

**380 AND DEVELOPMENT AGREEMENT
FOR PUBLIC IMPROVEMENTS TO PROPERTY WITHIN
REINVESTMENT ZONE NUMBER TWO, CITY OF MANSFIELD**

THIS DEVELOPMENT AGREEMENT ("Agreement") is entered into by and between the City of Mansfield, a Texas municipal corporation of Tarrant, Johnson and Ellis Counties, Texas (hereinafter called "City"), the Board of Directors of the Tax Increment Financing Reinvestment Zone Number Two, City of Mansfield, Texas (hereinafter called "Board"), and Main Street Lofts L.P. (hereinafter called "the Owner").

W I T N E S S E T H:

WHEREAS, the City recognizes the importance of its continued role in local economic development; and

WHEREAS, in accordance with the provisions of the Tax Increment Financing Act, V.T.C.A. Tax Code, Chapter 311 (the "Act"), on December 10, 2012, the Mansfield City Council approved Ordinance No. 1861-12, creating, establishing and designating "Tax Increment Financing Reinvestment Zone Number Two, City of Mansfield" (hereinafter called the "TIF District" or "District"); and

WHEREAS, the Owner owns certain real property situated within the TIF District and intends to develop the property for use as a high quality first class urban residential development together with ancillary areas and improvements to be known as Main Street Lofts, to be developed in two phases; and

WHEREAS, the Act authorizes the expenditure of funds derived within a reinvestment zone, whether from bond proceeds or other funds, for the payment of expenditures made or estimated to be made and monetary obligations incurred or estimated to be incurred by a municipality consistent with the project plan of the reinvestment zone, which expenditures and monetary obligations constitute project costs, as defined in the Act; and

WHEREAS, on February 11, 2013, after approval of the Board, the Mansfield City Council approved the Tax Increment Reinvestment Zone Financing and Project Plans (herein so called), and the Financing Plan (herein so called); and

WHEREAS, the Board authorized the execution of this Agreement, for the construction of Public and Private Improvements in accordance with the approved Project Plan and Financing Plan, and authorizing reimbursement to the Owner from the Tax Increment Fund for the construction of the Public Improvements and Private Improvements under the conditions set forth herein; and

WHEREAS, pursuant to City Resolution No. , the City Council authorized the execution of this Agreement, for the construction of the Public

Improvements to facilitate development of the Property and the construction of the Private Improvements in accordance with the approved Project Plan and Financing Plan, and authorizing reimbursement to the Owner from the Tax Increment Fund and Utility Fund for the construction of the Public Improvements and Private Improvements under the conditions set forth herein; and

WHEREAS, the Public Improvements constructed within the TIF District boundaries, as set forth in this Agreement, are consistent with encouraging development of the TIF District in accordance with the purposes for its creation and are in compliance with the ordinance creating the TIF District adopted by the City and all applicable laws; and

WHEREAS, the City and Board agree to reimburse funds advanced by the Owner for the cost of making the Public Improvements and Private Improvements as contemplated herein and as contemplated by the Act and as is consistent with the Project Plan and Financing Plan; and

WHEREAS, the City is authorized by Article 52 of the Texas Constitution and Section 380.001 Texas Local Government Code to provide economic development grants to promote local economic development and stimulate business and commercial activities in the City; and

WHEREAS, the City Council has determined that quality residential developments in urban settings stimulate commercial activity; and

WHEREAS, the City Council finds that the Project, as herein defined, will promote local economic development and stimulate commercial and business activity; and

WHEREAS, the City may enter into an agreement with the TIF Board to loan funds sufficient to pay the incentives set forth herein, under Chapter 380 of the Texas Local Government Code, with repayment to the City made as TIF revenues accrue; and

NOW, THEREFORE, in consideration of the mutual covenants and obligations herein, the parties agree as follows:

SECTION 1. AUTHORIZATION

The City Council finds and determines that this Agreement is authorized by Chapter 311 of the Texas Tax Code and by Section 380.001 of the Texas Local Government Code. The City Council hereby establishes a Program to stimulate commercial activity in the TIF District by bringing a first class urban residential development to Main Street and finds that this Agreement implements the Program.

