

TAX INCREMENT FINANCING DISTRICT INCENTIVE AGREEMENT WITH MATISE EVENTS LLC AT 113 N. OTTAWA STREET

THIS AGREEMENT (“Agreement”) is entered into on this __ day of ____ (“Effective Date”), by and between the **CITY OF JOLIET**, a municipal corporation (“City”), and **Matise Events LLC** (“Developer”), owner of property located at **113 N. Ottawa Street** (“Property”).

RECITALS

WHEREAS, the Property is located within the Downtown Joliet Redevelopment Project Area, also known as TIF #5; and

WHEREAS, the Developer is the owner of record of the property located at 113 N. Ottawa Street in Joliet, Illinois, a 14,000 square foot building also known as the old St. Mary Carmelite Church (PIN: 30-07-09-438-004-0000); and

WHEREAS, the Developer has invested \$2.5 million into the project to date out of a total construction budget of \$3.3 million. The building requires substantial rehabilitation, including installation of a sprinkler and fire suppression system, which is necessary for the applicant to obtain a Certificate of Occupancy; and

WHEREAS, the original cost estimate for the sprinkler and fire suppression system was \$57,500, but due to increased square footage and rising material and labor costs, the updated estimate increased to \$137,000, resulting in a funding gap of \$79,500. The Developer has requested a TIF Incentive Agreement in the amount of \$79,500 to close this gap and complete the required safety improvements; and

WHEREAS, the Mayor and City Council have determined that the Project is consistent with and substantially furthers the objectives of the Downtown Joliet Redevelopment Plan; and

WHEREAS, the Project is eligible to receive financial assistance in accordance with the Tax Increment Allocation Redevelopment Act (65 ILCS 5/11-74.4-1 set seq.) (the “TIF Act”) and Section 8-11-20 of the Illinois Municipal Code (65 ILCS 5/8-11-20); and

WHEREAS, the Mayor and City Council have determined that but for the assistance provided pursuant to this Agreement the Project would be unable to proceed; and

WHEREAS, this Agreement is intended to establish the terms and conditions under which the Developer will receive assistance provided by the City and the time and general manner in which the Property will be redeveloped; and

WHEREAS, this Agreement is adopted pursuant to the home rule powers of the City of Joliet, the TIF Act and the Illinois Municipal Code;

NOW, THEREFORE, in consideration of the foregoing recitals and the exchange of mutual consideration as set forth herein, the Developer and the City agree as follows:

AGREEMENT

1. DEFINITIONS

The following terms shall have the following meanings whenever used in this Agreement, except where the context clearly indicates otherwise. Any ambiguity as to the intended meaning or scope of the terms set forth below will be resolved solely by the City through its designated representative.

- a. **“Economic Development Division”** means the City’s designated representative responsible for managing and administering the Agreement on behalf of the City.
- b. **“Completion Date”** means the date that the contractor has finished the Project pursuant to the design and architectural plans approved by City Council, the City Manager, or their designee, and to the satisfaction of the Developer, as evidenced by final payment to the contractor from the Developer.
- c. **“Declaration”** means the Declaration of Covenants Affecting Real Property Developer is required to execute and record against the Property in order to obtain the Loan in the form attached hereto and incorporated herein as Exhibit “B”. Projects approved for \$5,000 or less are not subject to recorded an executed Declaration of Covenants document
- d. **“Improvements”** means any agreed storefront, interior, and/or sustainability improvements made to the Property as part of the Program.
- e. **“Owner Consent”** means a Certification of Ownership and Consent to be executed by the owner of the Property, if the Developer is not the owner, in the form attached hereto and incorporated herein as Exhibit “C”.
- f. **“Developer”** means the person applying for a Loan for Improvements on the Property and determined eligible by the City Council or City Manager or their designee to participate in the Program. Developer may be the owner of the Property or a business owner who has obtained written consent of the Property owner to participate in the Program and to proceed with the improvements identified within this Agreement.
- g. **“Program Guidelines”** means the “City of Joliet -- TIF Incentive Program Guidelines” approved by the City Council that govern the Program and this Agreement. The Program Guidelines are attached hereto and incorporated herein as Exhibit “D”. All terms not defined herein shall have the meanings ascribed thereto in the Program Guidelines.
- h. **“Project”** means the storefront, interior buildout, and/or sustainability improvements on the subject property as proposed by the Developer and approved by the City Council.
- i. **“Project Completion Date”** means the date agreed upon by the Developer and the City of Joliet when the approved TIF Incentive Program project will be completed by.
- j. **“Property”** means the subject property owned or occupied by the Developer on which the improvements shall be completed. The Property is located within the City of Joliet and is legally described in Exhibit “A”, which is attached hereto and incorporated herein by this reference.

