

Developer Agreement

Tax Increment Benefits

This Agreement is made this 19th day of December, 2019, by and between the Downtown and East Town Redevelopment Agency, a public body corporate and politic created pursuant to Part III, Chapter 163, Florida Statutes (the "Agency"), and North Central Place, LLC (the "Developer").

WHEREAS, the City of Eustis City Commission, as the Agency, has the authority to contract with private developers for tax increment benefits; and

WHEREAS, the Developer proposes to complete substantial renovations or improvements to the real property located at the northwest corner of Dewey Street and Magnolia Avenue and more specifically described in Exhibit A attached hereto (the "Property"); and

WHEREAS, the Developer has confirmed that the proposed improvements to the Property, said improvements being more specifically described in Exhibit B attached hereto (the "Project"), have an estimated total cost of approximately \$1,900,000; and

WHEREAS, the 2008 City of Eustis Downtown Plan and the City of Eustis 2016 Redevelopment Plan identify the need for CRA investment in the area; and

WHEREAS, the encouragement of development of this Project, which has long been slated for redevelopment, will be beneficial to the City and the Area, provide for positive activity in the CRA, and help the City's and Agency's ability to attract additional development in the Area; and

WHEREAS, the Agency has determined that the use of tax increment revenues to provide financial support in the Area is appropriate and consistent with the 2008 Downtown Plan and the 2016 Redevelopment Plan and should be undertaken by the Agency; and

WHEREAS, the Developer has represented to the Agency that but for financial assistance from the Agency to offset the cost of constructing the Project, the Project is not feasible and the Developer will not proceed with the Project; and

WHEREAS, the Developer has proposed the Agency reimburse to the Developer a portion of the total project costs pursuant to the specific schedule and conditions in this agreement; and

WHEREAS, at a public meeting of the Community Redevelopment Agency on December 19, 2019, the Agency voted to approve the foregoing as an inducement for the Project; and

WHEREAS, after reviewing the proposal and having considered the Project, the Agency has accepted the proposal subject to a definitive agreement between the Agency and Developer

setting forth the respective duties and responsibilities of the parties in redeveloping the Property and authorized the preparation of such an agreement; and

WHEREAS, such Agreement has been prepared and reviewed by the Agency and Developer, and the Agency and Developer are desirous of entering into this Agreement to effectuate the redevelopment of the Property.

Now, therefore, the Agency and the Developer agree as follows:

1. The foregoing findings are incorporated herein by reference and made a part hereof.
2. The purpose of this agreement is to provide financial assistance as an inducement for the development of the Project by Developer on the Project Site as provided herein to rehabilitate slum and blighted areas consistent with Section 163.335 Florida Statutes and the Act.
3. Findings
 - A. The Agency does hereby find that the 2008 Downtown Plan designated that the Area including the Property offers a prime opportunity for redevelopment and the Agency hereby determines redevelopment of the Property as proposed serves a public purpose for carrying out redevelopment pursuant to Chapter 163, Part III, Florida Statutes.
 - B. The Agency does hereby find that the 2016 Redevelopment Plan again identifies the Property as a prime opportunity for redevelopment and further defines the CRA resources available to facilitate redevelopment.
 - C. The Agency does hereby find that there has not been adequate new development within the Area.
 - D. The Agency does hereby find that the Developer has represented to Agency that the Developer needs financial assistance from Agency for the Project in order for the Project to proceed.
 - E. The Agency does hereby find that there is, in fact, a need by the Developer for financial assistance by the Agency for the Project to proceed.
 - F. The Agency does hereby find that Increment Revenues may be used to provide Developer with financial assistance for the Project.
 - G. The Agency does hereby find that the Project will enhance the quality of life and the aesthetic and useful enjoyment of the Area and further the goals and intent of the 2008 Downtown Plan and the 2016 Redevelopment Plan and conforms to the requirements of the Act.
 - H. The Agency does hereby find that the project is consistent with and furthers the objectives of the 2008 Downtown Plan and the 2016 Redevelopment Plan and is in the best interest of the citizens of the City and the CRA.
 - I. The Agency does hereby find that the Developer has proposed that the Agency provide financial support for the Project by virtue of the Project Reimbursements.