SECTION 2. DEFINITIONS

In this Agreement, the following words shall have the meanings ascribed to them:

CONSTRUCTION COSTS means the costs of all hard construction, construction equipment charges, the costs of construction materials, design fees (including landscape and architectural design) contractor fees, and subject to approval by the City, surveying and engineering costs and fees attributable to the construction of the Public Improvements and Private Improvements. Construction Costs does not include any acquisition costs of the Property or marketing of the Project.

EFFECTIVE DATE means the date both parties sign this Agreement.

EVENT OF BANKRUPTCY OR INSOLVENCY means the dissolution or termination of the Owner's existence as a going business, insolvency, appointment of receiver for any part of the Owner's property and such appointment is not terminated within 60 days after such appointment is initially made, any general assignment for the benefit of creditors, or the commencement of any proceeding under any bankruptcy or insolvency laws by or against the Owner and such proceeding is not dismissed within 60 days after the filing thereof.

GENERAL STANDARD INCREASE means the amenities described in Section 3.(C)(2) of this Agreement.

MAIN STREET TRAILS means the walkway between Main Street Lofts and Main Street, depicted on Exhibits "H", "I", "J" and "K".

OWNER REIMBURSEMENT means the Payments to the Owner paid pursuant to Section 4 of this Agreement.

PHASE I means, the elements of the Project set forth in Exhibit A.

PHASE II means, the elements of the Project set forth in Exhibit A.

PRIVATE IMPROVEMENTS or **MAIN STREET LOFTS** mean a high quality, first class urban residential development in substantial conformance with Main Street Lofts Planned Development Standards adopted via City of Mansfield Ordinance No. OR-1944-15 as represented by the site plan approved by the City and depicted on Exhibit "B", attached hereto and incorporated herein, together with related improvements, including without limitation, the amenities, set forth in Exhibit "C", with the Project to be developed in two phases.

PROJECT means the construction of the Public Improvements and Private Improvements.

PROJECT PLAN AND FINANCING PLAN means the Tax Increment Financing Reinvestment Zone Project Plan and Financing Plan approved by Ordinance No. OR 1861-12 of the City of Mansfield.

PROPERTY means the approximately 21.485 acre tract upon which the Private Improvements will be constructed, as described in Exhibit “D”, attached hereto and incorporated herein.

PUBLIC IMPROVEMENTS means the Main Street left turn lane and striping; sanitary sewer line, franchise utility lines and the waterline improvements described in Section 3.(B)(1) of this Agreement; and the public park and trails and related public development, individually, to be constructed substantially as listed and depicted on Exhibits “E” through “M”, attached hereto and incorporated herein, with final approval by the City during the approval of construction plans and specifications.

SUBSTANTIAL COMPLETION or SUBSTANTIALLY COMPLETE means with regard to the Public Improvements and Private Improvements, the date the City issues a Letter of Acceptance or Certification of Occupancy for the each.

TAX INCREMENT FUND means the Tax Increment Fund of Mansfield Tax Increment Financing Reinvestment Zone No. Two.

TIF DISTRICT means the district created by Ordinance No. 1861-12 comprising approximately 323 acres of which the Property is a part.

TRAIL PARK means the park and trails to be dedicated to the public, depicted on Exhibits “L” and “M”, to be developed and constructed in conjunction with Phase II.

SECTION 3. THE OWNER’S OBLIGATIONS

A. Generally. In conjunction with the long-term development plan for the TIF District, as described in the Project Plan, the Owner agrees to design and construct the Public Improvements, and design and construct (or cause to be designed and constructed) the Private Improvements in two phases. The Public Improvements are located entirely within the limits of the City and within the TIF District and all Public Improvements shall be constructed within public property, public rights-of-way or easements.

B. Public Improvements.

1. Construction of Public Improvements.

a. Phase I. Commencing no later than March 31, 2016, the Owner shall construct or relocate the following Public Improvements depicted on Exhibit s “E” through “K”:

i. Relocate the 12” sanitary sewer line.