- k. **“Loan”** means the total amount of the City’s loan provided to the Developer, which is equal to no more than half the final total project cost up to the amount approved by City Council (whichever is less).
- l. **“Total Allowable Expenses”** means the actual costs incurred, paid for, and documented by the Developer and approved by the City Manager or their designee for the proper performance of the improvement work required by the plans and specifications and/or architectural/design renderings for the Project.
- m. **Total Project Expenditure”** means the total actual Project costs incurred by and paid for by the Developer including, without limitation, the costs of construction, materials, and supplies.

2. REDEVELOPMENT OF THE PROPERTY

a. General

Not later than July 31, 2026, the Developer, at its cost and expense, shall complete the redevelopment of the Property in accordance with this Agreement and be operational. Redevelopment of the Property shall not be considered complete until a Certificate of Occupancy is issued.

The redevelopment of the Property shall include the following items:

- i. Installation of the sprinkler and fire suppression system

b. Compliance with Codes and Ordinances

The redevelopment of the Property shall be subject to all applicable zoning, building and life safety codes and ordinances of the City and all accessibility laws, including, but not limited to, the *Joliet Accessibility Code* (Section 8-709 et seq. of the Code of Ordinances).

The Developer shall use commercially reasonable efforts to require all contractors and subcontractors to pay their employees “prevailing wages” as determined from time to time under the *Illinois Prevailing Wage Act* (820 ILCS 120 et seq.).

c. Prohibited Uses

Unless approved by the corporate authorities of the City, no portion of the Project shall at any time be used for the operation of a sexually oriented business, firearm oriented business, a Payday Loan facility (consumer installment loan licensee), a currency exchange unless such loan operations are incidental to a bona fide commercial banking operation, a second hand goods dealer or a business that is engaged in the purchase of previously owned gold and gold jewelry, unless such purchases are incidental to the operation of a retail jewelry store on the Property.

d. City Not Responsible for Project Expenses

The City shall have no obligation to make any payments to any person, nor shall the City be obligated to pay any contractor, subcontractor, mechanic, or supplier providing services or materials to Developer, for the development of the Project.

3. TIF REDEVELOPMENT INCENTIVE

a. Establishment of Eligibility

Prior to the payment by the City of the TIF Redevelopment Incentive as hereinafter set forth, the Developer shall submit to the City a statement establishing that the Developer has incurred expenses that qualify as "Redevelopment Project Costs" within the meaning of Section 11-74.4-3(q) of the TIF Act (the "Statement of Redevelopment Project Costs"). The Developer shall not include any expense in the Statement of Redevelopment Project Costs that does not qualify as a redevelopment project cost within the meaning of the TIF Act or that was not incurred in connection with the redevelopment of the Property. The Statement of Redevelopment Project Costs may be amended by the Developer from time to time as the Developer incurs additional expenses that qualify as redevelopment project costs. The Developer's current budget for the Project, reflecting the Developer's current estimate of the expected Project costs, is attached hereto as Exhibit "C" for informational purposes only.

The City Manager or their designee shall review the Statement of Redevelopment Project Costs submitted by the Developer, and any amendments thereto, for compliance with this Agreement and the TIF Act. The City Manager or their designee may require the Developer to provide additional records or information to establish that claimed expenses qualify as redevelopment project costs incurred in compliance with this Agreement and the TIF Act. The City Manager shall be authorized to approve a Statement of Redevelopment Project Costs on behalf of the City that complies with this Agreement.

b. TIF Redevelopment Incentive

The TIF Redevelopment Incentive shall be in the form of a five-year forgivable loan as detailed below: TERMS OF FORGIVABLE LOAN OVER FIVE (5) YEARS

- i. The Developer hereby agrees to comply with all terms and conditions of this Agreement.
- ii. The Forgivable Loan paid by the City pursuant to this Agreement shall be made upon the execution of this agreement. The Developer shall provide proof of payment and additional documents requested by the City for the work completed prior to receiving the final Certificate of Occupancy. The Developer is responsible for all payments to the contractors, materials suppliers, and vendors, and for providing true and correct copies of unconditional lien releases to the City.
- iii. The Forgivable Loan paid by the City pursuant to the Agreement constitutes a loan to Developer. Said Loan will be forgiven, provided that the Developer or successor-in-interest that has assumed the obligations of the Developer hereunder pursuant to a City-approved assignment and assumption agreement, either continues to own or occupy, as the case may be, the rehabilitated Property for a period of five (5) years from the date of receipt of the loan without removing or significantly altering the Improvements, as determined by the City in its sole discretion, and agrees to maintain the Improvements for said five (5) year

