

INTERLOCAL FUNDING AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into on the 13 day of February, 2023, by and between B&R Enterprise Management, LLC ("Owner") and Pinellas County, a political subdivision of the State of Florida ("County") (collectively, "Parties").

WITNESSETH

WHEREAS, The Pinellas County Board of County Commissioners adopted Resolution 19-99 adopting guidelines for the expenditure of a percentage of the 2020-2029 local government infrastructure surtax for affordable housing and economic development capital projects; and

WHEREAS, The third round for the Employment Sites Program (ESP) focused on development projects that supported new development or significant redevelopment of Industrial or Office projects that created new opportunities for job growth through the recruitment or expansion of businesses within Pinellas County; and

WHEREAS, B&R Enterprise Management, LLC is a Florida Limited Liability Company who applied for the Employment Sites Program during the third round of available funding; and

WHEREAS, pursuant to the B&R Enterprise Management, LLC application request, the County agrees to provide the Owner with a one-time economic development grant of \$385,969.00 ("Grant") for assistance in the rehabilitation of an existing 22,551 square foot industrial building.

NOW, THEREFORE, the parties hereto do mutually agree as follows:

1. **RECITALS.** The above WHEREAS clauses are incorporated herein and made a part of this Agreement.
2. **TERM.** The term of this Agreement shall commence on the date the last of the Parties signs this Agreement ("Effective Date") and shall terminate twenty (20) years from the Effective Date.
3. **CONDITIONS REQUIRED.** The award of the Grant from the County is conditioned upon the satisfaction of the following conditions:
 - A. The Owner will rehabilitate a 22,551 square foot industrial building and required infrastructure on Parcel #02-31-16-00000-320-1300 (3110 44th Ave N) located in St. Petersburg, FL. The industrial building is an existing single-story, 25-foot clear ceiling, dock high access, slab-on-grade with concrete block walls, side loading manufacturing building.
 - B. The Owner will be responsible for obtaining and having all local land use approvals and necessary permits in place within 160 days of the Effective Date of this Agreement. In the event of unforeseen delays, the Owner may request one 90-day extension to obtain final approvals and permits.
4. **FUNDING.** Following receipt of the Certificate of Completion of the building renovation, the County agrees to pay Owner the sum of not to exceed Three Hundred Eighty-Five Thousand Nine Hundred and Sixty-Nine dollars (\$385,969.00) upon receipt of a request for payment from the Owner. All requests for payments shall consist of an invoice for the requested amount, signed by authorized

representatives of the Owner, along with all documentation deemed necessary or appropriate by the County, except any documentation considered classified.

5. OBLIGATIONS.

A. The Owner and any assignee shall rehabilitate an 22,551 square foot industrial building and required infrastructure on Parcel #02-31-16-00000-320-1300 (3110 44th Ave N) within five (5) years of receiving all local land use approvals and necessary permits. In the event of unforeseen delays, the Owner may request a one-year extension to complete the project.

B. The Owner and any assignee shall maintain and operate the industrial building and keep it available for use by any business or any use permitted under the current land use and zoning classifications and conditional uses related to industrial, under the current zoning classification for the Term of the Agreement.

C. In the event there is a sale of the property, the Owner must comply with the provisions of Section 9 of this Agreement and notify Pinellas County Economic Development ("PCED") within thirty (30) business days in writing of the sale and provide contact information of the new property owner.

D. During the first ten (10) years of the Term of the Agreement, the Owner and any assignee will provide an annual report on or before December 1 of each year to PCED utilizing a mutually agreeable format established by the County including, but not limited to, total commercial square footage rented/owned, and total number of jobs and average wages. If any mistake or omission is discovered in the report, an accurate and complete updated report shall be sent within 15 business days of notification of the error. The County and Owner may mutually agree in writing to modify report formats without the need to further modify, amend or renew this Agreement.

6. COMPLIANCE WITH LAWS. The Parties shall comply with all applicable federal, state, and local laws, ordinances, rules and regulations, the federal and state constitutions, and the orders and decrees of any lawful authorities having jurisdiction over the matter at issue (collectively, "Laws"), including but not limited to public records laws.

7. INDEMNIFICATION. The Owner agrees to indemnify, pay the cost of defense, including attorney's fees, and hold harmless the County, its officers, employees and agents from all damages, suits, actions or claims, including reasonable attorney's fees incurred by the County, of any character brought on account of any injuries or damages received or sustained by any person, persons, or property, or in any way relating to or arising from the Agreement; or on account of any act or omission, neglect or misconduct of Owner; except only such injury or damage as shall have been occasioned by the sole negligence of the County. Nothing herein is intended to serve as a waiver of sovereign immunity by either the County or the Owner. Nothing herein shall be construed as consent by the County or the Owner to be sued by third parties in any manner arising out of this Agreement. This paragraph shall not be interpreted to waive the County's limits of liability under F.S. 768.28.

8. DUE AUTHORITY. Each party to this Agreement represents and warrants to the other party that (i) it has the full right and authority and has obtained all necessary approvals to enter into this Agreement, (ii) each person executing this Agreement on behalf of the party is authorized to do so; and

(iii) this Agreement constitutes a valid and legally binding obligation of the party, enforceable in accordance with its terms.

9. **ASSIGNMENT.** The Owner shall provide written notice to the County within thirty (30) business days of any action or occurrence assigning the Agreement or any rights or obligations hereunder as described in this section. The assignee must agree to be liable for and subject to all paragraphs and obligations of the Agreement and its subsequent amendments.

