

VILLAGE OF MT. ZION
MACON COUNTY, ILLINOIS

Ordinance No.
2021-9

AN ORDINANCE APPROVING AND AUTHORIZING THE EXECUTION OF A
BUSINESS DEVELOPMENT DISTRICT NO. 1 REDEVELOPMENT AGREEMENT
BY AND BETWEEN THE VILLAGE OF MT. ZION AND STEVE LEWIS

CERTIFICATE

State of Illinois)
)
)
County of Macon)

I, Dawn Reynolds, duly appointed Village Clerk of the Village of Mt. Zion, Macon County, State of Illinois, and as such, custodian of all Village records, do hereby certify that the attached Ordinance No. 2021-9, is a true and correct copy of AN APPROVED ORDINANCE OF THE VILLAGE OF MT. ZION, MACON COUNTY, ILLINOIS that was adopted by the Mt. Zion Village Board on March 15, 2021.

In witness whereof, I hereby set my hand and affix the seal of the Village of Mt. Zion on this 15th day of March, 2021.

Seal



Dawn Reynolds, Village Clerk

ORDINANCE NO. 2021-9

VILLAGE OF MT. ZION, ILLINOIS

**AN ORDINANCE APPROVING AND AUTHORIZING
THE EXECUTION OF A BUSINESS DEVELOPMENT DISTRICT NO. 1
REDEVELOPMENT AGREEMENT**

by and between

VILLAGE OF MT. ZION, ILLINOIS

and

STEVE LEWIS

**ADOPTED BY THE VILLAGE PRESIDENT AND BOARD OF TRUSTEES
OF THE VILLAGE OF MT. ZION, MACON COUNTY, ILLINOIS
ON THE 15TH DAY OF MARCH, 2021.**

ORDINANCE NO. 2021-9

VILLAGE OF MT. ZION, ILLINOIS
AN ORDINANCE APPROVING AND AUTHORIZING
THE EXECUTION OF A BUSINESS DEVELOPMENT DISTRICT NO. 1
REDEVELOPMENT AGREEMENT

by and between
THE VILLAGE OF MT. ZION
and
STEVE LEWIS

WHEREAS, the Village President and Board of Trustees of the Village of Mt. Zion, Macon County, Illinois (the "Village"), have hereby determined that the Mt. Zion, Illinois Business Development District No. 1 Redevelopment Agreement by and between the Village of Mt. Zion and Steve Lewis (the "Developer") attached hereto as ***Exhibit A***, is in the best interest of the citizens of the Village of Mt. Zion.

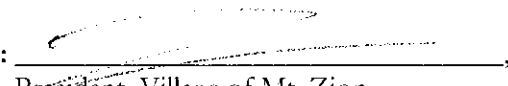
NOW THEREFORE, be it ordained by the Village President and Board of Trustees of the Village of Mt. Zion, Illinois, in the County of Macon, as follows:

1. The Village of Mt. Zion, Illinois Business Development District No. 1 (the "Business District") Redevelopment Agreement attached hereto as ***Exhibit A*** is hereby approved.
2. The Village President is hereby authorized and directed to enter into and execute on behalf of the Village said Business District Redevelopment Agreement and the Village Clerk of the Village of Mt. Zion is hereby authorized and directed to attest such execution.
3. The Business District Redevelopment Agreement shall be effective the date of its approval on the 15th day of March, 2021.
4. This Ordinance shall be in full force and effect from and after its passage and approval as required by law.

(The remainder of this page is intentionally blank.)

PASSED APPROVED AND ADOPTED by the Village President and Board of Trustees of the Village of Mt. Zion this 15th day of March, 2021.

CORPORATE AUTHORITIES	AYE VOTE	NAY VOTE	ABSTAIN	ABSENT
Ellen Ritchie	X			
Mike Mose	X			
Chris Siudyla	X			
Donna Scales	X			
Wendy Kernan				X
Kevin Fritzsche	X			
Lucas Williams, President				

APPROVED: , Date ____/____/2021
 President, Village of Mt. Zion

ATTEST: , Date: 3/15/2021
 Village Clerk, Village of Mt. Zion

ATTACHMENTS:

- EXHIBIT A.** Village of Mt. Zion, Illinois Business Development District No. 1 Redevelopment Agreement by and between the Village of Mt. Zion and Steve Lewis.