- ii. Construct the 16" waterline if required by the City's engineering department.
 - iii. Relocate the franchise utility lines to make room for the new waterline if required by the City.
 - iv. Create a left turn lane and restripe Main Street in front of the Main Street Lofts.
 - v. Install the Main Street Trails and the following related amenities:
 - 1. Hardscape to include but not limited to trails, corner plaza improvements and way finding signs.
 - 2. Landscaping and irrigation to include but not limited to trees, shrubs, groundcover and sod.
 - 3. Site Furnishings to include but not limited to benches, trash bins, bike racks and light fixtures.
 - b. Phase II. The Owner shall construct any remaining hardscape, landscaping and irrigation, and site furnishings not completed in Phase 1. The Owner shall also construct the Trail Park as depicted on Exhibits "L" and "M". The plans must be approved by the City of Mansfield Parks Board. The City and Owner acknowledge that as the Project develops, terrain changes may result in a different park configuration or make dedication of the parkland and construction of the Trail Park infeasible.
2. Construction Plans; Construction Schedule; Surveying. The Owner shall submit to the City for approval complete construction plans for the Public Improvements and Private Improvements. The construction plans shall be prepared by a professional engineer or architect licensed to practice in the State of Texas, at Owner's sole cost. Construction plans shall be in conformity with all state and local ordinances and regulations. The Owner shall pay all costs of engineering design and surveying for the Public Improvements directly to the provider.
 3. Public Improvement Conveyance. Any Public Improvements constructed on the Property shall be conveyed or dedicated to the City free and clear of all liens, encumbrances, assessments and restrictions other than as provided in this Agreement or shall be subject to an easement in favor of the City and a Maintenance Agreement in form acceptable to the City and Owner. At the time

of conveyance the Owner shall deliver to the City releases from the contractors, subcontractors and suppliers of material who have provided labor and materials for the Public Improvements showing they have paid for such labor and materials.

C. Private Improvements.

1. In General. The Owner shall design and construct all phases of the Private Improvements so as to comprise a high quality, first class urban residential development in substantial conformance with Main Street Lofts Planned Development Standards adopted via City of Mansfield Ordinance No. OR-1944-15 and as depicted in Exhibits "B" and "C".
2. General Standard Increase. The Owner shall at a minimum add the following amenities to the Private Improvements more particularly described in a list subject to the future approval of the TIRZ Board.
 - a. Loft style or ganged windows
 - b. Stoops
 - c. Fountains
 - d. Ghost lettering
 - e. Corner plaza
 - f. Signage
3. Maintenance of Main Street Trails and Public Easement. The Owner shall provide the City with a grant of public easement and maintenance agreements for the Main Street Trails, whereby the Owner shall maintain trails.

D. No Alteration of Development Regulations. This Agreement is not intended to and does not waive or alter any development requirement imposed by City ordinances, City development regulations, or other law, except as specifically stated in this Agreement.

E. Evidence of Expenditure of Cost of Construction for Public and Private Improvements. Prior to receiving any payment from the City pursuant to Section 4. of this Agreement, the Owner shall provide documentation satisfactory to the City to substantiate the Construction Costs, and the City shall make payment of each such item within 60 days of receipt of such documentation. The evidence of expenditure shall be satisfactory so long it is provided by the Owner or a business associate of the Owner.

F. Inspection. Subject to Owner's contractual obligations and reasonable security, safety and insurance requirements, the City, its agents and employees shall have reasonable access to the Property to inspect the Project (1) to ensure that the

construction of the Project is in accordance with this Agreement; and (2) to ensure that the Property is thereafter maintained, operated and occupied in accordance with this Agreement. The Owner shall provide the City documentation it may reasonably require to substantiate that it is in compliance with this Agreement.

G. Operation. In further consideration, the Owner shall ensure that the Private Improvements are continuously operated and maintained as a first class urban residential development in conformance with the standards set forth in Exhibit C, after the Project is complete.

SECTION 4. CITY PARTICIPATION

A. General. In consideration of the Owner's agreement to construct the Public Improvements and the Private Improvements, and subject to the Owner's compliance with its duties and obligations in this Agreement, the City agrees to reimburse the Owner for its Construction Costs for the listed Public Improvements and Private Improvements up to the amounts set forth in this Section, provided the Owner submits evidence satisfactory to the City of the expenditure. Payments shall be ultimately funded by the TIF reimbursing the City's expenditure for payments to the Owner under this Agreement, except as otherwise noted. A chart showing the payment schedule is attached as Exhibit "A".