period. The total amount of the Loan will be forgiven in twenty percent (20%) increments, on an annual basis, such that at the end of five (5) years, the entire loan amount will be deemed forgiven and the loan balance will be zero. If the Developer sells the Property or fails to occupy the Property, as the case may be, prior to the end of the fifth (5th) year, the remaining pro rata share of the loan, with interest at the rate of three percent (3%) per annum, is due and payable to the City within thirty (30) calendar days, unless the succeeding property owner or business owner, as the case may be, (i) assumes the obligations of Developer pursuant to an City-approved assignment and assumption agreement, and (ii) does not make any changes to the Property resulting in the removal or a significant alteration to the Improvements, and maintains the improvements, for a period of five (5) years from the date of receipt of the Loan.

- iv. The total payments to the Developer under both the first and second component shall not exceed the Statement of Redevelopment Project Costs.

4. REPRESENTATIONS AND COVENANTS OF THE DEVELOPER

- a. The Developer and the City are entering into this Agreement in reliance on the special abilities of the Developer to perform or facilitate the performance of the development services, design services, construction management, and property management work set forth herein. The Developer covenants with the City to use its best efforts, skills, judgment, and abilities in performing or facilitating such development services, design services, construction management, and property management work. The Developer shall observe applicable laws, regulations, rules, codes, ordinances, and orders.
- b. The Developer represents and warrants that it and all employees subject to its control that must be licensed or registered under any federal, state or local statute or regulation with regard to performing the development services, design services and construction work in relation to the Property will be duly licensed or registered and will maintain their licensing and registration throughout the Developer's performance of such development services, design services and construction management work.
- c. The Developer shall perform or use commercially reasonable efforts to cause its contractors and subcontractors to perform, all services hereunder in accordance with generally accepted prevailing local standards of care, skill, diligence, and professional competence applicable to professionals engaged in developing and designing projects of similar size and type as the Property.
- d. The Developer shall use commercially reasonable efforts to cause any contractors or subcontractors engaged by the Developer to comply with all applicable federal, state, and local laws, regulations or codes in connection with the development services, design services and rehabilitation work contemplated by this Agreement. (e) The Developer shall be responsible for contacting the City Manager or their designee to arrange for obtaining all City and other approvals and/or permits required for construction and completion of the Project.
- e. The Developer must issue a notice to proceed to the contractor within thirty (30) calendar days of receipt of the Notice to Proceed issued by the City to Developer.

- f. The Developer shall be fully responsible for managing, monitoring, and scheduling the construction of the Project, for ensuring compliance with the payment of prevailing wages (if applicable), and for ensuring that all improvements are completed properly and in conformance with the approved project.
- g. The Developer shall be fully responsible for making all payments to contractors, suppliers, vendors and/or other third parties and for ensuring that all contractors, subcontractors, suppliers, vendors and/or other third parties are paid in full.
- h. The Developer acknowledges and agrees that the improvements to be constructed in anticipation of a Loan, in the form of a forgivable loan provided by the City, constitutes the construction, alteration, demolition, installation, or repair work done under contract and paid for in whole or in part out of public funds. The Developer shall comply with all requirements of Federal, Illinois and City of Joliet law.
- i. The Developer shall be responsible for ensuring approved project is completed by project completion date agreed upon by the Developer and the City detailed in Section VI of this agreement.
- j. Upon completion of the Project, the Developer shall notify the City Manager or their designee and call for an inspection of the Project. City Manager or their designee will arrange for the Property to be inspected.
- k. The Developer shall submit to the City Manager or their designee proof of completion of the Project within forty-five (45) calendar days of the Completion Date, and shall include the following:
 - i. Cover letter indicating the Project is completed and the Total Cost Expenditures for the Project;
 - ii. All contractor invoices detailing the specific tasks completed in accordance with approved Project;
 - iii. Proof of payment of all invoices for all expenditures associated with the Project;
 - iv. Unconditional lien releases;
 - v. Any additional back up material requested by the City Manager or their designee;
 - vi. Before and after photographs;
 - vii. An executed (with signatures acknowledged) Declaration (for projects approved for a forgivable loan of \$5,000 or more only); and
 - viii. For the five (5) year term of the Declaration, the Developer shall maintain the improvements in good condition and shall not make any changes to the Property resulting in an alteration to the Improvements.