EXHIBIT A

**VILLAGE OF MT. ZION, ILLINOIS
BUSINESS DEVELOPEMNT DISTRICT NO. 1
REDEVELOPMENT AGREEMENT**

by and between

THE VILLAGE OF MT. ZION

and

STEVE LEWIS

**VILLAGE OF MT. ZION, ILLINOIS
BUSINESS DEVELOPMENT DISTRICT NO. 1
REDEVELOPMENT AGREEMENT**

by and between

VILLAGE OF MT. ZION, ILLINOIS

and

STEVE LEWIS

MARCH 15, 2021

**VILLAGE OF MT. ZION, ILLINOIS
BUSINESS DEVELOPMENT DISTRICT NO. 1
REDEVELOPMENT AGREEMENT
by and between
VILLAGE OF MT. ZION, ILLINOIS
and
STEVE LEWIS**

THIS AGREEMENT (including Exhibits, hereinafter referred to as the “Agreement”) is entered into this 15th day of March, 2021 by the **Village of Mt. Zion** (the “Village”), an Illinois Municipal Corporation, Macon County, Illinois, and **Steve Lewis** (the “Developer”). Hereinafter the Village and the Developer, for convenience, may collectively be referred to as the “Parties.”

PREAMBLE

WHEREAS, the Village has the authority to promote the health, safety, and welfare of the Village and its citizens and to encourage development, job creation, and/or the full utilization of real estate; and

WHEREAS, pursuant to the Illinois Business District Development and Redevelopment Act (65 ILCS 5/11-74.3-1 *et seq.*), as amended (the “Act”), the Village established the Mt. Zion Business Development District No. 1 (the “Business District” or “BDD”) on September 14, 2020 by approving Ordinance No. 2020-16; and

WHEREAS, pursuant to Illinois Statute 65 ILCS 5/8-1-2.5, the Village has the authority to appropriate and expend funds for economic development purposes; and

WHEREAS, pursuant to the Act, the Village has the authority to incur eligible business district project costs and may enter into agreements with developers to reimburse them for their eligible business district project costs; and

WHEREAS, the Developer owns property located within the Business District located at **1425 State Highway 121, Mt. Zion, Illinois (PIN 12-17-04-232-005) (the “Property”)**. Said Property is in need of redevelopment and, as described in the Application for BDD Benefits attached hereto as ***Exhibit 1***, is proceeding with plans to rehabilitate and renovate the commercial building located thereon in order to attract a commercial tenant thereto (the “Project”), based in part on incentives made available by the Village; and

WHEREAS, the Developer’s proposed Project is consistent with the land uses of the Village as adopted; and

WHEREAS, the Village has determined that this Project requires the incentives requested and that said Project will promote the health, safety and welfare of the Village and its citizens by attracting private investment to redevelop under-utilized property, to provide employment for its citizens, and generally to enhance the local economy; and

WHEREAS, in consideration of the execution of this Agreement and in reliance thereon, the Developer is prepared to redevelop said property; and

WHEREAS, the Village is entering into this Agreement to induce the Developer to complete the Project located on the Property.

AGREEMENTS

NOW, THEREFORE, for good and valuable consideration, the receipt of which is acknowledged, the Parties agree as follows:

A. PRELIMINARY STATEMENTS

1. The Parties agree that the matters set forth in the recitals above are true and correct and form a part of this Agreement and are to be construed as binding statements of this Agreement.
2. Any terms which are not defined in this Agreement shall have the same meaning as they do in the Act, unless indicated to the contrary.
3. The Developer agrees to complete the Project on or before **May 31, 2021** subject to exception of Force Majeure (defined below). For the purpose of this Agreement, the Developer's Project will be deemed complete when the improvements to renovate and rehabilitate the building located on the Property are completed and the building is available for lease to a commercial tenant.
4. Each of the Parties represents that it has taken all actions necessary to authorize its representatives to execute this Agreement.

B. INCENTIVES

In consideration for the Developer completing its Project, the Village agrees to extend to the Developer the following incentives to assist the Developer's Project:

1. The Village agrees to loan the Developer the sum of Twelve Thousand Five Hundred Dollars (\$12,500.00) (the "Loan") from the Business District Tax Allocation Fund for BDD Eligible Project Costs incurred by the Developer in furtherance of the Project. The terms and conditions for the Loan shall be as follows:
 - a. The full Loan amount of \$12,500.00 shall be paid to the Developer from the Business District Tax Allocation Fund within thirty (30) days upon the Developer providing the Village documentation of at least \$12,500.00 of its BDD Eligible Project Costs as set forth in Section E below.
 - b. The interest rate for the Loan shall be Three Percent (3%) per annum, and shall begin accrue on the date the Loan funds are disbursed to the Developer.
 - c. The term of the Loan shall expire on the date that is five (5) years from the date the Loan funds are disbursed to the Developer.
 - d. One-Fifth (1/5) of the Principal of the Loan amount, plus any accrued interest thereon, shall be forgiven annually by the Village commencing on the date that is one

