REDEVELOPMENT AGREEMENT

between the

CITY OF PARK HILLS, MISSOURI

and

____

dated as of

____________ ___, 2022

____

CITY OF PARK HILLS, MISSOURI
REDEVELOPMENT AREA ________________________

REDEVELOPMENT AGREEMENT

THIS REDEVELOPMENT AGREEMENT, entered into this _____ day of __________, 2022, by and between the **CITY OF PARK HILLS, MISSOURI** (the "City"), and _________________, a Missouri limited liability company (the "Developer"). *(All capitalized terms used but not otherwise defined herein shall have the meanings ascribed in **Article I** of this Agreement.)*

RECITALS:

1. On August 13, 2002, the City Council of the City adopted Ordinance No. 426-02 ratifying and confirming the establishment of the Tax Increment Financing Commission of Park Hills, Missouri (the *"TIF Commission"*).

2. Following a public hearing held on June 16, 2005, in accordance with the TIF Act, the TIF Commission passed a resolution on June 16, 2005, approving the Tax Increment Redevelopment Plan for the Downtown Park Hills Redevelopment Area (as amended, the *"Redevelopment Plan"*) and recommended that the City Council (a) approve the Redevelopment Plan, (b) approve and designate the Redevelopment Area as a "redevelopment area" as provided in the TIF Act, (c) approve the redevelopment projects described in the Redevelopment Plan, and (d) adopt tax increment financing within the Redevelopment Area.

3. On July 12, 2005, after due consideration of the TIF Commission's recommendation, the City Council adopted Ordinance No. 633-05 approving the Redevelopment Plan, approving the redevelopment projects described therein and adopting tax increment financing within the Redevelopment Area (the *"TIF Ordinance"*).

4. On December 1, 2013, the City mailed copies of a Request for Redevelopment Proposals to those persons which the City determined might be interested in submitting a bid for the redevelopment of the Redevelopment Area. On December 2, 2013, the City published in the *Daily Journal*, a newspaper of general circulation within the City, a notice soliciting proposals for the redevelopment of the Redevelopment Area.

5. The Developer submitted a Redevelopment Proposal (attached as **Exhibit B** hereto) with respect to the Development Parcel(s) listed on **Exhibit A** and legally described on **Exhibit D**.

6. The City Council adopted an ordinance authorizing the City to enter into this Agreement as shown on **Exhibit A**.

7. The City Council hereby determines that this Agreement is 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.

AGREEMENT

Now, therefore, in consideration of the premises and promises contained herein and other good and valuable consideration, the adequacy and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. Definitions.

In addition to terms defined elsewhere herein, capitalized terms used herein shall have the following meanings:

"Economic Activity Taxes" means fifty percent (50%) of the total additional revenue from taxes, penalties and interest which are imposed by the municipality or other taxing districts, and which are generated by economic activities within the Development Parcel in the calendar year prior to the adoption of the TIF Ordinance, while tax increment financing remains in effect, but excluding personal property taxes, taxes imposed on sales or charges for sleeping rooms paid by transient guests of hotels and motels, taxes levied pursuant to Section 70.500 of the Revised Statutes of Missouri, as amended, or taxes levied for the purpose of public transportation pursuant to Section 94.660 of the Revised Statutes of Missouri, as amended, licenses, fees or special assessments.

"Payments in Lieu of Taxes" means those estimated revenues from real property derived from the Development Parcel, which taxing districts would have received had the City not adopted tax increment allocation financing, and which result from levies made after the time of the adoption of tax increment allocation financing during the time the current equalized value of real property which comprises the Development Parcel exceeds the initial equalized value of the Development Parcel until 23 years after the date of adoption of the TIF Ordinance.

"Reimbursable Project Costs" means the portion of the Project costs that qualify as "redevelopment project costs" under the Act and that are eligible for reimbursement under this Agreement from TIF Revenues, as set forth in **Exhibit A** attached hereto.

"Special Allocation Fund" means the Downtown Park Hills Special Allocation Fund, created by the TIF Ordinance, into which TIF Revenues generated are from time to time deposited in accordance with the TIF Act.

"TIF Ordinance" means Ordinance No. 633-05 adopted by the City Council on July 12, 2005, pursuant to which tax increment financing is adopted within the Redevelopment Area.

"TIF Revenues" means, collectively, Economic Activity Taxes and Payments in Lieu of Taxes attributable to the Development Parcel.