10. **NOTICES.**

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

COUNTY:

Director
Pinellas County Economic Development
EmploymentSitesProgram@PinellasCounty.org
13805 58th Street North, Ste. 1-200
Clearwater, Florida 33760

Owner

B&R Enterprise Management, LLC
Attn: Jeffrey Hargrove
4301 A 34th Street North
St. Petersburg, FL 33714
Jeff@FGCI.com

B. Either party may change its authorized representative or address for receipt of notices by providing the other party with written notice of such change. The change shall become effective ten (10) business days after receipt by the non-changing party of the written notice of change.

11. **AMENDMENT/MODIFICATION.** In addition to applicable federal, state and local statutes and regulations, this Agreement expresses the entire understanding of the parties concerning the matters covered herein. Unless specifically indicated herein, no addition to, or alteration of, the terms of this Agreement, whether by written or verbal understanding of the parties, their officers, agents or employees, shall be valid unless made in the form of a written amendment to this Agreement and formally approved by the parties.

12. **WAIVER.** No act of omission or commission of either party, including without limitation, any failure to exercise any right, remedy, or recourse, shall be deemed to be a waiver, release, or modification of the same. Such a waiver, release, or modification is to be affected only through a duly executed written modification to this Agreement.
13. **GOVERNING LAW AND VENUE.** This Agreement shall be interpreted and construed in accordance with the laws of the State of Florida. 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. The Parties consent to the personal jurisdiction of the aforementioned courts and irrevocably waive any objections to said jurisdiction.
14. **BINDING EFFECT.** This Agreement shall inure to the benefit of and be binding upon the Parties' respective successors and assigns.
15. **NO THIRD PARTY BENEFICIARY.** Persons not a party to this Agreement may not claim any benefit hereunder or as third party beneficiaries hereto.
16. **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.
17. **NO CONSTRUCTION AGAINST PREPARER OF AGREEMENT.** This Agreement has been prepared by the County and its professional advisors. The Owner, County, and County's professional advisors believe that this Agreement expresses their understanding and that it should not be interpreted in favor of either the Owner or County or against the Owner or County merely because of their efforts in preparing it.
18. **DEFAULTS AND REMEDIES.** In the event of any action taken, whether directly or indirectly, by the Owner that prohibits the construction of the 22,551 square foot industrial component or prevents the use of the space as an industrial space, including those contained within Section 9 of this Agreement, it will constitute a default. In the event of a default, the Owner shall repay to the County a portion of the Grant funds received as follows:
- A. If the default occurs within 12 months of receipt of the Certificate of Completion of the building shell and payment by the County, the Owner shall return the entire amount received of \$385,969.00.
 - B. For every 12 month period for the remainder of the term of this Agreement, the amount to be paid by the Owner in the event of a default will be reduced by five percent (5%) in accordance with the Default and Remedies Repayment Schedule attached as Exhibit A and incorporated herein.
19. **ENTIRE AGREEMENT.** This Agreement constitutes the entire agreement between the Parties and no change will be valid unless made by supplemental written agreement executed by the Parties.
20. **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 determination shall not render void, invalid or unenforceable any other paragraph or portion of this Agreement.

21. **NON-APPROPRIATION.** The obligations of the County 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.

SIGNATURE PAGE(S) FOLLOW(S) THIS PAGE

IN WITNESS WHEREOF, the Parties have caused this Agreement to be executed by their duly authorized representatives on the date first above written.

COUNTY:

Barry A. Burton

By: _____

Barry A. Burton
County Administrator

APPROVED AS TO FORM

By: *Cody J. Ward*
Office of the County Attorney

Dated: February 13, 2023

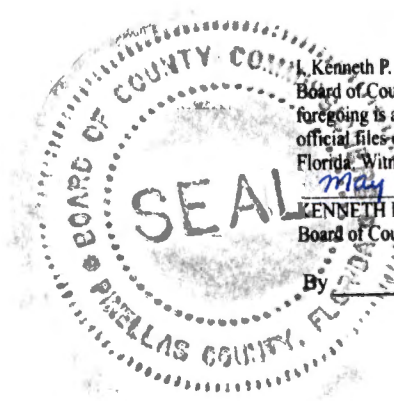
Owner:

By: *William G. Higman*

William G. Higman

Title: *Pres. Dev*

Dated: 2/2/2023, 2023



I, Kenneth P. Burke, Clerk of the Circuit Court and Clerk Ex-Officio, Board of County Commissioners, do hereby certify that the above and foregoing is a true and correct copy of the original as it appears in the official files of the Board of County Commissioners of Pinellas County, Florida. Witness my hand and seal of said County FL this 5 day of May, 2023.

KENNETH P. BURKE, Clerk of the Circuit Court Ex-Officio Clerk of the Board of County Commissioners, Pinellas County, Florida.

By: *[Signature]*
Deputy Clerk

EXHIBIT A

Defaults and Remedies repayment schedule

<u>Year</u>	<u>Repayment Amount</u>
1	385,969
2	\$ 366,671
3	\$ 347,372
4	\$ 328,074
5	\$ 308,775
6	\$ 289,477
7	\$ 270,178
8	\$ 250,880
9	\$ 231,581
10	\$ 212,283
11	\$ 192,985
12	\$ 173,686
13	\$ 154,388
14	\$ 135,089
15	\$ 115,791
16	\$ 96,492
17	\$ 77,194
18	\$ 57,895
19	\$ 38,597
20	\$ 19,298