B. Phase I Public Improvements. After acceptance by the City and proof of expenditure, the City will reimburse the Owner in a lump sum up to the following amounts based upon the actual expenditures attributable to Construction Costs for each of the following:

- | | |
|---------------------------------------|--------------------------|
| 1. 12" sewer line relocation | \$176,850 |
| 2. 16" water line | \$477,000 (Utility Fund) |
| 3. Franchise utility lines relocation | \$120,000 |

C. Hardscape, Landscaping and Site Furnishings. After acceptance by the City and proof of expenditure, the City will reimburse the Owner in a lump sum up to the following amounts, based upon the actual expenditures attributable to Construction Costs in Phase I and Phase II, and the Trail Park; provided, however, that to the extent work for Phase II is completed as part of the work for Phase I, such Phase II Costs will be reimbursed as they are incurred on a percentage of completion basis..

1. Hardscape including but not limited to trails, corner plaza improvements and way finding signs.

Phase I	\$103,950
Phase II	\$ 86,350
Trail Park	<u>\$161,700</u>
TOTAL no more than	\$352,000

2. Landscaping and Irrigation including but not limited to trees, shrubs, groundcover and sod.

Phase I	\$ 60,060
Phase II	\$ 72,050
Trail Park	<u>\$ 47,300</u>
TOTAL no more than	\$179,410

3. Site Furnishings including but not limited to benches, trash bins, bike racks and light fixtures.

Phase I	\$ 44,000
Phase II	\$ 44,000
Trail Park	<u>\$ 33,000</u>
TOTAL no more than	\$121,000

D. Main Street Left Turn Lane and Striping. After acceptance by the City and proof of expenditure, the City will reimburse the Owner in a lump sum up to \$99,001 based upon the actual expenditures attributable to Construction Costs.

E. General Standard Increase. After acceptance by the City and proof of expenditure, the City will reimburse the Owner in a lump sum based upon actual expenditures attributable to Construction Costs as follows: \$350,000 in Phase I and \$150,000 in Phase II.

F. Deferral of Payment of Impact Fees. All impact fees due (Roadway, Water and Sewer) shall be deferred until a certificate of occupancy is issued by the City for each Phase.

G. Cash Incentives. When due, the Roadway, Water and Sewer Impact Fees shall be deposited into the City Impact Fee Fund by the TIF District in an amount equal to the impact fees due or the amount set forth below, whichever is less, for each Phase. Impact fees in excess of the amount set forth below shall be paid by the Owner.

Roadway Impact Fees	
Phase I	\$236,250
Phase II	<u>\$135,000</u>
TOTAL no more than	\$371,250

Water Impact Fees	
Phase I	\$104,000
Phase II	<u>\$ 52,000</u>
TOTAL no more than	\$156,000

Sewer Impact Fees	
Phase I	\$55,860

Phase II	<u>\$27,930</u>
TOTAL no more than	<u>\$83,790</u>

H. Parkland Dedication and Fees in Lieu of Dedication.

1. Collection of all Parkland Dedication Fees for the Project shall be delayed until a certificate of occupancy is issued by the City for Phase II.
2. The estimated Parkland Dedication Fees for the Project of \$130,500 are based upon the dedication of 2.89 acres of parkland in Phase II; however, the amount may increase if the actual parkland dedication is less than 2.89 acres or if as the Project develops, it is determined that the terrain or land condition is unacceptable for the parkland.
3. When due, the Parkland Dedication Fees shall be deposited into the City General Fund by the TIF District in an amount equal to \$130,500 or the actual amount of required Parkland Dedication Fees, whichever is less. Parkland Dedication fees in excess of \$130,500 shall be paid by the Owner.

- I. Park Development Fees. An amount equal to the Park Development Fees of \$262,500 for Phase I and \$150,000 for Phase II shall be credited by the City upon proof of expenditures for Construction Costs of at least \$500,000 for the private pools and dog parks depicted on Exhibit "C" for Phase 1 and Phase 2. The City will not collect Park Development Fees at building permit issuance for Phase I and Phase II.

SECTION 5. TERM

The term of this Agreement shall begin on the Effective Date and shall terminate upon the earlier of the performance of all obligations, duties and payments have been made under this Agreement or December 31, 2020, whichever is earlier. Should Phase I of the Project not be commenced by March 31, 2016, this Agreement shall terminate and the City shall not be obligated to make any payments to the Owner.

SECTION 6. AUTHORITY; COMPLIANCE WITH LAW

A. The Owner hereby represents and warrants to the City that it has full lawful right, power and authority to execute and deliver and perform the terms and obligations of this Agreement and that the execution and delivery of this Agreement has been duly authorized by all necessary action by the Owner and this Agreement constitutes the legal, valid and binding obligation of the Owner, and is enforceable in accordance with its terms and provisions.

