

AGREEMENT

THIS AGREEMENT (“Agreement”) is made this ____ day of _____, 20__, (“Effective Date”) between the City of St. Petersburg, Florida, a municipal corporation existing by and under the laws of the State of Florida, (“City”) and _____, a for-profit entity, (“Company”) (collectively, “Parties”) with regard to the following matters.

RECITALS:

WHEREAS, the City desires to utilize a portion of its available tax increment financing (“TIF”) funds from the South St. Petersburg Community Redevelopment Area (“CRA”) to support projects that further the CRA’s economic development by improving buildings or sites in commercial corridors, decreasing vacancy rates in commercial corridors, retaining or creating jobs, or creating new commercial space; and

WHEREAS, the use of TIF funds to further the economic development of the South St. Petersburg CRA through private investment constitutes a valid public purpose set forth in Ch. 163.345(1), F.S., which states that “*any county or municipality, to the greatest extent it determines to be feasible in carrying out the provisions of this part, shall afford maximum opportunity, consistent with the sound needs of the county or municipality as a whole, to the rehabilitation or redevelopment of the community redevelopment area by private enterprise*” (*emphasis added*); and

WHEREAS, the Company has represented to the City that it will complete the project set forth in its completed TIF Grant application package submitted to the City (“Project”), and that the Project will further economic development in the CRA by improving a building or site in a commercial corridor, decreasing vacancy rates in a commercial corridor, retaining or creating jobs in the CRA, or creating new commercial space in the CRA; and

WHEREAS, the City has agreed to contribute the herein described grant funds toward the Company’s completion of the Project, subject to the terms and conditions of this Agreement; and

NOW, THEREFORE, for and in consideration of the foregoing recitals (which are hereby incorporated into this Agreement by reference) and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the City and Company covenant and agree as follows:

1. **Grant of Funds**. The City shall pay to the Company, on a reimbursement basis, an amount not to exceed **ZERO THOUSAND AND ZERO HUNDRED AND ZERO-ZERO DOLLARS (\$00,000)** (“Grant”) for the Company’s completion of the Project (as defined above). Provided the Company is in compliance with the terms and conditions of this Agreement, the City shall make such payment within thirty (30) days after the Company’s request for payment of the Grant funds and submission of invoices and any other information necessary to substantiate compliance. Nothing herein shall be construed to grant the City any ownership interests in the Project, and the City shall have no liability whatsoever related to the Project.

2. **Compliance.** The Company shall complete the Project and comply with all the terms and conditions of this Agreement, including but not limited to (i) complying with the Project Development Plan, which is attached hereto as Appendix A, and (ii) complying with the Company's completed TIF Grant Application package that was reviewed and recommended by the South St. Petersburg Grant Review Committee on August 11, 2017, and approved by the St. Petersburg City Council on September 21, 2017, which is set forth in Appendix B ("Application").
3. **Appendices.** All appendices referenced in this Agreement are attached to this Agreement and made a part hereof by reference.
4. **Term.** The term of this Agreement shall commence on the Effective Date and terminate on _____, unless this Agreement is earlier terminated as provided for herein.
5. **Project Deadline.**
 - A. The Company shall complete the Project within _____ (_____) months after the Effective Date ("Project Deadline"). The City shall have a right to terminate this Agreement in the event the Company fails to meet the Project Deadline. During this period the Company shall provide evidence of building permit approval to the City's Economic Development Division ("Division") within sixty (60) days of the Effective Date. For projects not requiring a building permit, the Company shall notify the Division by electronic and postal mail when it will start within the aforementioned sixty-day period.
 - B. The City, in its sole and absolute discretion, may authorize an extension of the Project Deadline for up to ninety (90) days to allow the Company to complete its obligations set forth in this Agreement in a timely manner if the Company is in compliance with this Agreement and the Company is taking reasonable steps to complete its obligations set forth in this Agreement within such ninety (90) day period. Any authorization to extend the Project Deadline shall be in writing and approved by the Mayor.
 - C. The Company may request a ninety (90) day extension after the Effective Date to secure additional financing before the above deadlines will commence. The decision on any request for an additional extension(s) based on these grounds due to extenuating circumstances will be made by the Mayor.
 - D. Any extensions of Project Deadlines beyond those specified above and/or material changes in the Project shall only be approved via a formal amendment to the grant agreement pursuant to Paragraph 22 of this agreement.
6. **Compliance with Laws.** The Company shall comply at all times with all federal, state, and local statutes, rules, regulations and ordinances, the federal and state constitutions, and the orders and decrees of lawful authorities having jurisdiction over the matter at issue

(collectively, "Laws"), including but not limited to Florida laws regarding public records (e.g., Chapter 119, F.S.).