(1) year from the date the Loan funds are disbursed to the Developer and continuing on the same date of each year thereafter for the term of the Loan, provided the Developer has been at all times in full compliance with every term of this Agreement, including the following:

- i. Upon occupancy of the Property by a commercial retail tenant upon completion of the Project, such business continues to operate on the Property for the term of the Loan.
 - ii. The Developer shall not file for bankruptcy or otherwise become insolvent during the term of the loan.
 - iii. The Property is not the subject of foreclosure proceedings.
 - iv. The Developer does not sell or otherwise convey the Property, other than by commercial lease, during the term of the Loan.
- e. The Parties agree that the remaining balance due on the Loan and any accrued interest thereon shall be forgiven in full prior to the expiration of the term of the Loan set forth above if and when the commercial business located on the Property generates at least \$12,500.00 of additional revenue for the Village from the following sources:
- i. The Village's One Percent (1%) base municipal rate of Retailer's Occupation Tax and Service Occupation Tax on all sales the originate on the Property;
 - ii. The Village share of BDD Retailer's Occupation Tax and Service Occupation Tax generated by sales located on the Property; and
 - iii. The Village's share of any gaming tax generated by the business located on the Property.
- f. The Developer hereby agrees to cooperate (and shall use its best efforts to have any commercial tenant located on the Property cooperate) with the Village and complete and/or execute any forms or documents that are necessary for the Village and its consultants and its employees to calculate the sales tax revenue set forth in paragraph e above generated by any business located on the Property. The Developer, furthermore, hereby gives its consent to the Village to share such sales tax revenue information with any such consultants and/or employees as is necessary to administer and audit this Agreement.

C. LIMITATION OF INCENTIVES TO DEVELOPER

1. The Village agrees to loan the Developer the sum of Twelve Thousand Five Hundred Dollars (\$12,500.00) from the Business District Tax Allocation Fund.

D. OBLIGATIONS AND RESPONSIBILITIES OF DEVELOPER

1. The Developer shall timely complete the Project located on the Property. Failure of the Developer to timely complete such the Project as set forth herein will result in the denial of the reimbursements to be otherwise made hereunder.
2. The failure of the Developer to provide any information reasonably required herein after notice from the Village, and the continued failure to provide such information within 30 days to the Village after such notice shall be considered a material breach of this Agreement and shall be cause for the Village to deny payments hereunder to the Developer, which payments are conditional upon receipt of the forgoing information.
3. The Developer agrees to execute any and all documents necessary to effectuate the provisions of this Agreement.

E. PAYMENT OF ELIGIBLE PROJECT COSTS

1. To receive the incentives set forth in *Section B* above, the Developer must submit documentation evidencing all Business District Eligible Project Costs incurred by it with respect to the Project on or before **May 31, 2021**. Satisfactory evidence of such costs shall include verified bills or statements of suppliers, contractors, or professionals together with mechanic's lien waivers (whether partial or full), cancelled checks, statements or invoices marked paid from each of the parties entitled to payment with respect to work done for the Project, or other proofs payment for such bills, statements, or invoices for such costs. Absent the Village's written consent for an extension provided to the Developer, any costs submitted after **May 31, 2021** will not be eligible for reimbursement.
2. All the documentation set forth in *Paragraph 1* above shall be submitted to the Village's Business District Administrator, The Economic Development Group, Ltd., and shall be subject to the Administrator's approval of said Business District Eligible Project Costs.
3. If any costs which are submitted by the Developer are not approved by the Administrator, the reasons for disallowance will be set forth in writing and the Developer may resubmit the costs with such additional information as may be required and the same procedures set forth herein shall apply to such re-submittals.
4. All Business District Eligible Project Costs which have been approved shall then be paid pursuant to the terms set forth in *Section B* above.

F. LIMITED OBLIGATION OF VILLAGE

The Village's obligation hereunder to reimburse the Developer as stated herein is a limited obligation. Said obligation does not now and shall never constitute an indebtedness of the Village within the meaning of any State of Illinois constitutional or statutory provision and shall not constitute or give rise to a pecuniary liability of the Village or a charge or lien against any Village fund nor obligate the Village to utilize its taxing authority to fulfill the terms of this Agreement.