5. REPRESENTATIONS AND COVENANTS OF THE CITY

- a. The City shall cooperate with the Developer to facilitate the issuance of such building permits and approvals as may be necessary for the development and operation of the Property as contemplated herein.
- b. The City shall not be obligated or liable to the Developer or any other party if the payment of TIF Funds to the Developer as contemplated by this Agreement is determined by a competent authority to be in violation of law and in such case the

Developer shall remit to the City all TIF Funds found to have been previously distributed in violation of law.

- c. Within a reasonable time after Developer notifies City of the completion of the Project, the City Manager or their designee shall inspect the improvements to ensure they were completed in accordance with approved project scope.
- d. City Manager or their designee shall review Developer's request and accompanying documents for a Loan. If all the terms, conditions, and obligations of Developer under this Agreement and the Program Guidelines have been met, the City Manager or their designee shall issue the Loan in an amount not to exceed one-half (1/2) of the Total Allowable Expenses, within the maximum allowable limits set forth in the Program Guidelines.

6. DEFAULT AND TERMINATION

a. Termination

If Developer shall fail to cure any Event of Default upon notice and within the time for cure provided for in XVII below, the City may, by written notice to the Developer, terminate this Agreement. Such termination shall trigger the "Repayment of Pro Rata Share of Loan defined in XVII.

Developer may not terminate this Agreement without the express written consent of City.

b. Time of Performance

The Developer shall complete the Project by the agreed upon project completion date between the Developer and the City in order to remain eligible for receipt of the Loan. Failure to complete the Project by the agreed upon project completion date below will result in termination of this Agreement. Requests for additional time and extensions in project completion time will be granted, but only if submitted in writing prior to the expiration of the agreement.

Project Completion Date: July 31, 2026

c. Amount of the Forgivable Loan

The total amount of the Loan to be made by the City pursuant to the terms and conditions of this Agreement, shall not exceed the amount of seventy-nine thousand five hundred dollars (\$79,500.00).

d. General

In addition to any other rights or remedies, a party may institute legal action against the other party to cure, correct or remedy any default, or to obtain any other remedy consistent with the purpose of this Agreement, either at law or in equity, including, but not limited to, the equitable remedy of an action for specific performance; provided, however, no recourse under or upon any obligation contained herein or for any claim based thereon shall be had against the City, its officers, agents, attorneys, representatives or employees in any amount in excess of any specific sums agreed to be paid by the City hereunder, and no liability, right or claim at law or in equity

shall be attached to or incurred by the City, its officers, agents, attorneys, representatives or employees in any amount in excess of any specific sums agreed by the City to be paid hereunder and any such claim is hereby expressly waived and released as a condition of and as consideration for the execution of this Agreement by the City.

The rights and remedies of the parties are cumulative and the exercise by a party of one or more of such rights or remedies shall not preclude the exercise by it, at the same time or different times, of any other rights or remedies for the same default or for any other default by the other party.

6. NOTICES

Notices and all other communications must be in writing and addressed as set forth below to the party to whom the notice or request is given. They must be either (a) delivered personally; (b) sent by U.S. certified mail, postage prepaid, return receipt requested; or (c) placed in the custody of Federal Express Corporation or other nationally recognized overnight carrier for next day delivery. Notice is deemed given 4 days after deposit into the U.S. mail; and twenty-four (24) hours after deposit with an overnight courier. From time to time either party may designate another notice address within the U.S. by giving the other party not less than thirty (30) days advance notice of the change.

Notice to the Developer shall be addressed as follows:

Matise Events LLC
C/O Mr. Joseph Matise
113 N. Ottawa St.
Joliet, Illinois 60432

Notice to the City shall be addressed as follows:

City of Joliet
City Manager
150 West Jefferson Street
Joliet, Illinois 60432

With a copy to:

City of Joliet
Economic Development Director
150 West Jefferson Street
Joliet, Illinois 60432

7. CLAIMS AGAINST THE CITY

The Developer agrees to defend, indemnify and save harmless the City, its officers, employees and other officials from any and all claims of any nature whatsoever which may arise from the Developer's performance of this Agreement, provided, however, that nothing contained

in this Agreement shall be construed as rendering the Developer liable for acts of the City, its officers, agents or employees.

The duty to defend and indemnify includes, but is not limited to, the duty to defend and indemnify claims related to the Project's eligibility to receive TIF Funds or the City's authority to provide TIF Funds to the Developer as set forth herein. In the event a claim is asserted against the City, or any other entity holding or distributing TIF Funds, that the Developer is not entitled to the amount of TIF Funds as certified, the City may hold the TIF Funds in escrow pending the final determination of the claim. If the determination of the claim is favorable to the Developer, the TIF Funds being held by the City shall be released to the Developer within thirty (30) days of notice to the City of such determination. Excluded from this paragraph is the parties' stipulation of a zero TIF Benchmark.

