



Industrial Development Board
Regular Meeting Agenda
Monday, November 27, 2023, 5:30 PM
City Hall, Lakeland, Tennessee 38002

- I. CALL TO ORDER:
- II. ROLL CALL:
- III. APPROVAL OF MINUTES OF PREVIOUS MEETING:
- IV. PUBLIC DISCUSSION:
- V. REPORTS OF OFFICERS AND COMMITTEES:
- VI. OLD BUSINESS:
- VII. NEW BUSINESS:
 - 1. **Resolution** - approving an amendment to the development agreement by and between the Industrial Development Board of the City of Lakeland, Tennessee and the City of Lakeland Tennessee for the development of the Lakeland Gateway.
 - 2. **Resolution** - approving a development and finance agreement with Ashmont Developer, LLC and approving loan documents from First Citizens National Bank for the development of the Lakeland Gateway.
- VIII. ANNOUNCEMENTS:
- IX. ADJOURNMENT:

RESOLUTION R-144-2023

APPROVING AN AMENDMENT TO THE DEVELOPMENT AGREEMENT BY AND BETWEEN THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKELAND, TENNESSEE AND THE CITY OF LAKELAND TENNESSEE FOR THE DEVELOPMENT OF THE LAKELAND GATEWAY

- WHEREAS,** On February 16, 2023, The Industrial Development Board of the City of Lakeland, Tennessee (the “Lakeland IDB”) approved an Economic Impact Plan to establish the Lakeland Gateway Tax Increment Financing (“TIF”) project area; and
- WHEREAS,** On February 16, 2023, the Board of Commissioners of the City of Lakeland, Tennessee (the “Lakeland Board of Commissioners”) approved an Economic Impact Plan to establish the Lakeland Gateway TIF project area; and
- WHEREAS,** on June 1, 2023, the Lakeland IDB approved a Development Agreement between the Lakeland IDB and the City of Lakeland, Tennessee (the “Development Agreement”) for development of the Lakeland Gateway; and
- WHEREAS,** on June 15, 2023, the Lakeland Board of Commissioners adopted a resolution approving the Development Agreement; and
- WHEREAS,** the Lakeland IDB desires to amend said Development Agreement with the City of Lakeland, Tennessee, as outlined in Exhibit A to this resolution:

NOW, THEREFORE, BE IT RESOLVED by the Industrial Development Board of the City of Lakeland, Tennessee, that the Amendment to the Development Agreement by and between the Lakeland IDB and the City of Lakeland, Tennessee (the “Amendment to the Development Agreement”), a copy of which is attached as **Exhibit A** to this resolution, is hereby approved by the Lakeland IDB, and further.

BE IT FURTHER RESOLVED the officers and directors of the Lakeland IDB are hereby authorized to execute the Amendment to the Development Agreement in substantially the form presented at this meeting or with such changes therein as shall be approved by the officer executing the same and further,

BE IT FURTHER RESOLVED that the directors, officers, agents and employees of the Lakeland IDB are hereby authorized and directed to do all such acts and things and to execute or accept any and all such certificates or documents as may be necessary to carry out and comply with provisions of this resolution and the Amendment to the Development Agreement and to carry out, give effect to and consummate the transactions contemplated hereby and thereby. All of the acts and doings of the directors, officers, agents and employees of the Lakeland IDB which are in conformity with the intent and purposes of this resolution and the Amendment to the Development Agreement, whether heretofore or hereafter taken or done, shall be and are hereby ratified, confirmed and approved

RESOLUTION R-144-2023

APPROVING AN AMENDMENT TO THE DEVELOPMENT AGREEMENT BY AND BETWEEN
THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKELAND, TENNESSEE
AND THE CITY OF LAKELAND TENNESSEE FOR THE DEVELOPMENT OF THE LAKELAND
GATEWAY

APPROVED AND ADOPTED by the Industrial Development Board of the City of Lakeland,
Tennessee, this 27th day of November 2023, the public welfare requiring it.

Alan Johnson
Chairman

ATTEST:

Steve Laster
Secretary

RESOLUTION R-144-2023

APPROVING AN AMENDMENT TO THE DEVELOPMENT AGREEMENT BY AND BETWEEN
THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKELAND, TENNESSEE
AND THE CITY OF LAKELAND TENNESSEE FOR THE DEVELOPMENT OF THE LAKELAND
GATEWAY

EXHIBIT A

Amendment to the Development Agreement

See Attached

**AMENDMENT TO THE
DEVELOPMENT AGREEMENT
(Lakeland Gateway)**

THIS AMENDMENT TO THE DEVELOPMENT AGREEMENT (this “Amendment”) is entered into effective as of November __, 2023 (the “Amendment Effective Date”), by and between THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKE LAND, TENNESSEE, a public nonprofit corporation organized under Tenn. Code Ann. §§ 7-53-101, et. seq. (the “Board”) and THE CITY OF LAKE LAND, TENNESSEE, a municipal corporation organized under the laws of the State of Tennessee (the “City”). Capitalized terms used in this Amendment and not otherwise defined have the respective meanings set forth in the Development Agreement (defined below).

RECITALS:

WHEREAS, the Board and the City are parties to that certain Development Agreement, dated as of June 15, 2023, including all amendments, modifications and changes thereto (collectively, the “Development Agreement”); and

WHEREAS, pursuant to the terms and conditions of the Development Agreement, the parties now desire to amend the Development Agreement as more particularly set forth below.

NOW, THEREFORE, in consideration of the agreements contained herein and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties agree as follows:

1. **Amendment to the Definition of Ashmont Interests.** Section 1.g. of the Development Agreement is hereby deleted in its entirety and replaced with the following:

g. “Ashmont Interests” means (i) a portion of the Tax Increment Revenues equal to 49.5% of the excess of property taxes over the Total Base Amount generated by the Property, less the County Trustee Fee (defined below) applicable to the property taxes from the Property, (ii) all of the City’s other right, title, and interest under this Agreement with respect to the Property other than the remaining Tax Increment Revenues not described in (i) above, and (iii) all obligations of the City under this Agreement with respect to the Property.

2. **Miscellaneous.** The terms and conditions in this Amendment shall supersede, control, and govern over any contrary or inconsistent terms or conditions in the Development Agreement. The parties agree to cooperate, and to execute and deliver in a timely fashion any and all additional documents necessary to effectuate the purposes of this Amendment and the Development Agreement. From and after the Amendment Effective Date, all references to the “Development Agreement” shall mean the Development Agreement as amended by this Amendment. This Amendment contains all of the terms, covenants, conditions, and agreements between the parties that pertain or relate to the subject matter hereof and supersedes all prior and contemporaneous agreements and understandings of the parties. This Amendment may be

executed in counterparts, each of which shall constitute an original and all of which taken together shall constitute one and the same document. Counterparts to this Amendment may be delivered electronically. This Amendment shall be construed without regard to any presumption or other rule of construction against the drafting party.