2. Items Incorporated in this Agreement. The TIF Ordinance, the Redevelopment Plan and the Redevelopment Proposal are hereby incorporated herein by reference and made a part of this Agreement.

3. Development Parcel Legal Description. Each Development Parcel is legally described in **Exhibit A**, attached hereto and incorporated herein by reference.

4. Redevelopment Project Costs.

(a) The City agrees to reimburse the Developer for the verified Reimbursable Project Costs, as set forth on **Exhibit A** hereto, upon provision of evidence to the City's satisfaction of itemized invoices, receipts or other information demonstrating that the Developer has incurred Reimbursable Project Costs; provided the total reimbursements to the Developer or its successors or assigns under this Agreement shall not exceed the amount(s) set forth on **Exhibit A**.

(b) The Developer shall provide such information as the City may reasonably request, and shall make its books and records available to the City, for the City to confirm that any cost qualifies under this Agreement and has been incurred and paid by the Developer. The City may retain such consultants as it deems necessary in connection with such review, the cost of which shall be initially borne by the City but which is subject to reimbursement from TIF Revenues following reimbursement to the Developer hereunder.

(c) The City will apply money in the Special Allocation Fund to the payment of Reimbursable Project Costs on an "as collected" basis. The City shall seek disbursements from the Special Allocation Account quarterly or such other regular dates as shall be established which allow the City the opportunity to procure necessary information and perform required calculations. The Developer shall be given the opportunity to review information related to the amount deposited in the Special Allocation Fund and such other information as is publicly available, provided that in no event shall this Section be construed as to allow the Developer access to confidential or proprietary information of any kind, or information not otherwise publicly available as provided by law. <u>The Developer understands that its sole source of repayment for Reimbursable Project Costs is TIF Revenues attributable to the Development Parcel and not any other money in the Special Allocation Fund.</u>

(d) To assist the City in calculating TIF Revenues, the Developer shall provide to the City's finance director its monthly or quarterly sales tax information in a form substantially similar to the sales tax returns filed by such seller with the Missouri Department of Revenue, together with any other information requested by the City from time to time.

5. Special Allocation Fund. The City agrees to cause its Treasurer or other financial officer to maintain the Special Allocation Fund, and within such fund a "PILOT Account" and an "EATs Account" and such further accounts as the Treasurer of the City may deem appropriate in connection with the administration of the Special Allocation Fund pursuant to this Agreement. Subject to the requirements of the Act and, with respect to Economic Activity Taxes, subject to annual appropriation by the City Council, the City will, promptly upon receipt thereof, deposit all Payments in Lieu of Taxes attributable to the Development Parcel into the PILOT Account and all Economic Activity Taxes attributable to the Development Parcel into the EATs Account within the Special Allocation Fund.

6. Full Assessment. Not later than twenty-three (23) years from the adoption of the TIF Ordinance, all property in the Redevelopment Area shall be subject to assessments and payment of all ad valorem taxes, including, but not limited to, City, State, and County taxes, based on the full true value of the real property and the standard assessment ratio then in use for similar property by the County Assessor, and the Redevelopment Area shall be owned and operated free from the conditions, restrictions, and provisions of the Act, of any rules or regulations adopted pursuant thereto, of the TIF Ordinance, of the Redevelopment Plan, and of this Agreement.

7. Default, Remedies and Termination.

(a) Except as otherwise provided in this Agreement and subject to the Developer's and the City's respective rights of termination hereof, in the event of any default in or breach of any term or condition of this Agreement or any representation made herein 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 30 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, including, but not limited to proceedings for injunctive relief or proceedings to compel specific performance by the defaulting or breaching party.

(b) The City may terminate this Agreement if:

(i) the Developer commits a material breach of any covenant or obligation of the Developer under any provision of this Agreement and the Developer fails to cure the breach in accordance with subdivision (a) of this **Section 7**; or

(ii) the Developer ceases to operate a business within the Development Parcel as described in the Redevelopment Proposal or as otherwise consented to by the City for a period of 30 consecutive days.

(c) In addition to the provisions of this **Section 7**, this Agreement may otherwise terminate or be terminated in accordance with the provisions of **Section 14** hereof.

