

## MEMORANDUM

**TO:** MAYOR AND CITY COMMISSION

**FROM:** CITY ATTORNEY'S OFFICE

**DATE:** February 19, 2024

**RE:** **Site and Infrastructure Funding Agreement with 625 E Lime, LLC**

Attached for your consideration is a Site and Infrastructure Funding Agreement with 625 E Lime, LLC in connection with a multi-family development proposed for 625 E. Lime Street, to be known as the Lime St. Apartments. 625 E Lime, LLC is a part of Coda Development, a Jason Lewis company, which has a growing portfolio of multi-family projects in Downtown Lakeland, with the Lime St. Apartments being its third location in the Garden District. Coda Development's focus has been on quality, mid-sized multi-family projects that add to the infill redevelopment goals of the CRA. The Lime St. project will continue to build on that concept. The proposed development will consist of one, 4-story building having a total of forty-eight (48) apartment units, with a mix of one- and two-bedroom apartments. The project will provide revitalization to underutilized, vacant land and is an example of urban infill with site and infrastructure challenges.

The project has progressed through the City's development review process and received the following approvals and incentives:

- Site Plan - September 23, 2021
- Historic Preservation Board – January 27, 2022, and June 22, 2023 (amendment)
- CRA TIF Incentive Agreement – February 21, 2022, and December 18, 2023 (amendment)

Since approval of the original TIF agreement on February 21, 2022, the costs of construction, along with soft financing costs, have increased significantly. Initially, construction costs were estimated at \$9.9M in December 2021. However, market conditions have caused construction costs to exceed \$12.6M as of June 2023. After further analyzing site development, the developer has worked with CRA staff to evaluate a scope of improvements that are added benefits to the public realm and support infill development. The following items have been identified and will be eligible for reimbursement under the attached Agreement:

- Underground stormwater detention
- Sidewalk and streetscape upgrades
- Streetside landscaping and irrigation
- Solid waste facilities enclosure

- Decorative knee wall and retaining wall

Construction of the above improvements is estimated to cost \$589,625 and is consistent with Downtown Redevelopment Plan goals, as well as other CRA-incentivized projects. Under the attached Agreement, the CRA will reimburse 625 E Lime LLC for these costs in a not-to-exceed amount of \$589,625.

At their February 1, 2024 regular meeting, the CRA Advisory Board reviewed this request and voted to favorably recommend the award financial assistance to 625 E Lime, LLC in an amount not to exceed \$589,625 as reimbursement for actual costs incurred (exclusive of any fees for overhead or other similar expenses) in carrying out the above-described site and infrastructure improvements. It is recommended that the City Commission, acting as the Lakeland Community Redevelopment Agency, accept the CRA Advisory Board's recommendation and approve and authorize the appropriate CRA officials to execute the attached Site and Infrastructure Funding Agreement with 625 E Lime LLC.

Attachment

**LAKELAND COMMUNITY REDEVELOPMENT AGENCY  
SITE AND INFRASTRUCTURE FUNDING AGREEMENT**

**THIS AGREEMENT** (“Agreement”) is made and entered into on February 19, 2024, by and between the LAKELAND COMMUNITY REDEVELOPMENT AGENCY, a public body corporate and politic created pursuant to Part III, Chapter 163, Florida Statutes (the “CRA”), and 625 E LIME, LLC, a Florida limited liability company, (referred to herein as the “Developer”). The CRA and the Developer are collectively referred to herein as the “Parties” or individually as a “Party.”

**WHEREAS**, Section 163.370(2)(d), Florida Statutes, authorizes the CRA of the City of Lakeland, Florida (“City”) to enter into contracts with other public or private persons or agencies for the furnishing of improvements required for or in connection with community redevelopment in a designated community redevelopment area; and

**WHEREAS**, the Community Redevelopment Plan for the Downtown Community Redevelopment Area (the “CRP”) has identified the encouragement of small-scale and infill development, while continuing improvements within streetscapes and the public realm in the Downtown Community Redevelopment Area (the “Redevelopment Area”); and