8. PROPERTY STANDARDS

The Developer shall manage the Property with reasonable professional skill and in compliance with all applicable ordinances.

9. INSURANCE

- a. During the entire period in which work on the Project is performed until termination of the Declaration, the Developer shall obtain and maintain in full force and effect during said period the following insurance policies: (i) Comprehensive General Liability Insurance in a general aggregate amount of not less than one million dollars (\$1,000,000), \$1,000,000 Products and Completed Operations Aggregate, and \$1,000,000 each occurrence and including; (ii) Automobile Insurance, maintained in full force and effect in an amount of not less than one million dollars (\$1,000,000) per accident;
- b. The Comprehensive General Liability Insurance and Automobile Insurance policies shall name the City of Joliet, and their respective elected officials, officers, employees, agents, and representatives as additional insured.
- c. All deductibles on any policy shall be the responsibility of the primary holder of such policy and shall not be the responsibility of the City of Joliet.
- d. Developer shall provide evidence of required insurance to the City Manager before execution of this Agreement.

10. OBLIGATION TO REFRAIN FROM DISCRIMINATION

- a. Developer covenants and agrees for itself, its successors and its assigns to the Property, or any part thereof, that it will not discriminate against any employee or applicant for employment because of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, or age or physical or mental disabilities that do not impair ability to work, and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.
- b. That, if it hires additional employees in order to perform this contract, or any portion hereof, it will determine the availability of minorities and women in the area(s) from which

it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.

c. That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all Developers will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, or disability.

11. NO AGENCY CREATED

The Developer and any contractor, supplier, vendor or any third party hired by Developer to complete the Project are not agents of the City. Any provisions of this Agreement that may appear to give the City any right to direct the Developer concerning the details of the obligations under this Agreement, or to exercise any control over such obligations, shall mean only that the Developer shall follow the direction of the City concerning the end results of the obligations.

12. OWNERSHIP OF DOCUMENTS

All documents, including, without limitation, designs, plans, bids, bills and receipts, prepared and submitted to the City pursuant to this Agreement (including any duplicate copies) shall be the property of the City. The City's ownership of these documents includes use of, reproduction or reuse of and all incidental rights thereto.

13. INDEMNIFICATION AND HOLD HARMLESS

To the maximum extent permitted by law, the Developer agrees to and shall defend, indemnify and hold harmless the City, and their respective officers, officials, employees, contractors and agents from and against all claims, liability, loss, damage, costs or expenses (including expert witness fees, reasonable attorneys' fees, and court costs) arising from or as a result of the death of any person or any accident, injury, loss or damage whatsoever caused to any person or the property of any person resulting or arising from or in any way connected with the following, provided Developer shall not be responsible for (and such indemnity shall not apply to) any negligence or willful misconduct of the City, or their respective officers, officials, active employees, contractors or agents:

- a. The development, construction, marketing, use or operation of the Property by the Developer, its officers, contractors, subcontractors, agents, employees or other persons acting on Developer's behalf [Indemnifying Parties];
- b. The displacement or relocation of any person from the Property as the result of the development of the Project on the Property by the Indemnifying Parties;
- c. Any plans or designs for the Project prepared by or on behalf of Developer including, without limitation, any errors or omissions with respect to such plans or designs;
- d. Any loss or damage to the City resulting from any inaccuracy in or breach of any representation or warranty of Developer, or resulting from any breach or default by Developer, under this Agreement; and

- e. Any and all actions, claims, damages, injuries, challenges and/or costs or liabilities arising from the approval of any and all entitlements or permits for the improvements by the City, and their respective officers, officials, employees, contractors or agents.

The foregoing indemnity shall continue to remain in effect after the Completion Date or after the earlier termination of this Agreement, as the case may be.

14. DUTY TO DEFEND

The Developer further agrees that the hold harmless agreement in Article XII, and the duty to defend the City, and their respective officers, officials, employees, contractors and agents, require the Developer to pay any costs that the City may incur which are associated with enforcing the hold harmless provisions, and defending any claims arising from obligations or services under this Agreement. If the City chooses at its own election to conduct its own defense, participate in its own defense, or obtain independent legal counsel in defense of any claim related to obligations or services under this Agreement, the Developer agrees to pay the City's attorney's fees, expert witness fees, and all costs.

15. COMPLIANCE WITH LAW

The Developer agrees to comply with all the requirements now in force, or which may hereafter be in force, of all municipal, county, state and federal authorities, pertaining to the development and use of the Property and construction of the Project, as well as operations conducted on the Property. The City Manager or their designee will not issue any Loan to the Developer if there is in violation of any law, ordinance, code, regulation, permit, or Agreement Guideline.