- J. The parties hereto recognize and acknowledge and do mutually find that but for the financial assistance provided herein, the Developer would not undertake the development of the Project and such assistance is a critical and important inducement to the Developer.
4. It is the intent of the parties hereto to efficiently, effectively and economically cause the successful development of the Project in order to improve the Property, specifically, and the conditions in the Area, in general, as well as implement the 2008 Downtown Plan and otherwise further the purposes of the Act.
 - A. It is further the intent of the parties that Developer shall construct, equip, and otherwise complete the Project on the Property substantially in accordance with the Project documents.
 - B. The parties mutually recognize and acknowledge that Developer will require Agency's financial assistance and Agency's financial assistance is subject to certain performance criteria and reimbursement periods enumerated in this agreement.
5. The parties hereto recognize, acknowledge and agree that it is their mutual desire and intent in entering into this Agreement that all Certificates of Occupancy be issued to the Project no later than January 1, 2022 (Completion Date).
6. Following the issuance of all Certificates of Occupancy, the City shall have the obligations set forth in this section relative to financing Eligible Redevelopment Project Costs in connection with the Project. As part of the Requisition process, the Developer shall submit an accounting of total Project Costs and Eligible Redevelopment Project Costs. Upon the submission to the City by the Developer of a Requisition for Eligible Redevelopment Project Costs incurred and paid, the City, subject to the terms, conditions and limitation set forth in this section immediately below, agrees to reimburse the Developer from the Fund such Reimbursement Amounts as are paid and incurred by the Developer and are directly related to the Project at the Property as follows:
 - A. for the purpose of calculating the total amount of Incremental Property Taxes for any such calendar year which are directly attributable to the Project, the total taxable value of the Property for such calendar year shall be reduced by the 2018 base CRA taxable value of the Property as assigned by the Lake County Property Appraiser in the agreed amount of \$81,603, and the result shall be multiplied by the total tax rate of all taxing districts participating in the CRA for any such applicable calendar year.
 - B. The Base Reimbursement Amount in connection with the Project shall annually be payable in such amount as is equal to eighty percent (80%) of the Incremental Property Taxes actually received by the CRA in each such applicable calendar year which are directly attributable to the Project at the Property up to an annual Incremental Property Tax amount of \$22,500. The Annual Base Reimbursement will be paid for a period of fourteen (14) years and will not exceed a total of \$190,000 over fourteen (14) years.
 - C. Total Project costs are estimated at \$1,900,000. Total Reimbursements shall not exceed 10.0 percent (10.0%) of total Project costs.
 - D. The City hereby designates the City Finance Director as its representative to coordinate

the authorization of disbursement of any Reimbursement Amounts for the Eligible Redevelopment Project Costs. Payments to the Developer of any Reimbursement Amounts for Eligible Redevelopment Project Costs shall be made upon request therefor, in form reasonably acceptable to the City (each being a "Requisition") submitted by the Developer with respect to any Eligible Redevelopment Project Costs incurred but not previously submitted. Each such Requisition shall be accompanied by such applicable documentation as may be acceptable to the City or by the statement or report of an independent accountant which shows and verifies that any such Eligible Project Redevelopment Costs have in fact been paid and incurred by the Developer. Fourteen (14) years from the completion of the Project, the Developer shall not file an appeal related to property values, apply for property tax exempt status, or apply for any governmental housing or rent subsidy programs.