[signatures on the following page]

IN WITNESS WHEREOF, the parties have executed and delivered this Amendment, or have caused this Amendment to be executed and delivered by their duly authorized representatives, effective as of the Amendment Effective Date.

BOARD:

The Industrial Development Board of the City of Lakeland, Tennessee, a public nonprofit corporation organized under Tenn. Code Ann. §§ 7-53-101, *et. seq.*

By: _____
Name: _____
Title: _____

ATTEST:

Secretary

CITY:

The City of Lakeland, Tennessee, a municipal corporation organized under the laws of the State of Tennessee

By: _____
Name: _____
Title: _____

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RESOLUTION R-145-2023

APPROVING A DEVELOPMENT AND FINANCE AGREEMENT WITH ASHMONT DEVELOPER, LLC AND APPROVING LOAN DOCUMENTS FROM FIRST CITIZENS NATIONAL BANK FOR THE DEVELOPMENT OF THE LAKELAND GATEWAY

- WHEREAS,** The Industrial Development Board of the City of Lakeland, Tennessee (the “Lakeland IDB”) approved an economic impact plan (the “Economic Impact Plan”) regarding the development of an approximately 100-acre tract of land located in the northwest and northeast corners of Canada Road and the Interstate 40 Exchange, in the City of Lakeland, Tennessee and Shelby County, Tennessee, as described in the Economic Impact Plan (the “Plan Area”); and
- WHEREAS,** on November 12, 2018, the Lakeland IDB approved a Tax Increment Financing Application (the “TIF Application”) for the Plan Area; and
- WHEREAS,** Ashmont Developer, LLC (“Ashmont”) currently owns the portion of the Plan Area municipally known as 9640 Davies Plantation, Lakeland, Tennessee 38002 (the “Site”), and Ashmont intends to develop the Site pursuant to a planned development that is to be approved by the City of Lakeland, Tennessee for a new mixed-use development of retail, hotel, and senior living uses and other uses as permitted by such planned development, as such planned development may be amended from time to time by the City of Lakeland, Tennessee consistent with the Economic Impact Plan (the “Project”); and
- WHEREAS,** the Economic Impact Plan permits certain tax increment financing (“Tax Increment Financing”) pursuant to Chapter 53, Title 7 of the Tennessee Code Annotated; and
- WHEREAS,** in connection with the Tax Increment Financing, the Lakeland IDB and the City of Lakeland, Tennessee have entered into that certain Development Agreement dated June 15, 2023, as amended by that certain Amendment to Development Agreement dated November 27, 2023 (collectively, the “Master Development Agreement”); and
- WHEREAS,** pursuant to the Section 14 of the Master Development Agreement, the City of Lakeland, Tennessee has partially assigned the Master Development Agreement to Ashmont, and the Lakeland IDB and Ashmont desire to enter into that certain Development and Financing Agreement (the “Development and Finance Agreement”), the form of which is attached hereto as **Exhibit A**; and
- WHEREAS,** to finance the costs of the Project, the Lakeland IDB and First Citizens National Bank, in Dyersburg, Tennessee, with offices in Memphis, Tennessee (the “Lender”) desire to enter into that certain Loan Agreement and any ancillary documents described therein (collectively, the “Loan Documents”), the forms of which is attached hereto as **Exhibit B**; and as a result of the Loan Documents, the Lender has agreed to extend a loan to the Lakeland IDB in the principal amount not to exceed \$13,000,000; and

RESOLUTION R-145-2023

APPROVING A DEVELOPMENT AND FINANCE AGREEMENT WITH ASHMONT DEVELOPER, LLC AND APPROVING LOAN DOCUMENTS FROM FIRST CITIZENS NATIONAL BANK FOR THE DEVELOPMENT OF THE LAKELAND GATEWAY

WHEREAS, pursuant to the terms of the Economic Impact Plan and the Master Development Agreement, the “Ashmont Interests” of the “Tax Increment Revenues”, as those terms are defined in the Master Development Agreement, will be allocated to the Lakeland IDB to be used to pay debt service of the Tax Increment Financing and to pay for certain “Eligible Costs”, as defined in the Economic Impact Plan, incurred in connection with Project; and

WHEREAS, under Tenn. Code Ann. §§ 7-53-101, et seq., and the Economic Impact Plan, the Lakeland IDB is authorized to issue and secure the TIF Note to finance Eligible Costs; and

WHEREAS, the Tax Increment Financing shall not represent or constitute a debt or pledge of the faith and credit or the taxing power of the City of Lakeland, Tennessee or Shelby County Tennessee for approval with Tennessee Code Annotated 7-53-312.

NOW, THEREFORE, BE IT RESOLVED by the Industrial Development Board of the City of Lakeland, Tennessee, that the form of the Development and Finance Agreement and the Loan Documents described herein are hereby approved by the Lakeland IDB and further;

BE IT FURTHER RESOLVED the officers and directors of the Lakeland IDB are hereby authorized to execute the Development and Finance Agreement and the Loan Documents described herein in substantially the form presented at this meeting or with such changes therein as shall be approved by the officer executing the same and further,

BE IT FURTHER RESOLVED that the directors, officers, agents and employees of the Lakeland IDB are hereby authorized and directed to do all such acts and things and to execute or accept any and all such certificates or documents as may be necessary to carry out and comply with provisions of this resolution and the Development and Finance Agreement and the Loan Documents and to carry out, give effect to and consummate the transactions contemplated hereby and thereby. All of the acts and doings of the directors, officers, agents and employees of the Lakeland IDB which are in conformity with the intent and purposes of this resolution, the Development and Finance Agreement and the Loan Documents, whether heretofore or hereafter taken or done, shall be and are hereby ratified, confirmed and approved.

RESOLUTION R-145-2023

APPROVING A DEVELOPMENT AND FINANCE AGREEMENT WITH ASHMONT
DEVELOPER, LLC AND APPROVING LOAN DOCUMENTS FROM FIRST CITIZENS
NATIONAL BANK FOR THE DEVELOPMENT OF THE LAKELAND GATEWAY

APPROVED AND ADOPTED by the Industrial Development Board of the City of Lakeland,
Tennessee, this 27th day of November 2023, the public welfare requiring it.

