3. DISTRICT AND COMPANY OBLIGATIONS

3.1 Project Description.

The COMPANY agrees and commits to undertake the Project described in general below:

The COMPANY will acquire the approximately 31-acre lot at the Project Site to create a mixed-use development containing several retail parcels, a five-story hotel, and a residential apartment complex. The COMPANY plans to raze the approximately 3,000 square foot vacant structure on the property and conduct off-site improvements by adding roadway turn lanes, curbing, storm water drainage and sidewalks.

The retail portion of the development will include several retail business which are currently expected to include quick service restaurants, a bank, a car wash, and a gas station, as illustrated in the site plan attached to this agreement as "Exhibit A". The COMPANY estimates that the land acquisition, cost of wetland mitigation, completion of the site work and the construction of the buildings will exceed $87M, of which the COMPANY's portion will be around $6M. The project is expected to create around eighty (80) jobs.

Queirolo, Samuel P. [SQ1] May 5, 2025 07:15 PM
Are all these uses still planned? Gas station?

3.2 Economic Incentive.

For the purpose of inducing the COMPANY to implement the Project, the DISTRICT agrees to provide an economic development incentive grant to the COMPANY through a reimbursement of funds invested into the Project by the COMPANY. The DISTRICT's reimbursement will not exceed $500,000.00. The payout schedule for the Award shall be contingent on the occurrence of the following events:

(i) Execution of this Agreement;

(ii) Receipt of all necessary permitting from all appropriate regulatory bodies evidencing that all construction activities at the Project Site for the creation of the mixed-use subdivision lots have conformed to applicable law;

(iii) Verification of best efforts to ~~seek out and utilize~~create opportunities for local vendors and construction firms ~~and labor in~~to bid on the construction of the roadway and subsurface enabling infrastructure for the mixed-use ~~development~~subdivision;

(iv) Evidence that no construction liens have been filed on the land, which have not been (a) removed or (b) contested and/or bonded-off;

(v) Issuance of a ~~Certificate of Occupancy~~certificate of completion or equivalent document on the ~~commercial buildings~~roadway and subsurface enabling infrastructure at the Project Site evidencing that the construction has been substantially completed and made ready for ~~tenancy by the COMPANY~~construction of buildings and all other improvements within each of the Parcels. These buildings include those depicted on Parcels A, B, C, D, E, and F, in Exhibit A, attached to this agreement. The COMPANY is to provide a copy of each Certificate of ~~Occupancy~~Completion or equivalent document to the DISTRICT;

(vi) Any other administrative or supporting documentation required by the District or the Brevard County Clerk's office to process payment of this Grant.

3.3 Minimum Qualified Capital Investment.

The COMPANY intends to make or cause to be made significant capital investments in the Project Site in Titusville, Florida, to renovate the site into a location suitable for use by the COMPANY or future tenants. The COMPANY's Minimum Qualified Capital Investment will be $5,500,000.

4. DEFAULT TRIGGERS & SPECIFIC REMEDIES

4.1 Either Party is in default of this Agreement ***if*** the Party materially breaches any covenant contained in this Agreement and such breach has not been corrected or cured within thirty (30) days after written notice thereof.

4.2 The COMPANY is in default if any representation or warranty made by the COMPANY herein or in any report, statement, invoice, certificate, application, or other documentation furnished to the DISTRICT in connection with the performance of the Agreement proves to be untrue in a material respect as of the date of issuance or making thereof and has not been corrected, cured or brought into compliance within thirty (30) days after written notice thereof to the COMPANY by the DISTRICT.

4.3 The COMPANY is in default if it fails to provide to the DISTRICT, upon written request therefor, the written verification, reasonably satisfactory to the DISTRICT, of its performance of the COMPANY's obligations as set forth herein.

5. REMEDIES

5.1 The COMPANY's remedy for default by the DISTRICT shall be a claim for the funds for which the DISTRICT's obligation to pay has ripened by virtue of the COMPANY's compliance with all conditions precedent established under the terms of this agreement. Such claims do not include consequential or special damages, and shall not exceed the total Economic Incentive Award.

5.2 Unless otherwise extended in writing by the DISTRICT, the COMPANY's failure to meet all terms and conditions of this agreement by the end of calendar year 2030 shall release the DISTRICT of all obligations created under this Agreement.

5.3 If the COMPANY makes a request in writing, prior to the expiration of the time period indicated in Section 5.2, to extend the time period for up to an additional 12 months, the DISTRICT will consider the request.

5.4 The DISTRICT's remedies for default by the COMPANY shall include, but shall not be limited to, a claim for reimbursement under the terms specified in this Agreement, if any funds have been extended by the DISTRICT to the COMPANY.