8. Excusable Delays. Notwithstanding any provision of this Agreement to the contrary, performance by either party hereunder shall not be deemed to be in default where delays or defaults are due to war, insurrection, strikes, lock-outs, riots, floods, earthquakes, fires, casualties, acts of God, labor disputes, governmental restrictions or priorities, embargoes, litigation, tornadoes, unusually severe weather, inability to obtain or secure necessary labor, materials, or tools, delays of any contractor, subcontractor, or supplier, acts or failure to act of any governmental agency or entity, or any other causes beyond the reasonable control or without the material fault of the non-performing party.

9**.** **Covenant to Rebuild.** The Developer agrees that if any portion of the Developer Project is damaged or destroyed, in whole or in part, by fire or other casualty (whether or not covered by insurance), or by any taking in condemnation proceedings or the exercise of any right of eminent domain, the Developer shall promptly restore, replace or rebuild the same (or shall promptly cause the same to be restored, replaced or rebuilt) to as nearly as possible the value, quality and condition it was in immediately prior to such fire or other casualty or taking, with such alterations or changes as may be approved in writing by the City, which approval shall not be unreasonably withheld. The Developer shall give prompt written notice to the City of any damages or destruction to any portion of the Developer Project by fire or other casualty, irrespective of the amount of such damage or destruction, but in such circumstances the Developer shall make the property safe and in compliance with all applicable laws as provided herein.

10. Release and Indemnification.

(a) Notwithstanding anything herein to the contrary, the City and its governing body, officials, agents, employees and independent contractors shall not be liable to the Developer for damages of any kind or nature whatsoever if any ordinance adopted by the City or transaction completed by the City in connection with this Agreement is declared invalid or unconstitutional in whole or in part by the final (as to which all rights of appeal have expired or have been exhausted) judgment of any court of competent jurisdiction, and by reason thereof either the City is prevented from performing any of the covenants and agreements herein or the Developer is prevented from enjoying the rights and privileges hereof.

(b) The Developer releases from and covenants and agrees that the City and its governing body, officials, agents, employees and independent contractors shall not be liable for, and agrees to indemnify and hold harmless the governing body, officials, agents, employees and independent contractors thereof against, any loss or damage to property or any injury to or death of any person occurring at or about or resulting from any defect in the construction of the Developer Project, except as such may be caused by the willful misconduct or negligence of the City or its governing body, officials, agents, employees or independent contractors.

(c) The Developer agrees to indemnify, defend and hold harmless the City and its governing body, officials, agents, employees and independent contractors from and against any and all suits, claims and attorneys' fees resulting from, arising out of, or in any way connected with (i) the construction of the Developer Project or (ii) the negligence or willful misconduct of the Developer or its officers, managers, agents, employees or independent contractors in connection with the management, development, redevelopment and construction of the Developer Project, except as such may be caused by the willful misconduct or negligence of the City or its governing body, officials, agents, employees or independent contractors.

(d) The Developer agrees to indemnify, defend and hold harmless the City and its governing body, officials, agents, employees and independent contractors from and against any and all claims, demands, costs, liabilities, damages or expenses, including reasonable attorneys' and consultants' fees, investigation and laboratory fees, court costs and litigation expenses, arising from: (i) any now-existing or hereafter-arising violation, actual or alleged, or any other liability, under or in connection with any environmental laws relating to any products or materials previously, now or hereafter located upon, delivered to or in transit to or from the Developer Project in connection with the construction of the Developer Project, regardless of whether such violation or alleged violation or other liability is asserted or has occurred or arisen before the date hereof or hereafter is asserted or occurs or arises and regardless of whether such violation or alleged violation or other liability occurs or arises as the result of any act, omission, negligence or misconduct of the City or any third party or otherwise; or (ii) any breach, falsity or failure of any of the representations, warranties, covenants and agreements of the like.

(e) The City and its governing body, officials, agents, employees and independent contractors shall not be liable for any damage or injury to the persons or property of the Developer or its officers, managers, agents, employees or independent contractors or any other person who may be about the Developer Project due to any act of negligence of any person, except as such may be caused by the willful misconduct or negligence of the City or its governing body, officials, agents, employees or independent contractors.

(f) No member of the governing body, officials, agents, employees or independent contractors of the City shall be personally liable to the Developer in the event of a default or breach by any party under this Agreement.

(g) 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 its governing body, officials, agents, employees or independent contractors in their individual capacities.

11. 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, to the Developer at the address set forth on **Exhibit A** and to the City as follows:

City of Park Hills
9 Bennett Street

Park Hills, Missouri 63601
Attention: City Administrator

Each party shall have the right to specify that notice be addressed to any other address by giving to the other party ten (10) days written notice thereof.