B. The Owner represents and warrants that to the best of its knowledge during the Owner's ownership of the Property (1) no landfill was deposited on or taken from the Property, (2) no construction debris or other debris (including, without limitation, rocks, stumps, and concrete) was buried upon the Property, and (3) no toxic waste or "hazardous substances" as that term is defined in the Comprehensive Environmental Response, Compensation and Liability Act of 1988, or petroleum products and derivatives thereof, were deposited on the Property. The Owner further represents and warrants that to the best of its knowledge none of the foregoing occurred on the Property prior to the Owner's ownership of the Property.

C. Notwithstanding any other provision of this Agreement, the Owner shall comply with all federal and state laws, and City ordinances in the development, construction and operation of the Property and the Private Improvements.

D. As required by Subchapter B of Chapter 2264 of the Texas Government Code, the Owner certifies that to the Owner's knowledge it does not and will not knowingly employ an undocumented worker. If after receiving the Payment set forth in this Agreement the Owner is convicted under 8 USC Section 1324(a)(6), he shall repay the amount of the Payment (or portion that he has received) plus 10% interest not later than the 120th day after the date the City notifies the Owner of the violation.

E. The City hereby represents and warrants to the Owner during the term of this Agreement that:

1. The City is a home rule Texas municipal corporation and has the power to enter into this Agreement and take all actions required to authorize this Agreement and to carry out its obligations hereunder.
2. The City knows of no litigation, proceedings, initiative, referendum, investigation or threat of any of the same contesting the powers of the City or its officials with respect to this Agreement.
3. The City knows of no law, order, rule or regulation applicable to the City that would be contravened by, or conflict with, the execution and delivery of this Agreement and performance of the City's obligations hereunder.

SECTION 7. DEFAULT AND REMEDIES

A. In the event: (i) the Owner fails to comply with the terms of this Agreement; (ii) the Owner has delinquent ad valorem or sales taxes owed to the City (provided that the Owner retains the right to timely and properly protest and/or contest any such taxes); (iii) upon the occurrence of any Event of Bankruptcy or Insolvency by the Owner prior to Substantial Completion of the Public Infrastructure; or (iv) the Owner materially breaches any of the material terms and conditions of this Agreement, then the Owner after the expiration of the notice and cure periods described herein, shall be in default of this

Agreement. In the event of such a default, City shall give the Owner written notice of such breach and/or default, and if the Owner has not cured such breach or default within 30 days after receipt of such notice, the City may terminate this Agreement by written notice to the Owner, and the City shall have no further obligation to the Owner.

B. If a default shall occur and continue, after 30 days written notice to cure the default, the party not in default shall have the right to exercise any and all rights available to such party at law or in equity, including the right to seek equitable relief such as injunction or mandamus as to which the non-defaulting party may be entitled.

C. No waiver or any breach of any term or condition of this Agreement shall be construed to waive any subsequent breach of the same or any other term or condition of this Agreement. Any waiver of any term or condition of this Agreement must be in writing and approved by the City Council of Mansfield.

SECTION 8. RIGHT OF OFFSET

City may, at its option, offset any amounts due and payable to the Owner under this Agreement against any debt (including taxes) lawfully due to City, or any other taxing unit participating in the Payment under this Agreement, from the Owner, regardless of whether the amount due arises pursuant to the terms of this Agreement or otherwise, and regardless of whether or not the debt in question has been reduced to judgment by a court.

SECTION 9. DETERMINATION OF ROUGH PROPORTIONALITY

As additional consideration for the Payment received by Owner under this Agreement, Owner hereby agrees to donate the land necessary to construct the Public Improvements to the City and Owner further agrees that such land is roughly proportional to the need for such land and Owner hereby waives any claim therefor that it may have. Owner further acknowledges and agrees that all prerequisites to such a determination of rough proportionality have been met, and that any costs incurred relative to said donation are related both in nature and extent to the impact of the Improvements. Owner waives and releases all claims against the City related to any and all rough proportionality and individual determination requirements mandated by Subchapter Z of Chapter 212, Texas Local Government Code, as well as other requirements of a nexus between development conditions and the projected impact of the Improvements.