16. DEFAULT; REMEDIES; DISPUTE RESOLUTION

a. Notice of Default.

In the event of failure by either party hereto substantially to perform any material term or provision of this Agreement, the non-defaulting party shall have those rights and remedies provided herein, provided that such non-defaulting party has first provided to the defaulting party a written notice of default in the manner required by Article XVI hereof identifying with specificity the nature of the alleged default and the manner in which said default may be satisfactorily be cured.

b. Cure of Default

Upon the receipt of the notice of default, the alleged defaulting party shall promptly commence to cure, correct, or remedy such default within such thirty (30) day period, and shall continuously and diligently prosecute such cure, correction or remedy to completion. For purposes of this Agreement, "business days" shall refer to Monday through Friday, inclusive, other than State, Federal, or other locally declared holidays.

c. City Remedies; Repayment of Pro Rata Share of Loan.

In the event of a default by Developer of the terms of this Agreement that has not been cured within the timeframe set forth in Paragraph B above, the City, at its option, may terminate this Agreement or may institute legal action in law or in equity to cure, correct,

or remedy such default, enjoin any threatened or attempted violation, or enforce the terms of this Agreement. In the event of a default by Developer that occurs after the City has disbursed the Loan, the "Pro Rata Repayment Amount" and interest, at the rate of three percent (3%) per annum, commencing on the date City disbursed the Loan to Developer, shall become immediately due and payable. The rate of interest applicable to periods of default for the defaults set forth in this paragraph shall be calculated at the lesser of three percent (%) per annum or the maximum legal rate, and shall accrue as of the date such payment was originally due.

The "Pro Rata Repayment Amount" shall be the amount obtained by multiplying the original Loan amount times the percentage obtained by dividing the number of months remaining in the five (5) year covenant period that commences on the month the Declaration is recorded, and ends on the 5th anniversary (the "Covenant Period") by 60, which is the total number of months in the Covenant Period (12 months x 5 years). For example, if the amount of the Loan is \$15,000, and the breach occurs after 3 years and two months (38 months), Developer shall repay \$5,500 plus any interest that has accrued during this time.

All payments shall be first credited to accrued interest, next to costs, charges, and fees which may be owing from time to time, and then to principal. All payment shall be made in lawful money of the United States. Payments shall be made to City at the address set forth in Article XVI herein or at such other address as City may direct pursuant to notice delivered to Developer in accordance with Article XVI.

d. Developer's Exclusive Remedies.

The parties acknowledge that the City would not have entered into this Agreement if it were to be liable in damages under, or with respect to, this Agreement or any of the matters referred to herein, including the Project, except as provided in this Article. Accordingly, Developer shall not be entitled to damages or monetary relief for any breach of this Agreement by the City or arising out of or connected with any dispute, controversy, or issue between Developer and the City regarding this Agreement or any of the matters referred to herein, the parties agreeing that declaratory and injunctive relief, mandate, and specific performance shall be Developer's sole and exclusive judicial remedies.

17. APPLICABLE LAW

The internal laws of the State of Illinois without regard to principles of conflicts of law shall govern the interpretation and enforcement of this Agreement.

18. CONFLICT OF INTEREST

- a. No member, official, or employee of the City shall have any personal interest, direct or indirect, in this Agreement, nor shall any such member, official, or employee participate in any decision relating to the Agreement which affects their personal interests or the interests of any corporation, partnership, or association in which he/she is, directly or indirectly, interested.
- b. The Developer warrants that it has not paid or given, and will not pay or give, any third person any money or other consideration for obtaining this Agreement.

19. NON-LIABILITY OF CITY OFFICIALS AND EMPLOYEES

No member, official, agent, legal counsel or employee of the City shall be personally liable to the Developer, or any successor in interest in the event of any default or breach by the City or for any amount which may become due to Developer or successor or on any obligation under the terms of this Agreement.

20. BINDING EFFECT

This Agreement, and the terms, provisions, promises, covenants and conditions hereof, shall be binding upon and shall inure to the benefit of the parties hereto and their respective heirs, legal representatives, successors and assigns.

21. AUTHORITY TO SIGN

The Developer hereby represents that the persons executing this Agreement on behalf of Developer have full authority to do so and to bind Developer to perform pursuant to the terms and conditions of this Agreement.

22. COUNTERPARTS

This Agreement may be executed by each party on a separate signature page, and when the executed signature pages are combined, shall constitute one single instrument.