**WHEREAS**, the Developer intends to propose, design, construct and otherwise undertake redevelopment of blighted parcel(s) of real property situated on a 0.89-acre assemblage with a street address of 625 E Lime Street, (the “Property”), which will be known as Lime St Apartments, a 48-unit urban infill multi-family residential development (the “Project”); and

**WHEREAS**, the Project would require certain stormwater, streetscape and infrastructure improvement (“Site and Infrastructure Improvements”) within City roads and rights-of-way and on private property, to provide more livable and accessible streetscapes and improvement of the subject property in the Downtown CRA, intended to promote safe pedestrian activity, and encourage infill development and provide a more diverse, vibrant community, which preliminary “Site and Infrastructure Improvement Plan” is attached hereto and incorporated herein as **Exhibit “A”**; and

**WHEREAS**, the Developer has requested financial assistance from the CRA for the cost of site and infrastructure improvements to aid in construction for the Project on the Property; and

**WHEREAS**, to the extent the Developer carries out the Site and Infrastructure Improvements agreed upon by the Parties to this Agreement within the Downtown CRA District, the CRA will reimburse those certain actual costs incurred (exclusive of any fees, overhead, or other similar amounts) by the Developer in carrying out such improvements, only as such actual costs may be approved by the CRA, as provided for herein; and

**WHEREAS**, the Parties desire to enter into this Agreement to establish the terms and conditions upon which the funding will be provided by the CRA to the Developer for the construction of the Project;

**NOW, THEREFORE**, in consideration of the mutual exchange of the covenants and agreements hereinafter set forth, the sufficiency of which is hereby acknowledged, the Parties hereby agree as follows:

**1. Recitals.**

The foregoing recitals are true and correct and incorporated herein by reference.

**2. Design, Construction, and Funding of Improvements by Developer.**

2.1. In order to provide for the development of the Project and to facilitate redevelopment as contemplated by this Agreement, the Developer agrees to design, construct, and fund the Site and Infrastructure Improvements, consistent with this Agreement.

2.2. The Developer shall develop a phasing plan, providing for design, construction, and completion of Site and Infrastructure Improvements intending to minimize disruption and access to surrounding properties and facilitate review and approval.

2.2.1 No later than sixty (60) days from the date of full execution of this Agreement, the Developer shall submit to the City for the City's approval, a phasing and construction schedule, showing all dates and milestones as necessary for construction, vacation, rezoning and dedication of the Improvements together with the timing of applicable City review and approval.

2.2.2 The Developer shall use its best efforts to observe the phasing plan and construction schedule milestones, as may be amended by mutual agreement of the Parties.

2.3. The Developer shall engage and oversee service providers to complete the design and construction of the Site and Infrastructure Improvements in accordance with all applicable laws and regulations.

2.4. Detailed plans and specifications ("Plans and Specifications") together with a detailed budget ("Budget") setting forth the total cost for developing and construction of the Site and Infrastructure Improvements associated with the Project shall be provided to the CRA prior to commencement of each discrete task or Phase of the Project.

2.4.1 As Part of the Budget, the Developer shall specifically set forth in such detail as the CRA may require a breakdown and total cost (hard and soft) for those items which the Developer may seek reimbursement ("Reimbursement Budget"). The Budget (and its component Reimbursement Budget) is attached hereto and incorporated herein as **Exhibit "B"**.

2.4.2 The Developer shall not commence work on any phase or task until the Plans and Specifications and Budget for said phase or task have been finally approved (in writing) by the CRA and fully permitted by the

appropriate City department, subject to all applicable laws; provided however the Parties acknowledge and agree that certain necessary design and site prep work may be carried out prior to such approval and permitting, provided it is done at the Developer's costs and risk, in alignment with other such approvals and permits issued to date, and consistent with preliminary approved plans.

