

**NEIGHBORHOOD REVITALIZATION ACT
PERFORMANCE AGREEMENT for 705 MASSACHUSETTS STREET NRA**

This Agreement (hereinafter "**Agreement**") is entered into this ___ day of _____
_____ 2015, by and between the City of Lawrence, Kansas (hereinafter the "**City**"), and Eldridge Hotel L.L.C., a Kansas limited liability company (the "**Company**"), with the City and the Company collectively referred to as the "**Parties**" and each a "**Party**."

RECITALS

WHEREAS K.S.A. 12-17,114 *et seq.* and amendments thereto, also referred to as the Kansas Neighborhood Revitalization Act (the "**Act**"), provides for the creation of a Neighborhood Revitalization Area ("**NRA**") to provide eligible taxpayers with a rebate of property tax increments authorized by the Act for taxpayers to improve aging and deteriorating property in the NRA, or otherwise stimulate new construction, or engage in the rehabilitation, conservation or redevelopment of an area in order to protect the public health, safety and welfare;

WHEREAS, the Company, which is the owner of record of the real estate in the proposed NRA area, requested the formation of a NRA for a redevelopment project located at 705 Massachusetts Street in Lawrence (the "**Project**");

WHEREAS, after conducting a public hearing on February 10, 2015, and complying with the publication requirements of K.S.A. 12-17,117, as amended, the City approved Ordinance No. 9086 (the "**Ordinance**") adopting a neighborhood revitalization district plan (the "**Plan**") in substantially the same form and content as contained in **Exhibit A** attached hereto and incorporated herein by reference for the revitalization of the area;

WHEREAS, the County and the School District have also each approved the formation of a NRA for the Project subject to the requirements and conditions set forth in the Act, Ordination No. 9086, the terms and conditions of the Cooperative Agreement (discussed below), and the terms and conditions of this Agreement;

WHEREAS, each of the City, the County, and the School District have entered into an agreement entitled "Neighborhood Revitalization Act Agreement, Cooperative Agreement for 705 Massachusetts Street" dated _____ 2015, attached as **Exhibit B**; and

WHEREAS, the Parties desire to enter into this Agreement to address issues related to the NRA, the Project, and the Plan.

NOW, THEREFORE, for the mutual promises and covenants contained herein and other good and valuable consideration, the Parties understand and agree as follows:

1. **Purpose.** This Agreement shall set forth the Parties' administration of the NRA program for the benefit of the neighborhood revitalization area and shall set forth the terms and conditions required for the Company to meet the requirements imposed by the Act and the Ordinance that approved the NRA for the Project.
2. **Duration.** This Agreement shall commence on _____ and expire on the date the last payment and rebate is made under the plan, which is anticipated to occur around February 20, 2032, unless terminated earlier pursuant to Section 8.
3. **Company's Responsibilities.** Company agrees to adhere to the terms and conditions of the Plan, the Cooperative Agreement, and this Agreement, including:
 - a. Company shall notify the City Manager and the County Appraiser prior to commencement of redevelopment activities on the real property associated with the NRA Project. Company shall provide any project information that may be helpful to the County Appraiser in the valuation process. In addition, Company shall submit notice to the City Manager that the County Appraiser's Office has completed the review of this real property prior to commencing redevelopment activities.
 - b. Company shall develop, construct, and maintain the Project in accordance with the NRA Plan, the Land Development Code, (Chapter 22), including the Downtown Design Guidelines, the Conservation of Historic Resources Code (Chapter 22), the Kansas Historic Preservation Act of 1977, codified as amended at K.S.A. 75-2715, *et seq.*, and all other applicable laws and regulations. No changes shall be made to the Project except as may be mutually agreed upon, in writing, between the Company and the City and as provided in the Act or the Code of the City of Lawrence, 2015 Edition, as amended.
 - c. Company shall operate the project in compliance with all applicable building and zoning, health, environmental, public safety, and alcoholic beverage laws, ordinances, regulations, and resolutions of the City, the State of Kansas, and the United States. The Company shall, at its own expense, secure or cause to be secured any and all permits which may be required by the City and any other governmental agency having jurisdiction for the construction and operation of the Project.
 - d. Company shall pay when due all real estate taxes and assessments on the Project.
 - e. Within 10 business days of project construction completion, Company shall provide a Certificate of Project Completion (**Exhibit C**) to the City Manager, with a copy to the County Appraiser. For purposes of submitting this certificate, the project can be considered substantially complete if construction is at least 90% finished.

- f. Company shall pull a building permit for the Project within one year of the effective date of Ordinance No. 9086, and shall complete the project within two years of the effective date of Ordinance No. 9086.

If the Company fails to comply, in whole or in part, with the conditions of the Plan, the Cooperative Agreement, or this Agreement, the City may withhold all or a portion of any rebate until full compliance is achieved, or may otherwise terminate the NRA and this Agreement in the governing body's discretion.