Alan Johnson
Chairman

ATTEST:

Steve Laster
Secretary

RESOLUTION R-145-2023

APPROVING A DEVELOPMENT AND FINANCE AGREEMENT WITH ASHMONT
DEVELOPER, LLC AND APPROVING LOAN DOCUMENTS FROM FIRST CITIZENS
NATIONAL BANK FOR THE DEVELOPMENT OF THE LAKELAND GATEWAY

EXHIBIT A

Development and Finance Agreement

See Attached

RESOLUTION R-145-2023

APPROVING A DEVELOPMENT AND FINANCE AGREEMENT WITH ASHMONT
DEVELOPER, LLC AND APPROVING LOAN DOCUMENTS FROM FIRST CITIZENS
NATIONAL BANK FOR THE DEVELOPMENT OF THE LAKELAND GATEWAY

EXHIBIT B

Loan Documents

See Attached

**DEVELOPMENT AND FINANCING AGREEMENT
BETWEEN
THE INDUSTRIAL DEVELOPMENT BOARD OF THE
CITY OF LAKELAND, TENNESSEE
AND
ASHMONT DEVELOPER, LLC**

THIS DEVELOPMENT AND FINANCING AGREEMENT (herein the "Agreement") is made and entered into as of the ____ day of November, 2023, by and between THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKELAND, TENNESSEE, a public nonprofit corporation organized under Tenn. Code Ann. §§ 7-53-101, *et. seq.* (the "Board"), and ASHMONT DEVELOPER, LLC, a Tennessee limited liability company ("Ashmont")

W I T N E S S E T H:

WHEREAS, the Board has prepared and approved an economic impact plan (the "Economic Impact Plan") regarding the development of an approximately 100-acre tract of land located in the northwest and northeast corners of Canada Road and the Interstate 40 Exchange, in the City of Lakeland (the "City") and Shelby County, Tennessee (the "County"), as described in the Economic Impact Plan (the "Plan Area");

WHEREAS, Ashmont currently owns the portion of the Plan Area municipally known as 9640 Davies Plantation, Lakeland, Tennessee 38002, as more particularly described on the attached Exhibit A (the "Property"). Ashmont, an Affiliate thereof, or any other permitted assignee thereof (including, without limitation, any successor by merger or conversion) (collectively, "Developer") intends to develop the Property pursuant to a planned development that to be approved by the City for a new mixed-use development of retail, hotel, and senior living uses and other uses as permitted by such planned development, as such planned development may be amended from time to time by the City consistent with the Economic Impact Plan (the "Project");

WHEREAS, the Economic Impact Plan permits certain tax increment financing ("Tax Increment Financing") to be provided through the issuance of the Board's bonds, notes, or other obligations as more particularly set forth in the Economic Impact Plan;

WHEREAS, in connection with the Tax Increment Financing, the Board and the City have previously entered into that certain Development Agreement dated June 15, 2023, as amended by that certain Amendment to Development Agreement dated November ___, 2023 (collectively, the "Master Development Agreement");

WHEREAS, pursuant to the Section 14 of the Master Development Agreement, the City has partially assigned the Master Development Agreement to Ashmont, and the Board and Ashmont are entering into this Agreement to set forth Ashmont's rights and obligations with respect to Master Development Agreement;

WHEREAS, First Citizens National Bank (the "Lender") has agreed to extend a loan to the Board in the principal amount not to exceed \$13,000,000.00 (the "TIF Loan"), evidenced by a note to be issued by the Board substantially in the form as attached hereto as Exhibit B (the "TIF Note"), with such TIF Note being issued pursuant to the terms of a Loan Agreement to be executed by Lender and the Board in substantially the same form as attached hereto as Exhibit C (the "Loan Agreement");

WHEREAS, pursuant to the terms of the Economic Impact Plan and the Master Development Agreement, the "Ashmont Interests" of the "Tax Increment Revenues", as those terms are defined in the Master Development Agreement, will be allocated to the Board to be used to pay debt service of the Tax

Increment Financing and to pay for certain “Eligible Costs”, as defined in the Economic Impact Plan, incurred in connection with Project;

WHEREAS, under Tenn. Code Ann. §§ 7-53-301, et seq., and the Economic Impact Plan, the Board is authorized to issue and secure the TIF Note to finance Eligible Costs; and

WHEREAS, for the purpose of establishing the rights and obligations of the parties with respect to the development of the Property and the financing thereof, the parties have entered into this Agreement;

NOW, THEREFORE, in consideration of the terms, conditions and mutual agreements by and between the parties, as hereafter set forth in detail, the parties do hereby mutually agree as follows:

1. The TIF Loan. As soon as practicable after the execution of this Agreement, the Board and the Lender will close the TIF Loan by executing, delivering, and accepting (as applicable) the following documents in substantially the same forms as attached to this Agreement, with such changes as the parties may approve, such approval to be conclusively evidenced by the parties execution and delivery thereof (collectively, the “Loan Documents”):

- (a) the Loan Agreement;
- (b) the TIF Note;
- (c) Assignment of Tax Increment Revenues by and between the Board and the Lender in substantially the same the form as attached hereto as Exhibit D (the “TIF Assignment”) assigning the Ashmont TIF Revenues;
- (d) Collateral Assignment of Development and Financing Agreement by and between the Board and the Lender in substantially the same form as attached hereto as Exhibit E (the “Collateral Assignment”);
- (e) Guaranty Agreements from each of Ashmont Developer, LLC, its members, Vincent D. Smith, Jr. and Thomas Andrews LLC, and its members, Joseph Barton Thomas and David Steele Andrews (collectively, “Guarantors”) to Lender (individually, a “Guaranty” and collectively, the “Guaranties”).

The Developer consents to the disbursement of the proceeds of the TIF Loan in accordance with the Loan Documents and this Agreement. The Board agrees to comply with the terms of the Loan Documents to which it is a party. The Board also agrees that it will not agree or consent to any amendment, modification or change in the Loan Documents without the prior written consent of the Developer.

At the request of the Developer, the Board will provide commercially reasonable cooperation to the Developer (at no out-of-pocket cost to the Board) in closing any refinancing, renewal, or replacement of the TIF Loan (a “Refinancing”). In connection with a Refinancing, the Board agrees to execute such additional loan documents as may be required by any lender providing a Refinancing so long as such additional loan documents are non-recourse to the Board to the same extent as the Loan Documents. At the request of either the Developer or the Board, the parties shall enter into any addendum to (or amended and restated version of) this Agreement reasonably requested by either party to further evidence and memorialize the parties’ rights and obligations with respect to any Refinancing.

2. Use of Proceeds of TIF Loan. The Board hereby agrees to commit the proceeds of the TIF Loan to the payment of Eligible Costs pursuant to the Loan Agreement and this Agreement.

3. Disbursement of Tax Increment Revenues.

(a) The Board hereby agrees to commit the portion of the Tax Increment Revenues constituting the Ashmont Interests (such portion referred to in this Agreement as the “Ashmont TIF Revenues”) to (i) the payment of the TIF Loan pursuant to the Loan Agreement in accordance with the terms of the Loan Agreement and this Agreement, and (ii) following repayment of the TIF Loan, any other Eligible Costs.