- 2.5. The Developer shall provide for coordination with all appropriate entities for completion of said design and construction, including without limitation securing all permits associated with design and construction of same, subject to review and approval by the City of Lakeland, in its discretion, subject to all Applicable Laws allowing for public dedication upon completion as applicable. The Developer acknowledges that the City may impose any condition as the City deems necessary for purposes of health, safety and welfare together with those additional conditions otherwise allowed (and deemed necessary by the City) or required by Applicable Laws, including by way of example but not limitation permitting conditions.
- 2.6. The Developer shall provide such security, bonds, and insurance as the City may require prior to commencement of any work on any Phase or discrete task within a Phase, to be included in the project costs and budget, but shall be excluded from the reimbursement amounts made by the CRA.
- 2.7. The Developer shall advance and pay all costs to fund the Infrastructure Improvements for each phase as approved by the Parties. Reimbursement of same upon completion and public dedication of each discrete Phase shall at all times be subject to the provisions of Section 3.2 herein and all Applicable Law.

**3. Approval, Reimbursement, and Acceptance by the CRA & City of Lakeland.**

- 3.1. The CRA will cooperate with the Developer subject to all Applicable Law, without favor and within the scope of this Agreement in providing reimbursements within ninety (90) days of the inspection and satisfactory completion, dedication and acceptance by the City of Lakeland.
- 3.2. Reimbursement by the CRA of actual Developer costs and expenses incurred for the Site and Infrastructure Improvements shall be subject to the following:
  - 3.2.1 Not exceed, in the aggregate, five hundred eighty-nine thousand six hundred and twenty-five dollars (\$589,625) over the life of this Agreement; and
  - 3.2.2 The Site and Infrastructure Improvements must be expressly described within this Agreement and described within the Exhibits attached hereto; and
  - 3.2.3 Reimbursement to the Developer for costs incurred (as enumerated in this Section 3.2) shall occur upon approval by the City that all conditions pursuant to this section have been met.

- 3.3. It is understood that the City shall not be required to accept all or any Phase or other portion of the Site Infrastructure Improvements until such time as the City has inspected the same and determined (in the City's discretion) that the applicable Infrastructure Improvements have been constructed within the Budget, in accordance with the Plans and Specifications, and in compliance with all Applicable Laws, including without limitation the City of Lakeland Standards.
- 3.4. Prior to, and as a specific condition of acceptance of all or any of the Infrastructure Improvements the Developer shall provide the City with a warranty regarding the applicable Infrastructure Improvements, together with any other security as may be required in connection with the warranty of said improvements pursuant to Applicable Law. The warranty shall be in a form and content acceptable to the City and shall at a minimum provide that (i) all materials used are new and of good quality, free from defect; (ii) the Developer warrants the construction and operation of the Infrastructure Improvements for twelve (12) months from their acceptance by the City and (iii) the Developer shall repair any defects in the Infrastructure Improvements discovered by the City, provided that such defects were not caused by the City's sole negligence.

**4. Indemnification.**

The Developer shall indemnify, pay the cost of defense, including attorneys' fees and costs, and hold harmless the CRA, and City of Lakeland, its agents, employees and elected officials, from and against said claims arising out of the Developer's own negligent acts, errors and omissions in connection with this Agreement, or the negligent acts, errors and omissions of anyone acting under the Developer's direction, control, or on its behalf in connection with this Agreement.

**5. Jurisdiction, Venue, & Governing Law.**

This Agreement is made and shall be interpreted, construed, governed, and enforced in accordance with the laws of the State of Florida, without regard to choice of law provisions which may dictate that the law of another jurisdiction shall apply. Venue shall be Polk County, Florida, or the United States District Court in and for the Middle District of Florida, Tampa Division.

**6. Compliance with Laws.**

The Developer shall comply with all applicable local, state, and federal ordinances, codes, laws, statutes, regulations, and standards in force during the term of this Agreement.

**7. Severability.**

The terms and conditions of this Agreement shall be deemed to be severable. Consequently, if any clause, term, or condition hereof shall be held to be illegal or void, such determination shall not affect the validity or legality of the remaining terms and conditions, and notwithstanding any such determination, this Agreement shall continue in full force and effect unless the particular clause, term, or condition held

to be illegal or void renders the balance of the agreement to be impossible of performance.