4. The Parties agree that the NRA and this Performance Agreement are contingent upon the Company obtaining from the City approval of a Site Plan, the Company's strict compliance with the approved Site Plan, and the Site Plan, which is incorporated herein by reference, being affixed hereto as Exhibit D. Any Amendment to the Site Plan shall be approved by the City, shall be strictly complied with by the Company, and shall be affixed hereto and incorporated herein by reference as an additional exhibit. The Parties further agree that any rebate of the increment in ad valorem property taxes resulting from improvements by the Company shall be limited to the increment in the Project Area defined in the Plan. The Company shall not claim and shall not be entitled to a rebate of ad valorem property taxes of the Company's real estate adjacent to the Project Area even if the assessed valuation of the Company's adjacent real estate increases as a result of the improvements in the Project or the revitalized area.

5. **Calendar of Events.** Activities, payments and rebates due under the terms of the Plan, the Cooperative Agreement, and the Act are anticipated to occur on the following schedule, provided a project substantial completion date of December 1, 2016. If the Project is not substantially complete by December 1, 2016, the schedule in the table below remains applicable to the Project, and the Company shall only be eligible for a rebate of the property tax increment after substantial completion is achieved through Tax Year 2031, unless the Parties, and the County and School District all agree to an amendment or modification of the Plan's Schedule or Calendar of Events.

NRA Rebate Schedule: 705 Massachusetts St (Eldridge Exp.)				
NRA Year	Tax Year	City & USD Rebate %	County Rebate %	Year Rebate Paid to Property Owner
--	2015	n/a	n/a	n/a
--	2016	n/a	n/a	n/a
1	2017	95% of increment	85% of increment	2018 (for 2017 Taxes)
2	2018	95% of increment	85% of increment	2019 (for 2018 Taxes)
3	2019	95% of increment	85% of increment	2020 (for 2019 Taxes)
4	2020	95% of increment	85% of increment	2021 (for 2020 Taxes)
5	2021	95% of increment	85% of increment	2022 (for 2021 Taxes)
6	2022	95% of increment	85% of increment	2023 (for 2022 Taxes)
7	2023	95% of increment	85% of increment	2024 (for 2023 Taxes)
8	2024	95% of increment	85% of increment	2025 (for 2024 Taxes)
9	2025	95% of increment	85% of increment	2026 (for 2025 Taxes)
10	2026	95% of increment	85% of increment	2027 (for 2026 Taxes)
11	2027	95% of increment	85% of increment	2028 (for 2027 Taxes)
12	2028	95% of increment	85% of increment	2029 (for 2028 Taxes)
13	2029	95% of increment	85% of increment	2030 (for 2029 Taxes)
14	2030	95% of increment	85% of increment	2031 (for 2030 Taxes)
15	2031	95% of increment	85% of increment	2032 (for 2031 Taxes)

6. **Rebate Process.** All requests for a rebate under this Agreement shall be made in an application submitted to the City by the Company. The application shall be accompanied by a Certification of Rebate of Increment in Ad Valorem Property Taxes in substantial compliance with the form attached hereto as Exhibit E. The City shall have 30 calendar days after receipt of said application and certificate to approve the Certificate of Rebate of Increment in Ad Valorem Property Taxes. The City may make, or cause to be made the rebate within 30 calendar days after the City's approval of the Certificate of Rebate of Increment in Ad Valorem Property Taxes.

7. **Amendment to Plan and this Agreement.** Pursuant to the Ordinance, the City reserves the right to evaluate the Program at any time. The City, County or School District may jointly agree to amend or modify the Plan as conditions, policies or priorities change.
8. **Termination.** The Parties agree that termination of this Agreement by any party prior to February 20, 2032 would adversely impact the Plan, and consequently, this Agreement may only be terminated with ninety (90) days written notice, and further provided such written notice must be received prior to August 1 in the calendar year prior to the tax year the party desires to terminate participation, unless such notice is waived, in writing, by the Parties to this Agreement. The Parties further agree that any request for tax rebate submitted to the City prior to receipt of the notice of termination shall, if approved, be considered eligible for the rebate period set forth in the submitted request.
9. **City Responsibilities.** The City agrees to fulfill all of the responsibilities set forth in the Plan, the Cooperative Agreement, and Kansas statues governing Neighborhood Revitalization districts, K.S.A. 12-17,118 and amendments thereto. The City will also coordinate with the County, as required by the Cooperative Agreement. Notwithstanding any other term or provision of this Agreement, the City's obligation to rebate any increment in ad valorem property taxes resulting from improvements by the Company to the real property in the neighborhood revitalization area shall be limited to monies in the NRA fund established pursuant to Ordinance No. 9086.
10. **Execution.** For purposes of executing this Agreement, this document if signed and transmitted by facsimile machine, telecopier, or electronic mail is to be treated as an original document. This Agreement may be executed in one or more counterparts and by each Party on a separate counterpart, each of which when so executed and delivered shall be an original, and all of which together shall constitute one instrument.
11. **Liberal Construction.** This Agreement shall be liberally construed to achieve the economic development objectives and purposes of both this Agreement and the Plan. Should any provision of this Agreement be determined to be void, invalid, unenforceable or illegal, such provision(s) shall be null and void, but the remaining provisions shall be unaffected thereby and shall continue to be valid and enforceable.
12. **Entire Agreement.** This Agreement constitutes the entire agreement between the Parties on this subject and may not be modified or amended except in writing executed by all Parties in the same manner as the original.
13. **Governing Law.** This Agreement and the Plan and the rights of all the Parties hereto shall be governed by and construed according to the laws of the State of Kansas.

