

MEMORANDUM OF UNDERSTANDING

This Memorandum of Understanding ("**MOU**") is dated _____, 2021, and entered into by and between the CITY OF DEADWOOD, SOUTH DAKOTA (the "**City**"), and TRD, LLC, a South Dakota limited liability company ("**Developer**") (collectively, the "**Parties**").

RECITALS:

WHEREAS, Developer has acquired Phase 1, Phase 1a and Phase 1b of the Preacher Smith Tract, Lawrence County, South Dakota, as shown on **Exhibit A** attached hereto (the "**Property**"); and

WHEREAS, City and Developer are exploring the possible development of the Property into residential / multi-family and retail/commercial development; and

WHEREAS, certain project costs incurred in the development of the Property would constitute Tax Increment Financing ("**TIF**") project costs, eligible for reimbursement under SDCL Chapter 11-9; and

WHEREAS, the Parties desire to enter into this MOU to set forth certain understandings regarding the project and to confirm their intent to move forward with evaluating a proposed TIF to stimulate the development of the Property.

NOW, THEREFORE, in consideration of the foregoing recitals and other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, the Parties recognize and agree as follows:

1. **Property Attributes.** The Property is inside City limits
2. **TIF Eligibility.** Economic development within a city is an authorized use of tax increment districts under SDCL Chapter 11-9. None of the Property is currently developed. Developing the Property into a mixed-use development with multi-family, residential, office and retail space, is expected to promote economic development within the City. It will also conform to the standards of the comprehensive plan of the City in order to provide for the orderly development of residential and commercial property for the City.

3. Project Costs and Reimbursable Project Costs. The Developer anticipates the project costs in acquiring, developing, financing and preparing the Property for sale or lease to third parties, will meet or exceed Thirteen Million Dollars (\$13, 900, 000.00). Certain of these costs, will meet or exceed Ten Million Five Hundred Thousand Dollars (\$10,500,000.00) and would be considered TIF-eligible costs within the meaning of SDCL § 11-9-14 and SDCL § 11-9-15. Developer anticipates requesting reimbursement of those eligible reimbursement costs that relate to site work, ingress/egress locations, roadway and utility build-out, rock removal, drainage features, utility relocation, fire fuels (dense timber or overgrowth) reduction tasks, engineering, and lift station with force main, together with financing costs.

The projected development costs are preliminary, but based on the good-faith estimate of the Developer following the due diligence completed by Developer prior to the date of this MOU. Prior to bringing the proposed TIF to the City Planning Commission, the Parties will further delineate the project costs, eligible project costs and requested reimbursable project costs for the development of the Property. – Attached is the opinion of probable cost as an exhibit B

The City will require an ongoing administration fee of 10% of the total increment received on a yearly basis. The total amount projected for the administration fee will not exceed \$1,050,000

4. Property and TIF Development Process. The Developer has submitted a concept plan that will be reviewed by the City Staff and Planning Commission. City and Developer will work jointly on the preparation of a TIF proposal for presentation to the City Planning Commission. During this period, Developer will also continue to work with the City Planning Director, and Public Works Director concerning the project and site plans. The City and Developer will work jointly on the drafting of the TIF project plan and an associated development agreement outlining the duties, rights and responsibilities of Developer in connection with the development of the Property. The City will also cooperate with Developer in securing necessary permits.

5. Miscellaneous.

- a. This MOU may be executed in one or more counterparts, each of which will be deemed an original but all of which together will constitute one and the same instrument.
- b. The Developer Agreement, when presented, shall be governed and construed in accordance with the laws of the State of South Dakota.
- c. All parties agree to negotiate in good faith using commercially reasonable efforts to achieve the outcomes set forth in this MOU.
- d. Developer acknowledges that the Tax Increment District will be set up on an Annual Appropriation basis to ensure that this does not constitute Constitutional Debt against the City's debt capacity
- e. Developer acknowledges the risks associated with the Annual Appropriation clause that will be implemented in the proposed Tax Increment District

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IN WITNESS WHEREOF, the parties hereto have executed this MOU as of the date set forth above.

CITY:
CITY OF DEADWOOD

DEVELOPER: TRD, LLC

By:

By

Its:

Its: Member

EXHIBIT A
PROPERTY LOCATED IN TIF BOUNDARY
MASTER PLAN OVERVIEW
PLAT

EXHIBIT B
OPINION OF PROBABLE COST