SECTION 10. VENUE AND GOVERNING LAW

This Agreement is performable in Tarrant County, Texas and venue of any action arising out of this Agreement shall be exclusively in Tarrant County, Texas. This Agreement shall be governed and construed in accordance with the Charter, ordinances, and resolutions of the City of Mansfield, applicable federal and state laws, violation of which shall constitute a default of this Agreement. To the extent permitted

by law, the laws of the State of Texas shall apply without regard to applicable principles of conflicts of law, and the parties submit to the jurisdiction of the state and federal courts in Mansfield, Tarrant County, Texas.

SECTION 11. FORCE MAJEURE

Performance of Owner's obligations under this Agreement shall be subject to extension due to delay by reason of events of force majeure, and Owner's obligations shall be abated during any period of force majeure. Force majeure shall include, without limitation, damage or destruction by fire or other casualty, condemnation, strike, lockout, civil disorder, war, issuance of any permit and/or legal authorization (including engineering approvals by any governmental entity), shortage or delay in shipment of materials or fuel occasioned by any event referenced herein, acts of God, unusually adverse weather or wet soil conditions or other causes beyond the parties' reasonable control, including but not limited to, any court or judgment resulting from any litigation affecting the Property or this Agreement.

SECTION 12. GIFT TO PUBLIC SERVANT OR TO THE OWNER REPRESENTATIVE

A. No Benefit. Each party hereto represents to the other that it has not offered, conferred, or agreed to confer and that it will not offer, confer or agree to confer in the future any benefit upon an employee or official of the other party. For purposes of this section, "benefit" means anything reasonably regarded as economic advantage, including benefit to any other person in whose welfare the beneficiary is interested, but does not include a contribution or expenditure made and reported in accordance with law.

B. Right of Reimbursement. Notwithstanding any other legal remedies, City may obtain reimbursement for any expenditures made to the Owner as a result of the improper offer, agreement to confer, or conferring of a benefit to a City employee or official.

SECTION 13. BINDING AGREEMENT; ASSIGNMENT

A. The terms and conditions of this Agreement are binding upon the successors and assigns of the parties hereto. The provisions of this Agreement are hereby declared covenants running with the Property and are fully binding on the Owner and each and every subsequent owner of all or any portion of the Property and shall be binding on all successors, heirs, and assigns of the Owner which acquire any right, title, or interest in or to the Property, or any part thereof.

B. Any assignment of this Agreement must be in writing executed by the assignor and assignee, and shall not be permitted without the express written consent of the City; provided that the assignment of this Agreement as may be necessary to a lender of Owner in connection with the financing the Private or Public Improvements by the Owner shall be expressly permitted and no consent of the City to such assignment

to a lender shall be required; and provided, further, that the assignment of this Agreement or a portion thereof by Owner in connection with the conveyance of any portion of the Property by Owner to a person in which at least ninety percent (90%) of the equity of which is directly or indirectly owned by Owner or the owner of Owner, shall not require the consent of the City if (i) the City is provided with current notice of such assignment and (ii) the transferee has agreed to assume applicable obligations under this Agreement with respect to the portion of the Property so conveyed. Any assignment shall be contingent upon the assignee's agreement to comply with the provisions of this Agreement.

SECTION 14. INDEMNIFICATION

A. THE OWNER EXPRESSLY AGREES TO FULLY AND COMPLETELY DEFEND, INDEMNIFY, AND HOLD HARMLESS THE CITY, AND ITS OFFICERS, AND EMPLOYEES, AGAINST ANY AND ALL CLAIMS, LAWSUITS, LIABILITIES, JUDGMENTS, COSTS, AND EXPENSES FOR PERSONAL INJURY (INCLUDING DEATH), PROPERTY DAMAGE OR OTHER HARM, DAMAGES OR LIABILITY FOR WHICH RECOVERY OF DAMAGES IS SOUGHT, SUFFERED BY ANY PERSON OR PERSONS, THAT MAY ARISE OUT OF OR BE OCCASIONED BY ANY NEGLIGENT, GROSSLY NEGLIGENT, WRONGFUL, OR STRICTLY LIABLE ACT OR OMISSION OF THE OWNER OR ITS AGENTS, EMPLOYEES, OR CONTRACTORS, ARISING OUT OF THE OWNER'S PERFORMANCE OF THIS AGREEMENT. Nothing in this paragraph may be construed as waiving any governmental immunity available to the City under state law. This provision is solely for the benefit of the Owner and the City and is not intended to create or grant any rights, contractual or otherwise, in or to any other person.