G. LIMITED LIABILITY OF VILLAGE TO OTHERS FOR DEVELOPER'S EXPENSES

There shall be no obligation by the Village to make any payments to any person other than the Developer, nor shall the Village be obligated to make payments to any contractor, subcontractor, mechanic or materialman providing services or materials to the Developer for the Project.

H. DEFAULT; CURE; REMEDIES

In the event of a default under this Agreement by any Party hereto (the "Defaulting Party"), which default is not cured within the cure period provided for below, then the other Party (the "Non-defaulting Party") shall have an action for damages, or in the event damages would not fairly compensate the Non-defaulting Party's for the Defaulting Party's breach of this Agreement, the Non-defaulting Party shall have such other equity rights and remedies as are available to them at law or in equity. Any damages payable by the Village hereunder shall be limited to the Municipal Sales Tax Revenues payable under the terms of this Agreement.

In the event a Defaulting Party shall fail to perform a monetary covenant which it is required to perform under this Agreement, it shall not be deemed to be in default under this Agreement unless it shall have failed to perform such monetary covenant within thirty (30) days of its receipt of a notice from a Non-defaulting Party specifying that it has failed to perform such monetary covenant. In the event a Defaulting Party fails to perform any non-monetary covenant as and when it is required to under this Agreement, it shall not be deemed to be in default if it shall have cured such default within thirty (30) days of its receipt of a notice from a Non-defaulting Party specifying the nature of the default, provided, however, with respect to those non-monetary defaults which are not capable of being cured within such thirty (30) day period, it shall not be deemed to be in default if it commences curing within such thirty (30) day period, and thereafter diligently and continuously prosecutes the cure of such default until the same has been cured.

I. TIME; FORCE MAJEURE

For this Agreement, time is of the essence. The Developer agrees to complete the Project on or before May 31, 2021, subject to extension due to Force Majeure (defined below). Failure to do so shall be cause for the Village to declare the Developer in default and unilaterally terminate the Agreement after notice and the opportunity to cure as provided in *Section H*. However, the Developer and the Village shall not be deemed in default with respect to any obligations of this Agreement on its part to be performed if the Developer or the Village fails to timely perform the same and such failure is due in whole, or in part, to any strike, lock-out, labor trouble (whether legal or illegal), civil disorder, inability to procure materials, weather conditions, wet soil conditions, failure or interruptions of power, restrictive governmental laws and regulations, condemnation, riots, insurrections, war, fuel shortages, accidents, casualties, Acts of God or any other cause beyond the reasonable control of the Developer or the Village.

J. ASSIGNMENT

The rights (including, but not limited to, the right to payments contemplated by *Section B* of this Agreement) and obligations (or either of them) of the Developer under this Agreement shall not be assignable.

K. WAIVER

Any Party to this Agreement may elect to waive any remedy it may enjoy hereunder, provided that no such waiver shall be deemed to exist unless the Party waiving such right of remedy does so in writing. No such waiver shall obligate such Party to waive any right of remedy hereunder or shall be deemed to constitute a waiver of other rights and remedies provided said Party pursuant to this Agreement.

L. SEVERABILITY

If any section, subsection, term or provision of this Agreement or the application thereof to any Party or circumstance shall, to any extent, be invalid or unenforceable, the remainder of said section, subsection, term or provision of this Agreement or the application of same to parties or circumstances other than those to which it is held invalid or unenforceable, shall not be affected thereby.

M. NOTICES

All notices, demands, requests, consents, approvals or other instruments required or permitted by this Agreement shall be in writing and shall be executed by the Party or an officer, agent or attorney of the Party, and shall be deemed to have been effective as of (i) the date of actual delivery, if delivered personally, or (ii) as of the third (3rd) day from and including the date of posting, if mailed by registered or certified mail, return receipt requested, with postage prepaid or (iii) the next business day if sent overnight delivery using a nationally recognized delivery service, addressed as follows:

To Developer:

Steve Lewis
200 Lewis Park Drive
Mt. Zion, IL 62549
Phone: (217) 519-5056

To Village:

Village Clerk
Village of Mt. Zion
1400 Mt. Zion Parkway
Mt. Zion, Illinois 62549
Ph: (217) 864-5424

With Copy to Village BDD Administrator:
Jacob & Klein, Ltd. and
The Economic Development Group, Ltd.
1701 Clearwater Avenue
Bloomington, Illinois 61704
Ph: (309) 664-7777

N. SUCCESSORS IN INTEREST

Subject to the provisions of *Section J* above, this Agreement shall be binding upon and inure to the benefit of the Parties hereto and their respective successors and assigns.

