary to remove the Blighting Factors described within the Redevelopment Plan, including without limitation, environmental remediation and mine remediation to mitigate the risk of subsidence with respect to Greenmount's Parcel as determined is necessary by Greenmount in order for Greenmount to complete the Greenmount Improvements.

Exhibit G **Eligible Development Project Costs**

<u>Description</u>	<u>Estimated Cost</u>
Property and site preparation, assembly and development costs, including but not limited to demolition of buildings, site preparation, site improvements that serve as an engineered barrier addressing ground level or below ground environmental contamination, coal mine stabilization remediation and the grading and clearing of land	330,033
Mine Remediation	
Clearing and Grading (Earthwork)	
Site Conditions and Preparation	
Engineering, Legal Project and Construction Management	
Cost of the construction of public works or improvements (construction, reconstruction or repair of rights of way, streets, roadways, curbs and gutters, pedestrian walkways and sidewalks, street lighting, and utilities including sanitary sewer storm sewers and drainage infrastructure lift stations, water lines and associated water treatment plant components)	160,711
Water Line Sanitary Sewer Lines	
Storm Water and Drainage Infrastructure	
Sidewalk and Pedestrian Walkways	
Engineering and Agency Fees	
TOTAL ESTIMATED ELIGIBLE COSTS	<u><u>490,744</u></u>