7. In the event this Agreement or any provision of this Agreement is for any reason held illegal or unenforceable by a court of competent jurisdiction, the parties shall attempt in good faith to negotiate a new agreement or provision that is legal and enforceable and that effectuates the intent and purpose of this agreement. To such extent, the provisions of this Agreement shall be deemed severable.
8. Nothing in this Agreement shall operate or be construed to compel the City Commission of the City of Eustis or any other taxing authority to either directly or indirectly levy ad valorem taxes or otherwise exercise its taxing power to fund any obligation created by this Agreement.
9. In specific consideration of the Agency agreeing to make the Project reimbursements to Developer, and for other good and valuable consideration provided for in this Agreement, the receipt and sufficiency of which Developer acknowledges, Developer shall pay, indemnify and save harmless the Agency and the City and their respective agents, guests, invitees and employees from all suits, actions, claims, demands, damages, losses and other reasonable expenses and costs of every kind and description to which the Agency or the City, or their respective agents, guests, invitees or employees may be subjected to by reason of injury to persons or death or property damage, resulting from or growing out, wholly or in part, of any act, commission, omission, negligence or fault of Developer, its agents or employees, or its contractors, subcontractors, suppliers, servants, or any other person(s) or entity(ies) directly or indirectly controlled, employed or engaged by Developer, regardless of whether such act, omission or negligence occurs in connection with the Project or is within the scope of any of their duties under this Agreement, or any lessee of Developer in connection with: (a) any building, construction, installation or development work, service or operation being undertaken or performed by or for Developer in, on, under, or over the Property, or (b) any uses, occupancy, maintenance, repair and improvements or operation of all or part of the Project. This Section 9. shall not be deemed or construed to provide any indemnification by Developer for the benefit of any third parties other than the Agency and the City, nor shall it be deemed or construed a waiver by Developer of any liability of the Agency or the City so that Developer may be entitled to recover damages notwithstanding any provision of this Agreement to the contrary. Developer's indemnification obligations

hereunder are independent of any other provisions of the Agreement and shall not be dependent upon, affected, limited or diminished by the existence of any insurance policies obtained and maintained by Developer in accordance with Section 10. of this Agreement. Developer further acknowledges that these indemnification provisions are a significant part of the inducement for Agency to enter into this Agreement. Developer's indemnification obligations hereunder shall survive the termination of this Agreement and the transfer of title to any third party purchaser. Developer or its Contractor shall comply with all City of Eustis code requirements concerning bonding of the Project.

10. So long as this Agreement shall be in effect, Developer shall purchase and maintain in full force and effect all insurance of the types and in the full coverage amounts as required by the documents pertaining to the financing for the Project. Developer covenants and agrees with the Agency that the terms of its general liability policy will name the Agency as an additional named insured. Developer covenants and agrees with Agency that the terms of its builders' risk policy will name the Agency as a certificate holder. Developer shall provide certificates evidencing such insurance to the Agency. The issuance or maintenance of any insurance under this Section 10 shall not release, limit, waive or discharge Developer from its indemnity obligations under Section 9.

11. DEFAULT: TERMINATION

A. Default by Developer.

1. Provided the Agency is not then in default under this Agreement as set forth in Section 11.B. hereof, and subject to Force Majeure, there shall be an "Event of Default" by Developer under this Agreement with the occurrence of any one or more of the following:
 - a. Developer shall fail to perform or comply with any material provision of this Agreement applicable to it; or
 - b. Developer shall fail to apply for all necessary permits to construct the Project within the time frames established by this Agreement.
 - c. Developer shall fail to construct the Project in substantial conformance with the Project documents.
 - d. Prior to the Completion Date, Developer shall make a general assignment for the benefit of its creditors, or shall admit in writing its inability to pay its debts as they become due or shall file a petition in bankruptcy, or shall be adjudicated a bankrupt or insolvent, or shall file a petition seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation or shall file an answer admitting, or shall fail reasonably to contest, the material allegations of a petition filed against it in any such proceeding, or shall seek or consent to or acquiesce in the appointment of any trustee, receiver or liquidator of the developer or any material part of its properties; or

- e. Prior to the Completion Date, within sixty (60) days after the commencement of any proceeding by or against Developer seeking any reorganization, arrangement, composition, readjustment, liquidation, dissolution or similar relief under any present or future statute, law or regulation, such proceeding shall not have been dismissed, or if, within sixty (60) days after the appointment without the consent or acquiescence of Developer of any trustee, receiver or liquidator of Developer or of any material part of its properties, such appointment shall not have been vacated.
2. If an "Event of Default" described in Subsection 11.A.1. hereof shall have occurred, the Agency, after giving written notice of such event of default to Developer and upon expiration of a forty-five (45) day notice period after receipt by Developer of such notice, if such event of default has not been cured, the Agency, as its sole and exclusive remedy, may terminate this Agreement and all rights of Developer and obligations of the Agency hereunder, including making the reimbursement payments hereunder shall then cease; provided, however, that the occurrence of any of the events set forth in 11.A.1.e. above after the Completion Date shall not be deemed an "Event of Default" and, despite such events, the Agency's obligation to make reimbursement payments pursuant to this Agreement shall continue in full force and effect.