6. TERM AND TERMINATION

6.1 Unless terminated earlier in accordance with its terms, this Agreement shall terminate on the earlier of:

6.1.1 Two (2) years after the satisfactory performance by the COMPANY of all terms of this Agreement.

6.1.2 The execution by all Parties of a written agreement terminating this Agreement;

6.1.3 At the option of a non-defaulting Party, for cause in the event the other Party is in default; or

6.1.4 At the option of DISTRICT if COMPANY suffers an event of bankruptcy, insolvency.

6.2 Sections 4, 5, and 6 shall expressly survive termination or expiration of this Agreement to the extent necessary to fully comply with the repayment provisions of this agreement.

6.3 Termination or expiration of this Agreement shall not affect any other rights of either Party which may have vested or accrued up to the date of such termination or expiration.

7. ATTORNEY FEES AND EXPENSES

Should either Party prosecute any action in connection with this Agreement for collection of payments due under this Agreement or the enforcement of performance or observance of any obligation or agreement herein contained, each Party shall bear its own attorney's fees and costs, including expert witness fees, if any. **BOTH PARTIES AGREE TO WAIVE ANY RIGHT TO JURY TRIAL AND THAT ANY TRIAL SHALL BE NONJURY.**

8. NOTICES AND ADMINISTRATORS

8.1 All notices required or permitted under this Agreement and any written consents or approvals required hereunder shall be in writing and are in effect upon receipt. Notices shall be transmitted either by personal hand delivery; United States Postal Service (USPS), certified mail return receipt requested; or, overnight express mail delivery. E-mail and facsimile transmission may be used if the notice is also transmitted by one of the preceding forms of delivery. The addresses set forth below for the respective Parties shall be the places where notices shall be sent, unless prior written notice of change of address is given.

8.2 The Parties' designated representatives and their respective addresses for purposes of this Agreement are as follows:

Patrick Beach, Owner/Manager
Captec Partners
56 Edwards Village Boulevard, Suite 124-3000-573
Edwards, Colorado 81632
Phone: 805-705-3031
E-mail: plb@captec.com

Troy Post, Executive Director
NORTH BREVARD ECONOMIC DEVELOPMENT ZONE
400 South Street, Suite 1A
TITUSVILLE, FLORIDA 32780
Phone: 321-621-4713
E-mail: troy.post@brevardfl.gov

9. BINDING EFFECTS AND ASSIGNMENT

9.1 No portion of this Agreement, neither the rights nor the obligations herein, may be assigned by COMPANY to any other legal entity or person without the prior written consent of the DISTRICT and only upon satisfactory terms providing for the completion of the Project. However, COMPANY shall be entitled to assign its rights and obligations herein to any special purpose subsidiaries or affiliates of COMPANY created for purposes of developing the Project, and COMPANY shall be entitled to fulfill its performance obligations concerning the Project through the performance by the development professionals, professional contractors and end users of the Parcels within the Project.

concern that any portion of the documentation supporting payment should be redacted under a confidentiality agreement, under section 288.075, Florida Statutes, or under Chapter 119, Florida Statutes, the COMPANY should address that concern with the DISTRICT prior to submission for payment.

17. COMPANY'S WARRANTIES/REPRESENTATIONS AND INDEMNFICATION

17.1 COMPANY represents that it is possessed with all requisite lawful authority to enter into this Agreement, and the individual executing this Agreement is possessed with the authority to so sign and bind COMPANY.

17.2 COMPANY further warrants that it has not entered into any agreement nor has any obligations which, to its knowledge, would prohibit COMPANY from locating its Project at the Project Site in Titusville.

17.3 To the extent permitted by law, other than the COMPANY's claims arising out of a default by the DISTRICT, COMPANY shall indemnify and hold DISTRICT harmless for any claims or actions of any nature resulting from ~~or arising out of this agreement~~the negligence or misconduct of the COMPANY, including, but not limited to, actions arising out of the construction or operation of its facilities, up to the amount of any funds actually extended by the DISTRICT to the COMPANY. However, the COMPANY shall not be liable and will have no duty to defend the DISTRICT for the negligent or intentional acts of the DISTRICT, its employees or agents.

18. SEVERABILITY

If any provision of this Agreement shall be held to be invalid, illegal or unenforceable by a court or other tribunal of competent jurisdiction, the validity, legality, and enforceability of the remaining provisions shall not in any way be affected or impaired thereby. The Parties shall use their best efforts to rehabilitate and replace the unenforceable provision or provisions of this Agreement with lawful terms and conditions approximating the original intent of the Parties.

19. ENTIRE AGREEMENT, CONSTRUCTION, AND DUPLICATE AGREEMENTS

This Agreement contains the entire understanding of the Parties and supersedes all prior agreements and negotiations respecting such matter. This Agreement is executed in duplicate originals. The Parties acknowledge that they fully reviewed this Agreement and had the opportunity to consult with legal counsel of their choice, and that this Agreement shall not be construed against any Party as if they were the drafter of the Agreement.

20. EMPLOYMENT ELIGIBILITY VERIFICATION (E-VERIFY)

a. The COMPANY shall utilize the U.S. Department of Homeland Security's E-Verify system to