7. **Reservation of Rights.** In order to determine the Company's compliance with this Agreement, the City may at any reasonable time enter and inspect the Project or any premises used by the Company. Such inspection may include, but shall not be limited to, review or analysis of the financial or service records of the Company.

8. **Default and Termination.**

A. The City may terminate this Agreement in the event of failure by the Company to observe or perform any term or condition of this Agreement if such failure continues for ten (10) days after written notice thereof from the City to the Company in accordance with Paragraph 12 of this Agreement.

B. Notwithstanding the above, the Company shall not be relieved of liability to the City for damages sustained by the City by virtue of the Company's failure to comply with any of the terms and conditions of this Agreement. In addition to the City's other rights and remedies and without limiting such other rights and remedies, the City may withhold any payments to the Company equal to the amount of damages incurred by the City as a result of the Company's breach. If the amount of damages incurred by the City cannot immediately be determined, the City may withhold any payments to the Company equal to the estimated damages incurred by the City until such time as the exact amount of damages due the City from the Company is determined.

C. The City's liability and obligations to the Company or any person having a claim pursuant to this Agreement or to the completion of the Project provided by the herein described Grant funds shall be limited solely to the amount and terms and conditions of this Agreement.

D. If this Agreement is terminated by the City, the City shall have no obligation to pay any of the Grant funds to the Company, and the City shall have the right to declare that the Company is not eligible to receive funds from the City in subsequent years.

9. **Indemnification.**

A. The Company shall defend at its expense, pay on behalf of, hold harmless and indemnify the City, its officers, employees, agents, elected and appointed officials and volunteers (collectively, "Indemnified Parties") from and against any and all claims, demands, liens, liabilities, penalties, fines, fees, judgments, losses and damages (collectively, "Claims"), whether or not a lawsuit is filed, including but not limited to Claims for damage to property or bodily or personal injuries, including death at any time resulting therefrom, sustained by any persons or entities; and costs, expenses and attorneys' and experts' fees at trial and on appeal, which Claims are alleged or claimed to have arisen out of or in connection with, in

whole or in part, directly or indirectly:

- (1) The performance of this Agreement (including changes and amendments thereto) and any work performed on the Project by the Company, its employees, agents, representatives, contractors, subcontractors or volunteers; or
- (2) The failure of the Company, its employees, agents, representatives, contractors, subcontractors or volunteers to comply and conform with any applicable Laws; or
- (3) Any negligent act or omission of the Company, its employees, agents, representatives, contractors, subcontractors or volunteers, whether or not such negligence is claimed to be either solely that of the Company, its employees, agents, representatives, contractors, subcontractors or volunteers or to be in conjunction with the claimed negligence of others, including that of any of the Indemnified Parties; or
- (4) Any reckless or intentional wrongful act or omission of the Company, its employees, agents, representatives, contractors, subcontractors or volunteers.

- B. The provisions of this Paragraph 9 are independent of, and will not be limited by, any insurance required to be obtained by the Company pursuant to this Agreement or otherwise obtained by the Company, and shall survive the expiration or earlier termination of this Agreement with respect to any Claims or liability arising in connection with any event occurring prior to such expiration or termination.

10. **Insurance.**

- A. The Company shall maintain insurance coverage in the form and amount deemed adequate by the City for all risks inherent in the functions and aspects of its operation, including but not limited to, risks of fire, casualty, automobile coverage as required by law, workers' compensation insurance as required by law, employers' liability insurance, and general liability insurance for personal injury, property damage and contractual liability under this Agreement.
- B. The City hereby reserves the right to require the Company to have the Indemnified Parties named as additional insureds under all policies required to be obtained by Company pursuant to this Agreement (except workers' compensation insurance). This right may be exercised at any time and may be exercised in the absolute discretion of the City, with or without stated reasons, by providing written notice to the Company. The Company shall have ten (10) days in which to comply. All required insurance policies shall provide that the City shall be afforded at least thirty (30) days advance written notice in the event of cancellation, reduction or material change of any policy. All insurance required shall be provided by responsible insurers licensed in the State of Florida and rated at least A- in the then current edition of Best's Insurance Guide.