B. Default by the Agency.

1. Provided Developer is not then in default under this Agreement as set forth in Section 11.A. and subject to Force Majeure, there shall be an "Event of Default" by the Agency under this Agreement upon the occurrence of any one or more of the following:
 - a. The Agency shall have failed or refused to make the reimbursement payments to Developer, subject to Section 6., in a timely manner, provided sufficient Surplus Tax Increment Revenues are available, time being the essence of such obligation; or
 - b. The Agency shall fail to perform or comply with any material provision of this Agreement applicable to it.
2. If an "Event of Default" described in Subsection 11.1. hereof shall have occurred, Developer, after giving written notice of such event of default to the Agency and, upon the expiration of a thirty (30) day period after receipt by the Agency of such notice, if such Event of Default has not been cured, Developer may terminate this Agreement and all rights and duties of Agency hereunder shall then cease, and, in addition, Developer may pursue any and all other remedies then available to Developer whether at law or in equity, including instituting an action to recover from the Agency any amount due and payable to it, including any reimbursement payments payable to Developer.

- C. The rights and remedies specified herein to which either the Agency or Developer are entitled are exclusive and are intended to be to the exclusion of any other remedies or means of redress to which the Agency or Developer may otherwise lawfully be entitled.
- D. The failure of the Agency or Developer to promptly insist upon strict performance of any term, covenant, condition or provision of this Agreement, or any Exhibit or any other agreement contemplated hereby shall not be deemed a waiver of any right or remedy that the Agency or Developer may have, and shall not be deemed a waiver of a subsequent default of nonperformance of such term, covenant, condition or provision.

E. Termination

1.
 - a. The Developer and the Agency acknowledge and agree that the performance by the Developer and the Agency in accordance with the terms of this Agreement are contingent and dependent upon certain conditions.
 - b. In addition to a termination upon occurrence of an event of default as provided in Sections 11.A. and 11.B. hereof, this agreement may be terminated by the Developer or the Agency upon the occurrence of any of the following: (i) the Developer is unable to obtain the financing or, if it does obtain such commitment, the issuer of such commitment fails or refuses to provide the financing or (ii) any other default of this Agreement.
2. Upon the occurrence of any default of this Agreement, either party may give a Termination Notice in which case this Agreement shall terminate and all obligations of the parties hereto imposed by this Agreement shall then cease and be released and no longer of any force and effect, except as otherwise specifically provided herein.
3. In the event of a termination of this Agreement, neither the Developer nor the Agency shall be obligated or liable one to the other in any way, financial or otherwise, for any claim or matter arising from or as a result of this Agreement or any actions taken by the Developer or the Agency, or both, thereunder or contemplated hereby; provided, however, that if any suits, actions, claims or demands of any kind shall be made against the Developer or the Agency, or both of them, seeking damages, expenses and costs (including attorneys' fees), or any other relief, arising from or the result of any omission, negligence or fault of the Developer or the Agency in connection with this Agreement or any actions taken by the Developer or the Agency, or both of them, hereunder or contemplated hereby, the

12. The Developer's benefits and obligations as part of this Agreement are not transferable or assignable without written approval of the Agency.
13. This Agreement represents the entire understanding and agreement of the parties with respect to the subject matter hereof and supersedes any prior understandings or agreements between the parties. No modifications to this Agreement shall be enforceable unless in writing and executed by both parties hereto.

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

Downtown and East Town Redevelopment Agency

By:

Michael Holland, Chairperson

North Central Place, LLC

By:

Authorized Member

Exhibit A
Legal Description

Exhibit B
Project Information