(b) After payment in full of the TIF Loan (“Payoff”), the Board hereby agrees to commit the Ashmont TIF Revenues to the payment of Eligible Costs directly in accordance with the terms of this Agreement and the Economic Impact Plan. Once the Payoff has occurred, the Developer may from time to time request that the Board pay Eligible Costs from amounts on deposit in the Tax Increment Fund (as defined in Section 10 below). The Developer shall make such requests by submitting a written payment request to the Board substantially in the form attached hereto as Exhibit F (a “Payment Request”), with such Payment Request to be certified as true and correct in all material respects by an authorized representative of the Developer and, except as otherwise set forth below, by a licensed engineer or architect designated by the Board from time to time and approved by the Developer, such approval not to be unreasonably withheld, conditioned or delayed (the “Construction Consultant”). Each Payment Request must include conditional lien waivers from all contractors and suppliers providing work or materials for the Planned Improvements, as defined below (or unconditional final lien waivers from the general contractor for the applicable Planned Improvements), to be paid (or reimbursed) in a form reasonably acceptable to the Board. In lieu of a Construction Consultant certificate, the Board shall allow the unrestricted acceptance of the Planned Improvement by a Public Entity to constitute as the requisite review and approval. As used herein, “Public Entity” means Memphis Light Gas and Water, the City, the County, the State of Tennessee, and any political subdivision or agency of any of the foregoing. The Board shall, to the extent of available funds then on deposit in the Tax Increment Fund, make payment to or at the direction of the Developer in accordance with such Payment Request within thirty (30) days of receiving a correct and complete Payment Request along with such lien waivers. The Board shall not be required to fund Payment Requests more than once per month or in any amount less than Twenty-Five Thousand Dollars (\$25,000.00) as to any single Payment Request (except for the final Payment Request for Eligible Costs for the Planned Improvements then under construction).

4. Developer Obligations. The Developer has undertaken or agrees to undertake the following development activities in connection with the Project:

- (a) Prepare and submit to the City plans and specifications for the improvements listed on the attached Exhibit G (the “Planned Improvements”).
- (c) Make no material alterations to the plans and specifications for the Planned Improvements without the prior consent of the City and the Lender, such consent not to be unreasonably withheld, conditioned, or delayed.
- (d) Diligently pursue and complete the construction of the Planned Improvements in accordance with the plans and specifications approved by the City so that the Improvements shall be complete on or before the completion deadline set forth in the Loan Agreement.

- (e) In the event the Eligible Costs exceed the proceeds of the TIF Loan, the Developer shall pay all such excess costs. The Developer agrees that the Board shall have no obligation to undertake any activities that would cause the Board to incur costs or expenses in excess of the proceeds of the TIF Loan available therefor.

5. Obligations of the Developer with Respect to the TIF Loan. The Developer agrees to the following obligations with respect to the TIF Loan:

- (a) The Developer and/or Guarantors shall pay on behalf of the Board, directly to the Lender, in connection with the annual payments of debt service on the TIF Note as specified therein (irrespective of the limitation in the TIF Note that such payments are limited to Ashmont TIF Revenues) through and including the maturity of the TIF Note, an amount equal to the difference, if any, between the amount of interest and principal then due with respect to the TIF Note and the Ashmont TIF Revenues then available therefor, if any.
- (b) In the event the Developer and/or Guarantors are required to make any payment pursuant to subsection (a) of this Section 5, the Developer and/or Guarantors shall be deemed to have made a loan to the Board on a non-recourse basis to enable the Board to meet its obligations with respect to the TIF Loan. Any such loan shall bear interest at the rate then charged under the TIF Loan and shall have a maturity date as the maturity date of the TIF Note. Any such loans from the Developer and/or Guarantors to the Board pursuant to this subsection shall be paid solely from the Ashmont TIF Revenues, provided, however, that no portion of any such loan from the Developer and/or Guarantors to the Board shall be repaid, and no interest thereon or other amounts due with respect thereto shall be paid so long as any amounts are owed to Lender under the TIF Loan or otherwise related thereto, regardless of whether such amounts owed to Lender under the TIF Loan or otherwise related thereto are then due and payable. The repayment by the Board of any loans from Developer and/or Guarantors is expressly junior and subordinate in all respects to the full and complete payment in full to the Lender of the TIF Loan, and any other amounts otherwise due to Lender with respect to the TIF Loan. The Developer and/or Guarantors shall give the Board written notice of any loans made by the Developer pursuant to this Section 5 within thirty (30) days of such loan, and the Board shall, based upon such notices, keep a record of all amounts due to the Developer and/or Guarantors hereunder. The Board shall not be required to repay any amounts loaned by the Developer hereunder of which the Board has not received notice pursuant to this Section.
- (c) The TIF Note and any interest accruing thereon and any loan from the Developer and/or Guarantors described above are to be repaid solely out of Ashmont TIF Revenues except as to the TIF Note, which such TIF Note shall be additionally payable from amounts payable hereunder or under any Guaranty.
- (d) Notwithstanding the subsequent sale of all or any portion of the property on which the Project is to be located, absent an express and explicit release agreement in favor of the Developer and/or Guarantors executed and delivered by Lender (which release shall be binding upon the Lender and the Board), the Developer and/or Guarantors shall remain fully liable for their obligations under the Loan

Documents, notwithstanding the assumption of any or all obligations by any buyer of such property.

- (e) On or prior to October 1st of each year, commencing October 1, 2024, the Developer shall provide to the Lender and the Board a list of all properties located in the Plan Area and the status of the payment of the property taxes with respect to each such property.

6. Disbursement of Loan Proceeds. All proceeds of the TIF Loan shall be disbursed by the Lender in accordance with the provisions of Article VI of the Loan Agreement and such other terms as may be agreed upon by the Lender and the Developer.

7. Future Pledges. The Board covenants and agrees not to pledge the Ashmont TIF Revenues to the payment of any indebtedness other than the TIF Note (or any Refinancings thereof) or to apply the Ashmont TIF Revenues for any purpose other than the payment of the Eligible Costs, in each case without the prior written consent of the Lender and the Developer.

8. Local Business Participation.

(a) The Developer shall use commercially reasonable efforts to utilize Local Business Participants (defined below) in connection with the Project in accordance with this Section 8.a. (the “LBP Obligation”), and the Developer shall document its contracts with Local Business Participants. The LBP Obligation for this Project is twenty-five percent (25%) of TIF Spending, defined below. For purposes hereof, “TIF Spending” means the Developer’s direct cost of constructing Planned Improvements using the Tax Increment Financing. “Local Business Participant” or “LBP” means any business that is certified as a Minority/Woman Business Enterprise by the City, the City of Memphis, Tennessee or the County or their successor programs; provided that the City, the City of Memphis, Tennessee or the County maintain up-to-date lists of such Minority/Woman Business Enterprises. A vendor shall be recognized as a LBP if included in lists maintained by the City, the City of Memphis, Tennessee or the County for that purpose during the year in which the vendor contract is entered into with or the purchase is made by the Developer. If the City, the City of Memphis, Tennessee or the County fail to maintain up-to-date lists of such Minority/Woman Business Enterprises, a recognized Local Business Participant shall mean other Minority/Woman Business Enterprises certified by other entities jointly determined by the Developer and the Board in their reasonable discretion.