23. ENTIRE AGREEMENT, WAIVERS AND AMENDMENTS

- a. This Agreement and the Exhibits and references incorporated into this Agreement express all understandings of the parties concerning the matters covered in this Agreement. This Agreement integrates all of the terms and conditions mentioned herein or incidental hereto, and supersedes all negotiations or previous agreements between the parties with respect to all or any part of the subject matter hereof.
- b. All waivers of the provisions of this Agreement must be in writing and signed by the appropriate authorities of the City or the Developer, and all amendments hereto must be in writing and signed by the appropriate authorities of the City and the Developer.

24. NON-ASSIGNMENT

The Developer shall not assign the obligations under this Agreement, nor any monies due or to become due, without the City Manager's prior written approval, and Developer and Developer's proposed assignee's execution of an assignment and assumption agreement in a form approved by the City. Any assignment in violation of this paragraph is grounds for immediate termination of this Agreement, at the sole discretion of the City Manager. In no event shall any putative assignment create a contractual relationship between the City, and any putative assignee.

25. NO WAIVER

No failure of either the City or the Developer to insist upon the strict performance by the other of any covenant, term or condition of this Agreement, nor any failure to exercise any right or remedy consequent upon a breach of any covenant, term, or condition of this

Agreement, shall constitute a waiver of any such breach or of such covenant, term or condition. No waiver of any breach shall affect or alter this Agreement, and each and every covenant, condition, and term hereof shall continue in full force and effect.

IN WITNESS WHEREOF, the parties execute this Agreement effective on the date first above written.

CITY OF JOLIET,
an Illinois municipal corporation

DEVELOPER:
Matisse Events LLC

By: _____
H. Elizabeth Beatty, City Manager

By: _____
Joseph Matisse, Owner

Date: _____

Date: _____

Attest: _____
Lauren O'Hara, City Clerk

Date: _____

ATTACHMENTS:

1. Exhibit A – Legal Description of Property
2. Exhibit B – Declaration of Covenants Affecting Real Property (for projects approved for \$5,000 or more in forgivable loans only)
3. Exhibit C – Certification of Ownership and Consent
4. Exhibit D – Program Guidelines

Return this form to:
City of Joliet
Economic Development Department
150 W. Jefferson Street
Joliet, IL 60432

For Official Use Only

Exhibit A: LEGAL DESCRIPTION OF PROPERTY

(Attach behind this page)

[EXHIBIT B]

This instrument was prepared by
And upon recording return to:
Economic Development Department
City of Joliet
150 W. Jefferson Street
Joliet, IL 60432

[RECORDING AREA]

DECLARATION OF COVENANTS AFFECTING REAL PROPERTY

THIS DECLARATION OF COVENANTS AFFECTING REAL PROPERTY ("Declaration") is entered into this ____ day of _____, ____ ("Effective Date"), by and between the CITY OF JOLIET, a public body corporate and politic ("City"), and _____ ("Developer").

RECITALS:

- A. Developer owns fee title to, or holds a valid leasehold interest in, that certain improved real property located at _____. in the City of Joliet, County of Will, State of Illinois (hereinafter referred to as the "Property"). The property is improved with a commercial building currently used as _____. A legal description of the Property is attached hereto and incorporated herein as Exhibit "1".
- B. The Site is within the City of Joliet ("City").
- C. Developer has entered into a TIF Incentive Agreement (the "Agreement") with the City, dated as of _____, 20__, concerning the "Project" (as defined in the Agreement), City's provision to provide the Developer a Loan in the amount of half of the total project cost not to exceed _____ (\$_____), in the form of a loan, to assist Developer in developing the Project (the "Loan"), and related matters, which Agreement is on file with the City as a public record and is incorporated herein by reference. All defined terms used herein shall have the same meaning as in the Agreement unless otherwise stated.

NOW, THEREFORE, in consideration of the foregoing Recitals, which are incorporated herein by this reference, and for other valuable consideration, the sufficiency of which is hereby acknowledged, City and Developer hereby agree as follows:

1. Developer hereby covenants as follows, which covenants shall run with land and shall be binding upon itself and its assigns, and each successor-in-interest to the Property or any portion thereof:
 - a) To not transfer or encumber the Site or any portion thereof or assign any of its rights or obligations hereunder, under the Agreement, or under this Declaration without obtaining the prior written consent of the City.
 - b) To maintain the insurance required pursuant to the provisions of Article VIII of the Agreement.

