

INTERLOCAL FUNDING AGREEMENT

THIS AGREEMENT ("Agreement") is made and entered into on the 24 day of August, 2023, by and between 28th Street North Industrial Properties, LLC ("**Developer**") 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 fourth 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, 28th Street North Industrial Properties, LLC is a South Carolina Limited Liability Company who applied for the Employment Sites Program during the fourth round of available funding; and

WHEREAS, pursuant to the 28th Street North Industrial Properties, LLC application request, the County agrees to provide the Developer with a one-time economic development grant of \$2,151,867.00 ("**Grant**") for assistance in the construction of a new 110,700 square foot industrial building and to maintain the structure as an 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 Developer will construct a 110,700 square foot industrial structure on Parcel #22-30-16-30374-000-1002 also known as 9950 28th Street N, Pinellas Park, FL. The industrial structure will be a single story, concrete tilt-wall Class A building that will have 32' clear ceiling heights to accommodate manufacturing.
 - B. The Developer will be responsible for obtaining and having all local land use approvals and necessary permits in place within 60 days of the Effective Date of this Agreement. In the event of unforeseen delays, the Developer may request one 90-day extension to obtain final approvals and permits. Failure to secure necessary approvals and permits within the maximum period allowed herein will result in the termination of this funding agreement.

4. **FUNDING.** Following receipt of the Certificate of Completion of the building shell, the County agrees to pay Developer the sum of not to exceed Two Million One Hundred and Fifty-One Thousand Eight Hundred and Sixty-seven dollars (\$2,151,867.00) upon receipt of a request for payment from the Developer. All requests for payments shall consist of an invoice for the requested amount, signed by authorized representatives of the Developer, along with all documentation deemed necessary or appropriate by the County, except any documentation considered classified.

5. **OBLIGATIONS.**

A. The Developer and any assignee shall construct an 110,700 square foot Class A industrial component on Parcel #22-30-16-30374-000-1002 (9950 28th Street N, Pinellas Park) within five (5) years of receiving all local land use approvals and necessary permits. In the event of unforeseen delays, the Developer may request a one-year extension to complete the project, which together with the five (5) years shall hereinafter be termed the "Construction Period".

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

C. In the event there is a sale of the property, The Developer must comply with the provisions of Section 9 of this Agreement and notify Pinellas County Economic Development 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 Developer and any assignee will provide an annual report on or before December 1 of each year to Pinellas County Economic Development utilizing a mutually agreeable format established by the County including, but not limited to, total commercial square footage rented, and total number of jobs and average wages (if available). If any mistake or omission is discovered in the report, an accurate and complete updated report shall be sent within 15 days of notification of the error. The County and Developer 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 Developer 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 Developer; except only such injury or damage as shall have been occasioned by the sole negligence or willful misconduct of the County, its officers, employees and/or agents. Nothing herein is intended to serve as a waiver of sovereign immunity by either the County or the Developer.

Nothing herein shall be construed as consent by the County or the Developer 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 Developer 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

Developer

Cantey Heath
Josh Jones
Brooks Gaylord
28th Street North Industrial Properties, LLC
C/O Johnson Development Associates
cheath@johnsondevelopment.net
jjones@johnsondevelopment.net

bgaylord@johnsondevelopment.net

100 Dunbar Street, Suite 400

Spartanburg, SC 29306

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 Developer, 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 Developer or County or against the Developer 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 Developer that prohibits the construction of the 110,700 square foot industrial building, or prevents the use of the industrial building as a manufacturing or any other uses permitted under the current land use and zoning classification and conditional uses related to manufacturing for the facility within the

Construction Period, including those contained within Section 9 of this Agreement, will constitute a default and terminate this funding agreement. In the event of a post-payment default that is not cured within thirty (30) days of written notice from the County, the Developer 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 Developer shall return the entire amount received of \$2,151,867.00.

B. For every 12 month period for the remainder of the term of this Agreement, the amount to be paid by the Developer 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:



By: _____

Barry A. Burton
County Administrator

APPROVED AS TO FORM

By: Cody J. Ward
Office of the County Attorney

Dated: August 24, 2023, 2023

Developer:

28th Street North Industrial Properties, LLC
By: 28th Street Development Associates, Inc., Mayor

By: _____

Jason C. Lynch

Title: V.P.

Dated: August 23, 2023

EXHIBIT A

Defaults and Remedies repayment schedule

<u>Year</u>	<u>Repayment Amount</u>
1	\$ 2,151,867
2	\$ 2,044,274
3	\$ 1,936,680
4	\$ 1,829,087
5	\$ 1,721,494
6	\$ 1,613,900
7	\$ 1,506,307
8	\$ 1,398,714
9	\$ 1,291,120
10	\$ 1,183,527
11	\$ 1,075,934
12	\$ 968,340
13	\$ 860,747
14	\$ 753,153
15	\$ 645,560
16	\$ 537,967
17	\$ 430,373
18	\$ 322,780
19	\$ 215,187
20	\$ 107,593