O. NO JOINT VENTURE, AGENCY, OR PARTNERSHIP CREATED

Neither anything in this Agreement nor any acts of the Parties to this Agreement shall be construed by the Parties or any third person to create the relationship of a partnership, agency, or joint venture between or among such Parties.

P. LIMITATIONS OF LIABILITY

As it relates to this Agreement, no recourse under or upon any obligation, covenant or agreement of this Agreement or for any claim based thereon or otherwise in respect thereof shall be had against the Village, its officers, agents and employees, in excess of any specific sum agreed by the Village to be paid to Developer, hereunder, subject to the terms and conditions herein, and no liability, right or claim at law or in equity shall attach to or shall be incurred by its officers, agents and employees in excess of such amounts, and all and any such rights or claims of Developer against the Village, its officers, agents and employees are hereby expressly waived and released as a condition of and as consideration for the execution of this Agreement by the Village.

Q. ENTIRE AGREEMENT

The terms and conditions set forth in this Agreement supersede all prior oral and written understandings and constitute the entire agreement between the Village and the Developer with respect to the subject matter hereof.

R. TERM OF THE AGREEMENT

Notwithstanding anything in this Agreement to the contrary, this Agreement shall expire on the date that is five (5) years from the Date the Loan funds are disbursed to the Developer pursuant to Section C above, or upon full forgiveness of said Loan if earlier. The Agreement shall expire sooner upon default by the Developer of this Agreement after applicable notice and cure periods.

S. ILLINOIS PREVAILING WAGE ACT

It is the understanding of the Parties that the position of the Illinois Department of Labor is that the Illinois Prevailing Wage Act does not apply to Sales Tax Reimbursements received by private developers as reimbursement for private redevelopment project costs. This position of the Department of Labor is stated as an answer to a FAQ on its website at: <http://www.illinois.gov/idol/FAQs/Pages/prevailing-wage-faq.aspx>. The Developer shall indemnify and hold harmless the Village, and all Village elected or appointed officials, officers, employees, agents, representatives, engineers, consultants and attorneys (collectively, the "indemnified Parties"), from any and all claims that may be asserted against the Indemnified Parties or one or more of them, in connection with the applicability, determination, and/or payments made under the Illinois Prevailing Wage Act (820 ILCS 130/0.01 *et seq.*), the Illinois Procurement Code, and/or any similar State or Federal law or regulation. This obligation to indemnify and hold harmless obligates Developer to defend any such claim and/or action, pay any liabilities and/or penalties imposed, and pay all defense costs of Village, including but not limited to the reasonable attorney fees of Village. Failure to comply with any of these requirements may cause all benefits hereunder to be terminated by the Village.

T. OTHER GENERAL PROVISIONS

1. **Titles of Paragraphs:** Titles of the several parts, paragraphs, sections or articles of this Agreement are inserted for convenience of reference only and shall be disregarded in construing or interpreting any provisions hereof.

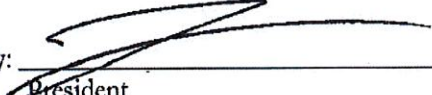
2. **Warranty of Signatories:** The signatories of Developer warrant full authority to both execute this Agreement and to bind the entity in which they are signing on behalf of.
3. **Counterparts:** This Agreement may be executed in counterparts, which when taken together shall constitute a single signed original as though all Parties had executed the same page.
4. **Choice of Law/Venue:** This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois with venue lying in the Circuit Court of Macon County, Illinois.

THIS AGREEMENT IS INTENDED TO BE A LEGAL DOCUMENT. AN ATTORNEY AT LAW SHOULD BE CONSULTED PRIOR TO THE EXECUTION OF THIS DOCUMENT.

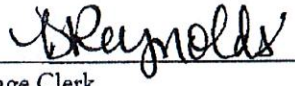
IN WITNESS WHEREOF the Parties hereto have caused this Agreement to be executed by their duly authorized officers on the above date at the Village of Mt. Zion, Illinois.

VILLAGE

VILLAGE OF MT. ZION, ILLINOIS, an Illinois Municipal Corporation


By: 
 President
 Date: 3/15/2021

ATTEST:


 Village Clerk
 Date: 3/15/2021

DEVELOPER

STEVE LEWIS,

By: 
 Steve Lewis
 Date: 3/19/21