- c) To indemnify, defend, and hold the City, and their respective officers, officials, members, employees, agents, and representatives (collectively, the "City and City Personnel"), harmless from and against all liabilities, losses, damages, costs and expenses, including reasonable attorney's fees, expert witness fees, and court costs (hereinafter, collectively, "Claims"), arising from or as a result of the death or injury to any person or any accident, injury, loss, or damage whatsoever caused to any person or to the property of any person and which is caused by any acts or any errors or omissions of Developer or any of its employees, agents, servants, invitees, contractors, or subcontractors; provided, however, Developer shall not be required to indemnify, defend, and hold harmless the City if the Claim arises from or is caused in whole by active negligence or willful misconduct of the City, or any of their employees, agents, servants, invitees, contractors, or subcontractors
 - d) To not devote the Property to uses inconsistent with applicable laws, rules, and regulations of any governmental agencies having jurisdiction.
 - e) To maintain the Property and all improvements including the Improvements constructed as the Project, in first class condition and repair and in accordance with all applicable laws, rules, ordinances, orders, and regulations of all federal, state, county, municipal, and other governmental agencies and bodies having jurisdiction and all their respective departments, bureaus, and officials. Developer shall not permit any accumulation of weeds, rubbish, or debris on the Property, and shall promptly remove any graffiti or other defacement of the Property. Developer shall not permit any unlawful use or public or private nuisance to be maintained on the Site.
 - f) To repay the Loan pursuant to the terms of Article XVII Paragraph C of the Agreement, when such repayment is required under the terms thereof.
 - g) That there shall be no discrimination against, or segregation of, any persons, or group of persons, on any basis of race, color, religion, sex, sexual orientation, marital status, national origin or ancestry, or age or physical or mental disabilities that do not impair ability to work, and further that it will examine all job classifications to determine if minority persons or women are underutilized and will take appropriate affirmative action to rectify any such underutilization.
 - h) That, if the Developer hires additional employees in order to perform this contract, or any portion hereof, it will determine the availability of minorities and women in the area(s) from which it may reasonably recruit and it will hire for each job classification for which employees are hired in such a way that minorities and women are not underutilized.
 - i) That, in all solicitations or advertisements for employees placed by it or on its behalf, it will state that all Developers will be afforded equal opportunity without discrimination because of race, color, religion, sex, sexual orientation, marital status, national origin, ancestry, or disability.
2. All of the covenants, easements, agreements, conditions and restrictions contained herein, whether affirmative or negative: (a) are made for the direct benefit of the Benefited

Property; (b) are covenants running with the land; (c) are appurtenant to and shall not be conveyed or otherwise transferred separately from the Benefited Property, or the Site; and (d) bind and inure to the burden or benefit, as the case may be, of the respective heirs, personal representatives, successors and assigns of the parties hereto, including, without limitation, successive owners of all or any portion of, respectively, the Benefited Public Property and the Site.

3. The covenants and agreements established in this Declaration shall, without regard to technical classification and designation, be binding on Developer for the benefit of and in favor of the City, regardless of whether the City own or hold any interest in real property butting or adjacent to the Site or within the Project Area. Notwithstanding the foregoing or anything to the contrary herein, neither Developer nor any assign or successor-in-interest to the Site shall have any liability or responsibility for the breach of any covenant or agreement contained herein by any other assign or successor-in-interest to the Property that would constitute a breach or violation of the provisions hereof. At the termination of the Agreement, Developer may request that the City release the covenants set forth herein. The decision whether to release said covenants shall remain in the sole discretion of the City, which shall not be unreasonably withheld.

[end - signature page follows]

IN WITNESS WHEREOF, City and Developer have entered into this Declaration as of the Effective Date.

("City")

CITY OF JOLIET, an Illinois Municipal Corporation

By: _____

Its: City Manager

Dated: _____

("Developer")

_____ (signature)

By: _____

Its: _____

Dated: _____

State of Illinois)
County of Will)

On _____, before me, _____ (insert name and title of the officer) Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in their authorized capacity(ies), and that by their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Illinois that the forgoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)

State of Illinois)
County of Will)

On _____, before me, _____ (insert name and title of the officer) Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in their authorized capacity(ies), and that by their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Illinois that the forgoing paragraph is true and correct. WITNESS my hand and official seal.

Signature _____ (Seal)

Owner Consent to Declaration

CONSENT TO RECORDATION

_____ (owner of the fee interest in the real property legally described in Exhibit "A" hereto, consents to the recordation of the foregoing Declaration of Covenants Affecting Real Property against said real property and agrees to be bound by the terms thereof applicable to the Developer.

Dated: _____

_____ (signature)

By: _____

State of Illinois)
County of Will)

On _____, before me, _____ (insert name and title of the officer), Notary Public, personally appeared _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose names(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in their authorized capacity(ies), and that by their signature(s) on the instrument of the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of Illinois that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____ (Seal)