(b) Notwithstanding the foregoing, this Agreement and the LBP Obligation shall not apply to any Planned Improvement to the extent that construction is completed by a Public Entity (i.e., the LBP Obligation applies only to work performed directly by Developer or its Affiliates or contractors).

(c) Expenditures made in furtherance of the purposes of the LBP Obligation shall appear on the books and records of the Developer. The Developer shall keep reasonable supporting documentation to substantiate such expenditures. The Developer shall make such books and records regarding compliance with this Agreement available to the Board at reasonable times, upon reasonable prior notice, as requested by the Board or its agents. The Developer shall keep copies of all books and records regarding compliance with this Agreement and all reports to the Board regarding compliance with this Agreement for at least two (2) years after the end of the year to which such books, records and reports relate. The Board is hereby authorized to conduct an audit of the Developer’s books and records regarding compliance with this Agreement, and the Developer shall cooperate fully with any such audit authorized or conducted by the Board. The

Developer further agree that the Board and any of its duly authorized agents shall have the right at all reasonable times upon reasonable notice to the Developer to examine and inspect the Project to determine that the Developer, and any of its applicable subsidiaries and affiliates are in compliance with the terms and conditions of this Agreement; provided that any such inspection will be conducted in a manner that will minimize any intrusion on the operations of the Project.

9. Other Tax Increment Financing. The Board represents, warrants and certifies to the Developer that the Board currently does not have outstanding any bonds, notes or other obligations payable from or secured by Ashmont TIF Revenues derived from the Plan Area other than the TIF Note.

10. Maintenance of Special Fund. The Board covenants and agrees to establish and, as long as the indebtedness evidenced by the TIF Note remains outstanding and unpaid or this Agreement otherwise remains in effect, maintain a separate and special fund of the Board with the Lender to be known as the Ashmont Tax Increment Fund, as more fully described in Article VII of the Loan Agreement (the "Tax Increment Fund"), to be kept separate and apart from all other funds of the Board, pursuant to the requirements of Tenn. Code Ann. § 7-53-312, into which will be deposited all Ashmont TIF Revenues. The fund shall consist of a separate account into which all Ashmont TIF Revenues shall be deposited as received and from which all disbursements will be made. The Developer shall pay all costs and expenses of establishing and maintaining such account.

11. Assignment. With the exception of a pledge of all or any portion of the Developer's rights as collateral for any loan in connection with the Project, Developer may not assign or transfer this Agreement or any interest of the Developer hereunder without the consent of the Lender and the Board, which consent shall not be unreasonably withheld, conditioned or delayed. Notwithstanding the foregoing, the Developer may assign or transfer this Agreement in whole or in part to one or more Affiliate(s) of Developer (including, without limitation, any successor to Developer by merger or conversion), without obtaining the prior written consent of the Board, but with prior written notice to the Board. Any such assignment shall not relieve Developer of Developer's liability for the performance of its duties and obligations hereunder unless the Lender and the Board consents in writing to such release. Except for the Board's assignment of this Agreement to the Lender pursuant to the Collateral Assignment, the Board may not assign or transfer this Agreement or any interest of the Board hereunder without the consent of the Developer. "Affiliate" shall mean as to Developer, a person or entity that directly or indirectly controls, is controlled by, or is under common control with Developer.

12. Successors and Assigns. This Agreement shall inure to the benefit of and be binding upon the parties hereto and the permitted successors and assigns of the parties.

13. Waiver of Consequential Damages. In no event shall the parties have the right to recover any consequential, exemplary, incidental or punitive damages as a result of any breach or default under this Agreement.

14. Notices. Any notice, request, demand, tender or other communication under this Agreement shall be in writing, and shall be deemed to have been duly given at the time and on the date when personally delivered, or upon the Business Day following delivery to a nationally recognized commercial courier for next day delivery, to the address for each party set forth below, or upon the third Business Day after being deposited in the United States Mail, Certified Mail, Return Receipt Requested, with all postage prepaid, to the address for each party set forth below.

If to the Developer to:

Ashmont Developer, LLC
c/o Vincent Smith, Jr.
355 Tara Lane
Memphis, Tennessee 38111

If to the Lender to:

First Citizens National Bank
P. O. Box 370
Dyersburg, Tennessee 38025
Attention: Nelson Williams, Regional President

If to the Board to:

The Industrial Development Board of the
City of Lakeland, Tennessee
c/o President
10001 Highway 70
Lakeland, Tennessee 38002

Rejection or other refusal to accept or inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of such communication. By giving prior notice to all other parties, any party may designate a different address for receiving notices. No such notice, demand, tender or other communication under this Agreement shall be valid unless the Lender receives a copy thereof as provided above.

15. Applicable Law. This Agreement shall be governed by and construed and enforced in accordance with the laws of the State of Tennessee. Venue for any action arising out of this Agreement shall be exclusively in Shelby County, Tennessee.

16. Entire Agreement. This Agreement supersedes all prior discussions and agreements between the Board and the Developer with respect to the TIF Loan. This Agreement contains the sole and entire understanding between the Board and the Developer with respect to the transactions contemplated by this Agreement, and all promises, inducements, offers, solicitations, agreements, representations and warranties heretofore made between the parties.

17. Amendment. This Agreement shall not be modified or amended in any respect except by written agreement executed by or on behalf of the parties to this Agreement in the same manner as this Agreement is executed; provided, however, that no modification or amendment of this Agreement shall be effective unless the Lender shall have provided its prior written consent to such modification or amendment.

18. Severability. If any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof.

19. Captions. All captions, headings and section and paragraph numbers and letters and other reference numbers or letters are solely for the purpose of facilitating reference to this Agreement and shall not supplement, limit or otherwise vary in any respect the text of this Agreement. All references to

particular sections, paragraphs or subparagraphs by number refer to the particular section, paragraph or subparagraph so numbered in this Agreement unless reference to another document or instrument is specifically made.

20. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original, and all such counterparts together shall constitute one and the same Agreement.

21. Definitions. All capitalized terms not otherwise defined herein have their respective meanings set forth in the Loan Agreement.

22. Expenses. The Developer shall pay promptly all costs of closing and administering the TIF Loan and all expenses of the Lender and the Board with respect thereto, including, without limitation, fees of the Board and the Lender, fees for consultants and attorneys of the Lender and the Board incurred in connection with the closing of the TIF Loan and the Loan Documents on or about the date hereof and legal fees incurred by the Lender and the Board subsequent to the closing of the TIF Loan in connection with the administration and enforcement of this Agreement, the TIF Loan or any modification of the terms of the Loan Documents.