**8. Notices.**

All Notices pursuant to this Agreement shall be deemed sufficiently given when in writing when (i) personally served on a Party to be notified, (ii) delivery by Overnight express courier, or (iii) three (3) business days following deposit in the United States mail, postage prepaid certified delivery, directed to the Party to be notified at the following address:

**For Developer:** 625 E Lime, LLC  
941 W. Morse Blvd., Ste. 100  
SUITE 2  
Winter Park, FL 32789  
Attn: Jason Lewis  
Telephone: (760) 505-8195

**For CRA:** Lakeland CRA  
228 S. Massachusetts Ave  
Lakeland, FL 33801  
Attn: Valerie Ferrell, CRA Manager  
Phone: (863) 834-6064

*With a copy to:* City of Lakeland  
228 S. Massachusetts Ave  
Lakeland, FL 33801  
Attn: Palmer Davis, City Attorney

**9. Assignment.**

It is mutually understood and specifically agreed that this Agreement is binding upon the respective successors and assigns of the Parties hereto. This Agreement may be assigned in whole or in part by the Developer only to an affiliate of the Developer (defined as an entity owned or controlled by the Developer) subject to the City/CRA consent.

**10. Waiver.**

The failure of either Party to insist upon the strict performance of any term or condition contained in this Agreement shall not be construed as a waiver of such Party's right to insist upon the strict performance of such term or condition in the future or any other obligation contained herein. No waiver shall be effective unless acknowledged in writing by the Party to be bound hereby.

[This Space Intentionally Left Blank; Signature Page Follows]

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

**LAKELAND COMMUNITY  
REDEVELOPMENT AGENCY**

**625 E LIME, LLC**

\_\_\_\_\_  
Stephanie Madden, Mayor Pro Tem

\_\_\_\_\_  
Jason Lewis

ATTEST:

ATTEST:

By: \_\_\_\_\_  
Kelly S. Koos, City Clerk

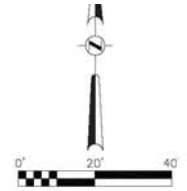
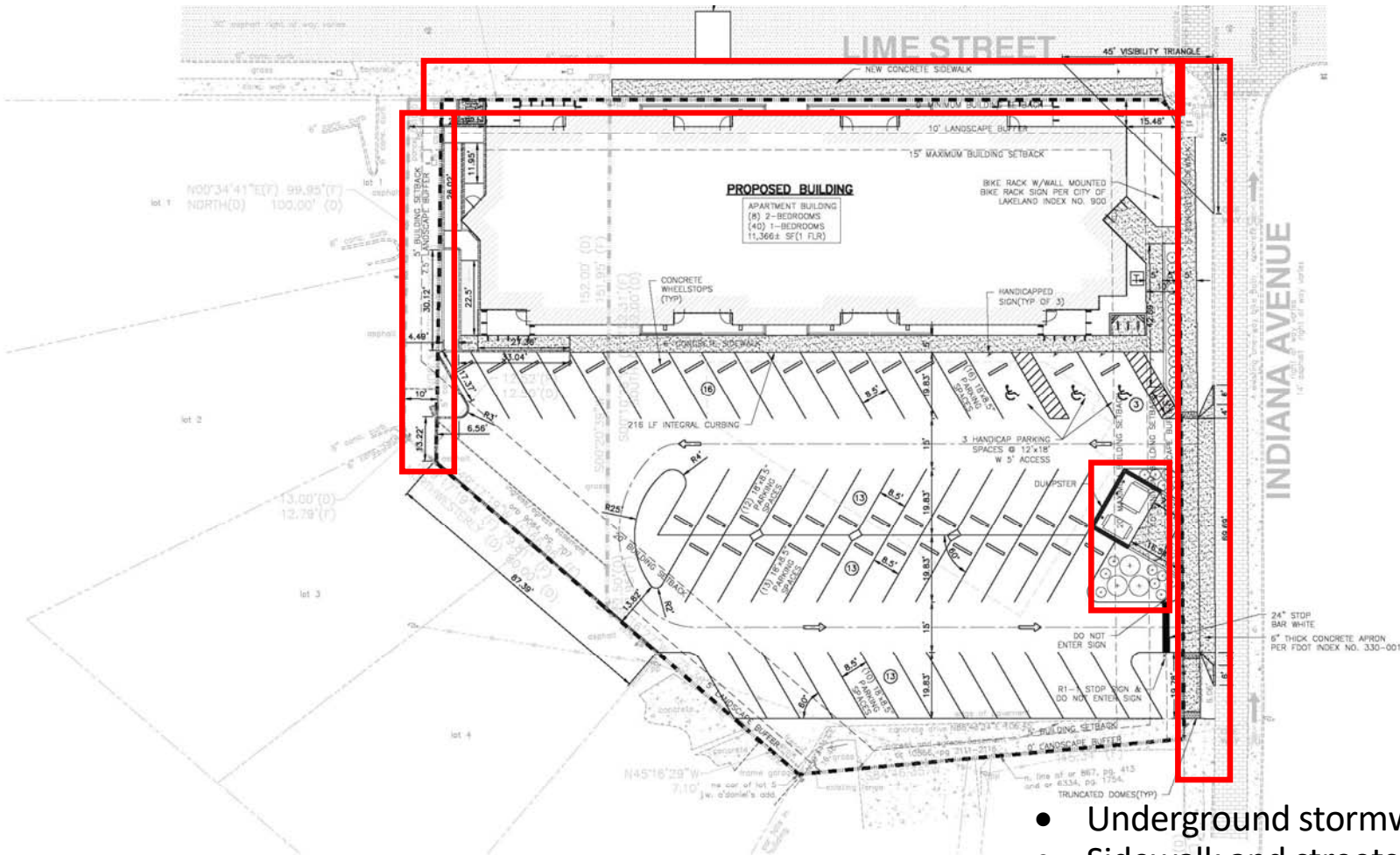
By: \_\_\_\_\_  
[Name/Title of Attesting Witness]