- C. Prior to the City's distribution of any funds pursuant to this Agreement, the Company shall provide the City with a certificate of insurance on a standard ACORD form reflecting all required coverage. At the City's request, the Company shall provide copies of current policies with applicable endorsements. The City reserves the right to request proof that the insurance premiums for the required policies have been paid.

11. Records, Reports and Inspection.

- A. The Company shall maintain financial books, records, and accounting information related to this Agreement. These books, records, and information shall comply with generally accepted accounting principles. Nothing herein shall be construed to allow destruction of records that may be required to be retained longer by the statutes of the State of Florida.
- B. The Company shall, at any reasonable time requested by the City and as often as the City may deem necessary, make available to the City for examination all of its books, records and information with respect to all matters covered by this Agreement and shall permit the City or its designated authorized representatives to audit and inspect all such books, records and information, including but not limited to invoices, materials, payrolls, records of personnel, conditions of employment and other data relating to all matters covered by this Agreement.
- C. The City shall have the right, at any time during the Term, to inspect the Project site and to determine that the property use is consistent with the uses described in the project development plan, in accordance with Paragraph 7 of this Agreement.

12. **Notices.** Unless and to the extent otherwise provided in this Agreement, all notices, demands, requests for approvals or other communications which are required to be given by either party to the other shall be in writing and shall be deemed given and delivered on the date delivered in person to the authorized representative of the recipient provided below, or upon the expiration of five (5) business days following the date mailed by registered or certified mail, postage prepaid, return receipt requested to the authorized representative of the recipient at the address provided below, or upon the date delivered overnight courier (signature required) to the authorized representative of the recipient at the address provided below.

CITY OF ST. PETERSBURG:
City of St. Petersburg, Florida
Economic and Workforce Development
P. O. Box 2842
St. Petersburg, Florida 33731
Attn: Rick D. Smith _____
Community Redevelopment Coordinator

COMPANY:

Attn:

13. **Nondiscrimination**. The Company shall not discriminate against anyone in the completion of the Project because of race, color, religion, gender, national origin, marital status, age, disability, sexual orientation, genetic information or other protected category.
14. **Funding Credit**. The Company agrees to identify the City of St. Petersburg as a funding agency in printed, informational and promotional materials. The Company agrees to include the City Logo except where space limitation renders the logo unreadable.
15. **Assignment**. The Company shall not assign this Agreement without the prior written consent of the City. Any assignment of this Agreement contrary to this Paragraph 15 shall be void and shall confer no rights upon the assignee. The Company shall notify the City thirty (30) days prior to any conveyance or sale, granting or transferring any real property (“Property”) underlying the Project or portion thereof, to any heirs, successors, assigns or grantees, including, without limitation, the conveyance of any security interest in said Property.
16. **Change of Use**. For five (5) years from the date of Project completion, the Company shall maintain the Property in the use for which it was awarded funding through the South St. Petersburg CRA Grant Program. Failure to do so shall result in the Company repaying the grant award to the City, unless the requirement to repay the grant award is waived by the Mayor, at his sole discretion, upon written request made to the City by the Company. If the Company intends to change the use of the Property, it shall notify the Division of its intent prior to applying for building permits. In the event that the Company fails to notify the Division of its intent to change the use of the Property prior to applying for building permits, the Company may not request waiver of the requirement to repay the grant award pursuant to this Paragraph 16.
17. **Governing Law and Venue**. The laws of the State of Florida shall govern this Agreement. Venue for any action brought in state court shall be in Pinellas County, St. Petersburg Division. Venue for any action brought in federal court shall be in the Middle District of Florida, Tampa Division, unless a division shall be created in St. Petersburg or Pinellas County, in which case the action shall be brought in that division. Each party waives any defense, whether asserted by motion or pleading, that the aforementioned courts are an improper or inconvenient venue. Moreover, the Parties consent to the personal jurisdiction of the aforementioned courts and irrevocably waive any objections to said jurisdiction.
18. **Due Authority**. Each party to this Agreement represents and warrants to the other party that: (i) it is duly organized, qualified and existing entities under the laws of the State of Florida; and (ii) all appropriate action has been taken so as to duly authorize the persons executing this Agreement to so execute the same and fully bind the parties on whose behalf he or she is executing.
19. **Headings**. The paragraph headings are inserted herein for convenience and reference only, and in no way define, limit, or otherwise describe the scope or intent of any provisions hereof.