23. Reliance By the Lender; Consents and Agreements of the Board. The Board and the Developer acknowledge and agree that the Lender may rely on all of the representations, warranties and covenants set forth in this Agreement, that the Lender is an intended third-party beneficiary of such representations, warranties and covenants and that the Lender shall have all rights and remedies available at law or in equity as a result of a breach of such representations, warranties and covenants, including to the extent applicable, the right of subrogation. Notwithstanding any other terms of this Agreement, the Board shall not, without the prior written consent of the Lender, while the Lender is the holder of the TIF Note, consent or agree to any modification of, or grant any consent or approval under, this Agreement, or waive compliance with any of the terms hereof. While the Lender is the holder of the TIF Note, any attempt by the Board to grant any such consent, approval or waiver without the prior written consent of the Lender shall be void and of no force and effect.

24. Term. Unless terminated earlier as provided herein, this Agreement shall be effective as of the date hereof and shall remain in effect until ten (10) years from the date of the expiration of the final Allocation Period (as defined in the Loan Agreement) or until terminated by mutual agreement of the parties and the Lender or their successors and assigns. The expiration date of this Agreement may be extended by written mutual consent of the parties hereto.

25. No Government Limitation. This Agreement between the Developer and the Board shall not be construed to bind any other agency or instrumentality of federal, state or local government in the enforcement of any regulation, code or law under its jurisdiction.

26. Time of the Essence. Time shall be of the essence in the performance of the terms and conditions of this Agreement.

27. Business Days. For purposes of this Agreement, "Business Day" shall have the same meaning herein as in the Loan Agreement. If any date on which performance or notice is due under this Agreement is not a Business Day, performance or notice shall not be due until the next Business Day.

IN WITNESS WHEREOF, the Board and the Developer have caused this Agreement to be duly executed as of the date first above written.

THE INDUSTRIAL DEVELOPMENT BOARD
OF THE CITY OF LAKELAND, TENNESSEE

By: _____
Name: _____
Title: _____

ATTEST:

Secretary

ASHMONT DEVELOPER, LLC

By: _____
Name: Vincent D. Smith, Jr.
Title: Manager

EXHIBIT A

The Property

EXHIBIT B

TIF Note

EXHIBIT C

Loan Agreement

EXHIBIT D

TIF Assignment

EXHIBIT E

Collateral Assignment

EXHIBIT F

Payment Request

To: Industrial Development Board of the City of Lakeland, Tennessee
c/o Chairman
10001 Highway 70
Lakeland, Tennessee 38002

Re: Development and Financing Agreement dated _____, 2023 (the “Development Agreement”), between Ashmont Developer, LLC, a Tennessee liability company (“Ashmont”), and Industrial Development Board of the City of Lakeland, Tennessee (the “Board”)

Pursuant to Section 3 of the Development Agreement, please disburse the sum of \$ _____ from the Tax Increment Fund. In connection with such disbursement, the undersigned hereby certifies as follows:

(a) All amounts disbursed will be applied to the payment of or the reimbursement to Ashmont for Eligible Costs, and the Planned Improvements to which such Eligible Costs relate (if applicable) have been completed in material compliance with the plans and specifications previously provided to the Board or its Construction Consultant, to the extent applicable under the Development Agreement. The Construction Consultant has inspected and approved the Planned Improvements and Eligible Costs, to the extent its approval is required under the Development Agreement.

(b) With the delivery of this Payment Request, all requirements for this disbursement under Section 3 of the Development Agreement have been satisfied in all material respects.

(c) As of the date of this Payment Request, Ashmont has complied in all material respects with the applicable portions of the LBP Obligation, subject to any cure rights expressly provided to Ashmont pursuant to Section 8 of the Development Agreement.

Please disburse all such amounts to the parties in the manner described on Exhibit A attached hereto.

All capitalized terms used herein and not otherwise defined have the respective meanings given to such terms in the Development Agreement.

Dated as of _____, 20__.

ASHMONT DEVELOPER, LLC

By: _____
Name: _____
Title: _____

Payment Request reviewed and reimbursement of Eligible Cost recommended if required under Development Agreement:

[CONSTRUCTION CONSULTANT]

By: _____

Title: _____

Date: _____

EXHIBIT G

Planned Improvements

36781373.2

FIRST CITIZENS NATIONAL BANK

and

THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKELAND, TENNESSEE

LOAN AGREEMENT

LAKELAND GATEWAY ASHMONT PROJECT

Dated as of November __, 2023

LOAN AGREEMENT

THIS LOAN AGREEMENT (the "Loan Agreement") is made and entered into as of November __, 2023, between **FIRST CITIZENS NATIONAL BANK** (the "Lender"), and **THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKELAND, TENNESSEE**, a public nonprofit corporation organized under Tenn. Code Ann. §§ 7-53-101, *et. seq.* (the "Board"). **ASHMONT DEVELOPER, LLC**, a Tennessee limited liability company ("Ashmont"), joins in this Loan Agreement for the limited purpose set forth in Article II below.

RECITALS:

WHEREAS, the Board has prepared and approved an economic impact plan (the "Economic Impact Plan") regarding the development of an approximately 100-acre tract of land located in the northwest and northeast corners of Canada Road and the Interstate 40 Exchange, in the City of Lakeland (the "City") and Shelby County, Tennessee (the "County"), as described in the Economic Impact Plan (the "Plan Area");

WHEREAS, Ashmont currently owns the portion of the Plan Area municipally known as 9640 Davies Plantation, Lakeland, Tennessee 38002, as more particularly described on the attached Exhibit C (the "Site Plan"). Ashmont, an Affiliate thereof, or any other permitted assignee thereof (including, without limitation, any successor by merger or conversion) (collectively, "Developer") intends to develop the Site Plan pursuant to a planned development that to be approved by the City for a new mixed-use development of retail, hotel, and senior living uses and other uses as permitted by such planned development, as such planned development may be amended from time to time by the City consistent with the Economic Impact Plan (the "Project");

WHEREAS, the Economic Impact Plan permits certain tax increment financing ("Tax Increment Financing") to be provided through the issuance of the Board's bonds, notes, or other obligations as more particularly set forth in the Economic Impact Plan;

WHEREAS, in connection with the Tax Increment Financing, the Board and the City have previously entered into that certain Development Agreement dated June 15, 2023, as amended by that certain Amendment to Development Agreement dated November __, 2023 (collectively, the "Master Development Agreement");

WHEREAS, pursuant to the Section 14 of the Master Development Agreement, the City has partially assigned the Master Development Agreement to Ashmont, and the Board and Ashmont have entered into that certain Development and Financing Agreement dated November, __2023 (the "Development Agreement");

WHEREAS, the Lender has agreed to extend a loan to the Board in the principal amount not to exceed \$13,000,000.00 (the "TIF Loan"), evidenced by a note to be issued by the Board substantially in the form as attached hereto as Exhibit A (the "TIF Note");

WHEREAS, pursuant to the terms of the Economic Impact Plan and the Master Development Agreement, the "Ashmont Interests" of the "Tax Increment Revenues", as those terms are defined in the Master Development Agreement, will be allocated to the Board to be used to pay debt service of the Tax

Increment Financing and to pay for certain “Eligible Costs”, as defined in the Economic Impact Plan, incurred in connection with Project; and

WHEREAS, under Tenn. Code Ann. §§ 7-53-101, et seq. (the “Act”), and the Economic Impact Plan, the Board is authorized to issue and secure the TIF Note to finance Eligible Costs (as defined below).