APPROVED AS TO FORM AND CORRECTNESS:

\_\_\_\_\_  
Palmer C. Davis, City Attorney



# EXHIBIT "A"



| LEGEND |              |   |                                   |       |                            |
|--------|--------------|---|-----------------------------------|-------|----------------------------|
| TYP    | TYPICAL      | ⊠ | WATER METER                       | ▨     | PROPOSED CONCRETE PAVEMENT |
| H/C    | HANDICAP     | ⊕ | POWER POLE                        | ▩     | EXISTING CONCRETE PAVEMENT |
| R      | RADIUS       | → | TRAFFIC FLOW (INFORMATIONAL ONLY) | ▭     | PROPOSED ASPHALT PAVEMENT  |
| R/W    | RIGHT-OF-WAY | ☆ | AREA LIGHT                        | ▧     | EXISTING PAVED ROADWAY     |
|        |              | ♿ | HANDICAP PARKING                  | —     |                            |
|        |              | — | PROPOSED CURB                     | - - - |                            |
|        |              | — | PROPERTY LINE                     | - - - |                            |
|        |              | — | RIGHT-OF-WAY                      | - - - |                            |
|        |              | — | EXISTING EDGE OF PAVEMENT         |       |                            |

- Underground stormwater detention
- Sidewalk and streetscape upgrades
- Streetside landscaping and irrigation
- Solid waste facilities enclosure
- Decorative knee wall and retaining wall

EXHIBIT "B"

| <b>Lime Street Apartments - Site Work Detail Estimates</b> |                                 |                        |
|------------------------------------------------------------|---------------------------------|------------------------|
| <b>CRA Request for Assistance</b>                          |                                 |                        |
| <b>Item No.</b>                                            | <b>Description of Work</b>      | <b>Scheduled Value</b> |
| 1                                                          | Underground detention system    | \$289,310.00           |
| 2                                                          | Stormwater Connections          | \$112,770.00           |
| 3                                                          | ADA accessible sidewalks        | \$14,295.00            |
| 4                                                          | Streetscape Drive               | \$19,792.00            |
| 5                                                          | Streetside landscaping          | \$21,991.00            |
| 6                                                          | Streetside decorative knee wall | \$27,485.00            |
| 7                                                          | Dumpster enclosure              | \$43,982.00            |
| 8                                                          | CIP Retaining wall              | \$60,000.00            |
|                                                            |                                 | <u>\$589,625.00</u>    |