12. Representations. By entering into this Agreement, the Developer acknowledges that the City makes no representations regarding the validity of the TIF Ordinance, this Agreement, or any actions of the City in connection therewith.

13. Modification-Interpretation. The terms, conditions, and provisions of this Agreement can be neither modified nor eliminated except in writing and by mutual agreement between the City and Developer.

14. Effective Date. This Agreement shall become effective on the date of the actual execution hereof by the City and the Developer, and shall remain in full force and effect so long as any Redevelopment Project Costs remain unpaid; provided this Agreement shall terminate upon the earlier of (a) the payment of the maximum amount of Reimbursable Project Costs or (b) twenty-three (23) years from the adoption of the TIF Ordinance (whether or not all costs hereunder have been paid or reimbursed).

15. Headings. The headings or captions of this Agreement are for convenience and reference only, and in no way define, limit, or describe the scope or intent of the contract or any provision hereof.

16. Applicable Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Missouri.

17. Counterparts. This Agreement may be simultaneously executed in counterparts, each of which shall be an original and all of which shall constitute one and the same instrument.

18. Federal Work Authorization Program. Simultaneously with the execution of this Agreement, the Developer will provide the City with an affidavit in the form of **Exhibit C** hereto and documentation meeting the requirements of Section 285.530 of the Revised Statutes of Missouri.

19. Anti-Discrimination Against Israel Act. Pursuant to Section 34.600 of the Revised Statutes of Missouri, the Developer certifies it is not currently engaged in and will not, for the duration of this Agreement, engage in a boycott of goods or services from (a) the State of Israel, (b) companies doing business in or with the State of Israel or authorized by, licensed by, or organized under the laws of the State of Israel, or (c) persons or entities doing business in the State of Israel.

[Remainder of page intentionally left blank.]

IN WITNESS WHEREOF, the parties hereto have set their hands and seals the day and year first above written.

CITY OF PARK HILLS, MISSOURI

ATTESTED:

_______________________________ By: _______________________________

Terri Richardson, City Clerk John Clark, Mayor

[SEAL]

STATE OF MISSOURI)
) SS
COUNTY OF ST. FRANCOIS)

On this _____ day of __________, 2022, before me appeared **JOHN CLARK**, to me personally known, who, being by me duly sworn, did say that he is the Mayor of the **CITY OF PARK HILLS, MISSOURI**, an incorporated political subdivision of the State of Missouri, and that the seal affixed to the foregoing instrument is the seal of said City, and said instrument was signed and sealed in behalf of said City by authority of its City Council, 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 City and State aforesaid, the day and year first above written.

____
Notary Public

(SEAL)

My Commission Expires:

____

By: ________________________________
Name:
Title:

STATE OF MISSOURI)
) SS
COUNTY OF ST. FRANCOIS)

On this _____ day of September, 2021, before me appeared ____________________, to me personally known, who, being by me duly sworn, did say that he is the __________ of ____________________, a Missouri limited liability company, and that he is authorized to sign the instrument on behalf of said limited liability company, and acknowledged to me that he executed the within instrument as said limited liability company's free act and deed.

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

____
Notary Public

(SEAL)

My Commission Expires:

EXHIBIT A

EXHIBIT B

REDEVELOPMENT PROPOSAL

EXHIBIT C

AFFIDAVIT

STATE OF MISSOURI)
) SS
COUNTY OF ST. FRANCOIS)

I, the undersigned, am over the age of 18 years and have personal knowledge of the matters stated herein.

I am a duly authorized officer of ____________________, a Missouri limited liability company (the *"Company"*), and am authorized to attest to the matters set forth herein.

I hereby affirm the Company's enrollment and participation in a "federal work authorization program" as defined in Section 285.525 of the Revised Statutes of Missouri, as amended. Attached hereto is evidence of such enrollment and participation. The Company does not knowingly employ any person who is an "unauthorized alien" as defined in Section 285.525 of the Revised Statutes of Missouri, as amended.

Further Affiant Sayeth Not.

____
a Missouri limited liability company

By: ________________________________
Name: _________________
Title:

Subscribed and sworn to before me this _____ day of _______________, 2021.

____
Notary Public

My commission expires on: ______________________

EXHIBIT D

LEGAL DESCRIPTION OF DEVELOPMENT PARCEL(S)