NOW, THEREFORE, in consideration of the Recitals above, the premises and the mutual covenants and undertakings below, the parties hereto covenant, agree and bind themselves as follows:

ARTICLE I DEFINITIONS

The following words and phrases shall have the following meanings:

“Affiliate” means as to Developer, a person or entity that directly or indirectly controls, is controlled by, or is under common control with Developer.

“Allocation Period” means, with respect to each tax parcel within the Plan Area, the twenty-year period of time during which the Tax Increment Revenues from such tax parcel will be allocated to the Board pursuant to the Economic Impact Plan.

“Annual Principal Payment Date” means the first (1st) day of each May commencing on May 1, 2026, or at the sole discretion of Lender, May 1, 2027, and each May 1 of each year thereafter until the Maturity Date.

"Applicable Interest Rate" shall mean: (i) during the Initial Interest Period, at a fixed rate per annum equal to the Prime Rate, adjusted annually, but at no time less than 6.5%, the interest rate floor, and (ii) during each Subsequent Interest Period, at an annual rate determined as of the commencement of each Subsequent Interest Period equal to the then-current Prime Rate, and thereafter adjusted at each of the fifth, tenth, and fifteenth anniversary of the TIF Note to the then-current Prime Rate, provided that the interest rate shall never be less than 6.5% or be more than the maximum rate permitted by law.

“Ashmont Interests” shall mean the “Ashmont Interests” of the “Tax Increment Revenues,” as those terms are defined in the Master Development Agreement, which will be allocated to the Board to be used to pay debt service of the Tax Increment Financing and to pay for certain “Eligible Costs” as defined in the Economic Impact Plan, incurred in connection with Project;

"Ashmont TIF Revenues" shall mean the Tax Increment Revenues constituting the Ashmont Interests.

"Assignment" means the Assignment of Tax Increment Revenues executed by the Board and delivered in accordance with Article III and any amendments thereto from time to time.

"Borrowing Certificate" means a certificate executed by the Developer and approved by the Lender in the form of Exhibit B hereto with respect to the disbursement of proceeds hereunder.

"Business Day" means any day that is not a Saturday, Sunday or other day that is a legal holiday under the laws of the State of Tennessee or is a day on which banking institutions in such state are authorized or required by Law to close.

"City" means The City of Lakeland, Tennessee.

"Closing Date" means the date on which the TIF Note is issued by the Board to the Lender.

"Collateral Assignment" means the Collateral Assignment of Development and Financing Agreement dated as of the date hereof executed by the Board assigning certain of the Board's rights under the Development Agreement.

"Collateral Documents" means this Loan Agreement, the Assignment, and the Collateral Assignment.

"County" means Shelby County, Tennessee.

"Debt Service Coverage Ratio" shall mean, as of the date of determination by Lender, a fraction, expressed as a decimal number, the numerator of which is the projected annual Ashmont TIF Revenues produced by parcels under development and under contract for development, and the denominator of which is the twenty (20)-year annual debt service of the proposed aggregate amount of disbursements under the TIF Note.

"Default" means any Default under this Loan Agreement as specified in and defined in Article VIII.

"Developer" means Ashmont, an Affiliate thereof, or any other permitted assignee thereof (including, without limitation, any successor by merger or conversion).

"Developer Loan" means any loan deemed to be made by Developer (or the Guarantors on behalf of Developer) to the Board as described in Section 5(b) of the Development Agreement or in Section 2.7 of this Loan Agreement.

"Development Agreement" means the Development and Financing Agreement dated as of November ___, 2023 between the Board and Ashmont.

"Disbursement Date" means any date on which a disbursement of the proceeds of the TIF Note occurs in accordance with Article VI hereof.

"Economic Impact Plan" shall have the meaning given to such term in the Recitals of this Agreement.

"Eligible Costs" means (i) all Eligible Development Costs and (ii) all Transaction Costs.

"Eligible Development Costs" means all costs that are (i) incurred in connection with the development of the Project (including related improvements in the Plan Area) and the Loan and (ii) permitted under Tenn. Code Ann. § 7-53-312 and Tenn. Code Ann. §§ 9-23-101 et. seq., including without limitation the costs of designing, constructing, and installing the Planned Improvements, as defined in the Development Agreement). The term "Eligible Development Costs" does not include any costs relating to privately owned land that would require a written determination from the Comptroller of the State of Tennessee pursuant to Tenn. Code Ann. § 9-23-108 (except to the extent that the Developer obtains such written determination).

"Guarantors" means Ashmont Developers LLC, its members, Vincent D. Smith, Jr. and Thomas Andrews LLC, and its members, Joseph Barton Thomas and David Steele Andrews.

"Guaranty" means, collectively, the Guaranties, each of even date herewith, from each of the Guarantors, as referred to in Section 2.8(f) hereof.

"Initial Interest Period" shall mean the two-year period, or in the sole discretion of Lender, the three-year period, commencing on the date hereof.

"Interest Reserve Amount" shall mean the amount set forth in Section 6.4 that shall be restricted from disbursement under the Loan, except in accordance with Section 6.4.

"Loan" means the loan made under this Loan Agreement and evidenced by the TIF Note.

"Loan Documents" means the Note, this Loan Agreement, the Collateral Documents, the Guaranties, and any other document executed in connection therewith.

"Maturity Date" means November ___, 2046.

"Minimum Annual Principal Amount" shall have the meaning given to such term in Section 2.5.

"Plan Area" means the area described on Exhibit A to the Economic Impact Plan.

"Prime Rate" means the Prime Rate published in the Money Rates section of *The Wall Street Journal*. Each determination of the Prime Rate shall be made by Lender based upon the most recently published rate as of the date of each adjustment hereunder, and, in the absence of manifest error, shall be conclusive and binding. If *The Wall Street Journal* ceases to publish the Prime Rate, Lender shall select a comparable index for determining the interest rate to be charged and notify the Board.

"Project" has the meaning set forth in the Development Agreement.