20. **Non-Appropriation.** The obligations of the City as to any funding required pursuant to this Agreement shall be limited to an obligation in any given year to budget, appropriate and pay from legally available funds, after monies for essential City services have been budgeted and appropriated, sufficient monies for the funding that is required during that year. Notwithstanding the foregoing, the City shall not be prohibited from pledging any legally available non-ad valorem revenues for any obligations heretofore or hereafter incurred, which pledge shall be prior and superior to any obligation of the City pursuant to this Agreement.
21. **No Third Party Beneficiaries.** Notwithstanding anything to the contrary contained in this Agreement, persons or entities not a party to this Agreement may not claim any benefit hereunder or as third party beneficiaries hereto.
22. **Entire Agreement and Modification.** This Agreement constitutes the entire agreement between the Parties pertaining to the subject matters covered herein and there are no oral representations, arrangements or understandings between or among the Parties relating to the subject matters of this Agreement. No change to this Agreement, including extensions to the Term set forth in Paragraph 4 herein, will be valid unless made by a written amendment executed by the Parties.
23. **Waiver.** No provision of this Agreement will be deemed waived by the City unless expressly waived in writing by the City. No waiver shall be implied by delay or any other act or omission of the City. No waiver by the City of any provision of this Agreement shall be deemed a waiver of such provision with respect to any subsequent matter relating to such provision, and the City's consent respecting any action by the Company shall not constitute waiver of the requirement for obtaining the City's consent respecting any subsequent action.
24. **Severability.** Should any paragraph or portion of any paragraph of this Agreement be rendered void, invalid, or unenforceable by any court of law, for any reason, such a determination shall not render void, invalid, or unenforceable any other section or any part of any section of this Agreement.
25. **City Consent and Action.**
- A. For purposes of this Agreement, any required written permission, consent, acceptance, approval, or agreement by the City means the approval of the Mayor or his authorized designee, unless otherwise set forth in this Agreement or unless otherwise required to be exercised by City Council pursuant to the City Charter or applicable Laws.
 - B. For purposes of this Agreement, any right of the City to take any action permitted, allowed, or required by this Agreement may be exercised by the Mayor or his authorized designee, unless otherwise set forth in this Agreement or unless otherwise required to be exercised by City Council pursuant to the City Charter or applicable Laws.

26. **Survival.** All obligations and rights of any party arising during or attributable to the period prior to expiration or earlier termination of this Agreement, including but not limited to those obligations and rights related to indemnification, shall survive such expiration or earlier termination.

IN WITNESS WHEREOF, the City and the Company have executed this Agreement as of the date first above written.

COMPANY:

WITNESSES FOR COMPANY:

By: _____

Sign: _____

Print: _____

Print: _____

Title): _____

Sign: _____

Print: _____

CITY OF ST. PETERSBURG, FLORIDA

ATTEST:

By: _____

Chan Srinivasa, City Clerk

Print: _____

Title: _____

(Seal)

Approved as to Content:

Approved as to Form:

City Attorney (designee)

City Attorney (designee)

Appendix A
Project Development Plan

XXXX Xnd Avenue South

Project Description and Budget

1. The Company shall perform or cause to be performed the following activities and services associated with the Final Approved Budget for File# 2017TIF-9 (Commercial Site Improvement Grant) and File# 2017TIF-x:

File 2017TIF-x

Install fencing	\$\$\$
Renovate porch	\$\$\$
Install windows	\$\$\$
Repair/replace wooden siding	\$\$\$
Install handicapped parking ramp	\$\$\$
Final Approved Project Costs	\$\$\$

Project Timelines

- 2. The Company shall complete the Project in accordance with the following deadlines:
 - a. Identify a start date within sixty (60) days of the Effective Date of this agreement, based on either building permit approval or applicant specified date _____
 - b. Submit monthly project reports beginning on _____ with a final report on the completed project submitted by _____ prior to requesting reimbursement;
 - c. Completion and/or occupancy and full operation of the services described in this Agreement shall be achieved by _____.

Maximum Grant Award to be Reimbursed by City upon Project Completion

\$xx,xxx