IN WITNESS WHEREOF, the Parties have caused this Agreement to be duly executed by their respective, appropriate representatives with authority to bind their respective entity.

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COMPANY:

Eldridge Hotel, L.L.C

Nancy Longhurst, General Manager

CITY OF LAWRENCE, KANSAS

[SEAL]

Attest:

David L. Corliss, City Manager

Diane Trybom, Acting City Clerk

(Rest of Signature Page Left Intentionally Blank)

Exhibit A

Neighborhood Revitalization Plan
As adopted by Governing Body of the City of Lawrence
On _____, 2015
through Ordinance No. 9086

[See Attached]

Exhibit B

Neighborhood Revitalization Act
Cooperative Agreement for 705 Massachusetts Street
Executed _____, 2015

[See Attached]

Exhibit C

Certificate of Completion

[See Attached]

**City of Lawrence, Kansas
Certificate of Project Completion**



Please fill out the below certificate of completion and submit within 10 days of the conclusion of project construction. *For purposes of submitting this certificate, a project can be considered substantially complete when at least 90% of the construction has been completed.*

Submit Application to: City of Lawrence, City Manager's Office,
Attn: Economic Development
6th East 6th Street, Lawrence, KS 66044

With a copy sent to: Douglas County, Kansas, Attn: Appraiser's Office
1100 Massachusetts St., Lawrence, KS 66044

Project: 705 Massachusetts Street, Lawrence, KS 66044
Company Name: Eldridge Hotel L.L.C.
Company Address: 701 Massachusetts Street, Lawrence, Kansas 66043

Contact Information:

Company Contact(s): _____
Contact Address: _____
Contact Phone: _____
Contact Email: _____

I certify that construction of the above project was completed as of: _____
(Date)

Owner's Signature _____ Date _____

Exhibit D

Approved Site Plan

Exhibit E
City of Lawrence, Kansas
Application for Annual NRA Rebate &
Certification of Rebate of Increment in Ad Valorem
Property Taxes



Please fill out the below application and submit along with a copy of all applicable tax payment receipts.

Submit Application to: City of Lawrence, City Manager's Office, Attn: Economic Development
6th East 6th Street, Lawrence, KS 66044

With a copy sent to: Douglas County, Kansas, Attn: Treasurer's Department
1100 Massachusetts St., Lawrence, KS 66044

Project Name: 705 Massachusetts Street NRA (Eldridge hotel expansion project)
Project Address: 705 Massachusetts Street, Lawrence, KS 66044
Requested Rebate: Rebate on property taxes levied in _____
Company Name: Eldridge Hotel, LLC
Company Address: _____

Contact Information:

Company Contact(s): _____
Contact Address: _____
Contact Phone: _____
Contact Email: _____

(Y/N) The Company has paid, at the time Application for Rebate is made, all real estate taxes levied against the Property on which the Project is located.

Please attach a copy of tax payment receipts for the calendar year in which the rebate is requested.

(If applicable, also include payment receipts for any past due property taxes.)

Exhibit E, Page 2 of 2

CERTIFICATION

The undersigned duly authorized officer of the undersigned Company does hereby certify to the City of Lawrence, Kansas (the "City") that the following information is true and correct as of the date hereof:

1. The Company is in compliance with the terms of the Neighborhood Revitalization Act Performance Agreement for 705 Massachusetts Street NRA.

2. The Company is entitled to the rebate of the increment in ad valorem property taxes levied pursuant to the terms of the Neighborhood Revitalization Act Performance Agreement for 705 Massachusetts Street NRA in connection with the Project and the Neighborhood Revitalization Act.

3. The undersigned has reviewed the provisions of K.S.A. 21-6004 and understands the penalties thereunder.

Eldridge Hotel, L.L.C.,

By: _____

Printed Name: _____

Title: _____

Note: Rebates are given only after property taxes are paid in full.