B. It is acknowledged and agreed by the parties that the terms hereof are not intended to and shall not be deemed to create a partnership or joint venture among the parties. The City, their past, present and future officers, elected officials, directors, employees and agents of the City does not assume any responsibility to any third party in connection with the Owner's construction of the Public Improvements.

SECTION 15. MISCELLANEOUS MATTERS

A. Time is of Essence. Time is of the essence in this Agreement. The parties hereto will make every reasonable effort to expedite the subject matters hereof and acknowledge that the successful performance of this Agreement requires their continued cooperation.

B. Agreement Subject to Law. This Agreement is made subject to the provisions of the Mansfield Home Rule Charter and ordinances of City, as amended, and all applicable State and federal laws.

C. Interpretation. This Agreement shall not be construed against the drafting party.

D. Counterparts Deemed Original. This Agreement may be executed in any number of counterparts, each of which shall be deemed an original and constitute one and the same instrument.

E. Captions. The captions to the various clauses of this Agreement are for informational purposes only and shall not alter the substance of the terms and conditions of this Agreement.

F. Complete Agreement. This Agreement embodies the complete agreement of the parties hereto, superseding all oral or written previous and contemporary agreements between the parties and relating to matters in the Agreement, and except as otherwise provided herein cannot be modified without written agreement of the parties to be attached and made a part of this Agreement.

G. Notice. Any notice to be given or served hereunder or under any document or instrument executed pursuant hereto shall be in writing and shall be (i) delivered personally, with a receipt requested therefore; or (ii) sent by a nationally recognized overnight courier service; or (iii) delivered by United States certified mail, return receipt requested, postage prepaid. All notices shall be addressed to the respective party at its address set forth below, and shall be effective (a) upon receipt or refusal if delivered personally; (b) one business day after depositing, with such an overnight courier service or (c) two business days after deposit in the United States mails, if mailed. Any party hereto may change its address for receipt of notices by service of a notice of such change in accordance with this subsection.

If intended for Board, to:

Chair, Board of Directors
Tax Increment Financing Reinvestment Zone No. One
1200 E. Broad Street
Mansfield, Texas 76063

If intended for City, to:

City of Mansfield
1200 E. Broad Street
Mansfield, Texas 76063
Attn: City Manager
Facsimile: (817) 473-1342

With a copy to:
Taylor, Olson, Adkins, Sralla & Elam, LLP
6000 Western Place, Suite 200
Fort Worth, Texas 76107
Attn: Betsy Elam
Facsimile: (817) 332-4740

If intended for the Owner, to:

Main Street Lofts L.P.
909 Lake Carolyn Parkway, Suite 150
Irving, Texas 75039
Attn: Managing Director
Email: TimColtart@realtycapital.com

With a copy to:

H. Amendment. This Agreement may only be amended by the mutual written agreement of the parties.

I. Severability. In the event any section, subsection, paragraph, subparagraph, sentence, phrase, or word herein is held invalid, illegal, or unenforceable, the balance of this Agreement shall stand, shall be enforceable, and shall be read as if the parties intended at all times to delete said invalid section, subsection, paragraph, subparagraph, sentence, phrase, or word. In the event there shall be substituted for such deleted provision a provision as similar in terms and in effect to such deleted provision as may be valid, legal and enforceable.

SECTION 16. EFFECTIVE DATE.

This Agreement shall become effective upon the last to occur: of the execution of the Agreement by all parties.

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EXECUTED and effective as of the _____ day of _____, 2015
by Board signing by and through its Chairman, duly authorized to execute same by
majority vote of the TIF Board, by City, signing by and through its City Manager, duly
authorized to execute same by Resolution No. _____.

BOARD OF DIRECTORS OF THE
TAX INCREMENT FINANCING
REINVESTMENT ZONE NUMBER
ONE, CITY OF MANSFIELD, TEXAS

OWNER

By: _____
Cory Hoffman, Board Chairman

By: _____
Tim Coltart
Managing Director

CITY OF MANSFIELD, TEXAS

By: _____
Clayton Chandler, City Manager

ATTEST:

By: _____
Vicki Collins, City Secretary

APPROVED AS TO FORM AND
LEGALITY:

By: _____
Elizabeth Elam, City Attorney