"Project Fund" means the Lakeland Gateway TIF Development Account established pursuant to Section 7.1.

"Planned Improvements" has the meaning set forth in the Development Agreement.

"Resolution" means, collectively, the Board Resolution, the County Resolution, and the City Resolution, approving the Economic Impact Plan.

"Site Plan" means the site plan for the Project attached to this Loan Agreement as Exhibit C.

"State" means the State of Tennessee.

"Subsequent Interest Period" shall mean the five-year period commencing on the day after the end of the Initial Interest Period and each subsequent five-year period thereafter.

"Tax Increment Fund" shall mean Ashmont Tax Increment Fund created pursuant to Section 7.1.

"Tax Increment Revenues" means all ad valorem property taxes assessed annually in respect of the Plan Area by the City and County that are allocated to the Board pursuant to the Economic Impact Plan, the Resolution, and the Master Development Agreement.

"Tax Year" shall mean each calendar year as to which property taxes are payable with respect to the Plan Area.

"TIF Note" or "Note" means the Tax Increment Revenue Note issued pursuant to Article II, together with any extensions, restatements or renewals thereof.

"Transaction Costs" mean all out of-pocket costs and expenses incurred by the Board, the Lender, or the Developer in connection with the issuance and administration of the Loan together with all out-of-pocket fees and expenses for attorneys, accountants, appraisers, surveyors, environmental consultants, engineers, architects, and other professional advisors incurred in connection with the Project and the negotiation and execution of the Economic Impact Plan, the Development Agreement, and the Loan Documents.

ARTICLE II THE TIF NOTE

Section 2.1 Designation. The TIF Note shall be designated "The Industrial Development Board of the City of Lakeland, Tennessee Tax Increment Revenue Note (Lakeland Gateway Ashmont Project)".

Section 2.2 Principal Amount. The TIF Note shall be in an aggregate principal amount not to exceed, as determined by Lender as of the date of each proposed disbursement under Article VI hereof, the lesser of (x) Thirteen Million Dollars (\$13,000,000) and (y) such principal amount that, when amortized over a period of twenty (20) years, would generate a Debt Service Coverage Ratio of at least 1.20. Lender shall make advances under the TIF Note up to an amount not to exceed such principal amount. Advances made under the TIF Note shall bear interest at the Applicable Interest Rate.

Section 2.3 Maturity. The TIF Note shall mature on the Maturity Date, unless prepaid earlier as provided herein or in the TIF Note. Notwithstanding the Maturity Date of the Note, any Ashmont TIF Revenues received with respect to taxes imposed during the Allocation Period but received after the Maturity Date of the Note shall be applied to the payment of the Note if the Note has not been paid in full at such time.

Section 2.4 Interest Payments. Payment of accrued interest shall be made from the Ashmont TIF Revenues available therefor (if any) deposited in the Tax Increment Fund or as is otherwise provided herein. Within ten (10) days of deposit of any amounts in the Tax Increment Fund, such amounts shall be paid by the Board to the Lender and applied by the Lender to accrued interest on the TIF Note, with any excess being applied as provided in Section 2.5. Interest shall be calculated based on a 360-day year at the interest rate specified above based on the actual number of days elapsed since the last interest payment. The Lender shall maintain a register of the amounts of accrued interest paid pursuant to this Section and principal paid pursuant to Sections 2.5 or 2.6, and such register shall be available for inspection by the Board and Developer on any Business Day.

Section 2.5 Principal Payments. To the extent that Ashmont TIF Revenues are on deposit in the Tax Increment Fund on each Annual Principal Payment Date in excess of the amount necessary to pay accrued interest on the TIF Note, such excess shall be paid by the Board to the Lender to be applied to pay the Minimum Annual Principal Amount on the TIF Note on each such Annual Principal Payment Date with all unpaid principal coming due on the Maturity Date. For purposes hereof, the "Minimum Annual Principal Amount" shall mean the outstanding principal balance of the Loan amortized annually over a 20-year period. To the extent that Ashmont TIF Revenues are on deposit in the Tax Increment Fund on each Annual

Principal Payment Date in excess of the amount necessary to pay the Minimum Annual Principal Payment, such excess shall be paid by the Board to the Lender to be applied to the outstanding principal balance of the TIF Note.

Section 2.6 Prepayments. In addition to the principal payments required by Section 2.5, the Board shall have the right to prepay the TIF Note in whole or in part, at the direction of the Developer, with available amounts in the Tax Increment Fund or from such other amounts as otherwise are available to the Board, without premium or penalty, at any time upon three (3) days' notice to the Lender.

Section 2.7 Shortfall Payments. Commencing sixty (60) days after (i) the end of the 12-month period following the expiration of the Initial Interest Period, and (ii) thereafter, on each subsequent anniversary of the date of the TIF Note, if there be any shortfall in the annual Ashmont TIF Revenues available for the annual payment of principal and interest due under the TIF Note, the Developer is responsible for payment of such amounts as Developer Loans pursuant to the Development Agreement in accordance with the terms thereof (or the Guarantors on behalf of the Developer). Notwithstanding anything to the contrary in this Loan Agreement or the Development Agreement, for purposes of this Section 2.7, Developer's annual Developer Loan amounts shall be calculated based on (i) then-applicable annual interest payment due hereunder for the applicable 12-month period (after application of any interest reserve payment pursuant to Section 6.4), plus (ii) the Minimum Annual Principal Amount.

Section 2.8 Delivery of the TIF Note. In connection with the delivery of the TIF Note, there shall be delivered to or deposited with the Lender:

- (a) A commitment fee equal to \$67,500 and the amount of any out-of-pocket costs and attorneys' fees incurred by the Lender, all of which shall be paid by Developer as Developer Loans;
- (b) copies, certified by the Secretary of the Board, of the Charter and Bylaws of the Board and the resolutions authorizing the issuance of the TIF Note and the execution, delivery and performance of this Loan Agreement and the TIF Note;
- (c) copies, certified by an authorized officer of Developer, of the organizational documents of Developer and any resolutions authorizing the execution, delivery and performance of the Development Agreement and its Guaranty;
- (d) copies, certified by an authorized officer of Thomas Andrews LLC, of the organizational documents of Thomas Andrews LLC and any resolutions authorizing the execution, delivery and performance of its Guaranty;
- (e) copies of closing certificates and documentation required in connection with the execution and delivery of this Agreement and the Development Agreement, all in form and substance satisfactory to Lender's counsel;
- (f) the executed Guaranty of each of the Guarantors regarding the repayment of the TIF Note, in form and substance satisfactory to Lender;
- (g) executed originals of all other Collateral Documents;
- (h) a Tennessee certificate of existence for the Board indicating that it is in good standing;

(i) an opinion of counsel to the Board in form and substance reasonably satisfactory to the Lender;

(j) originally executed complete counterparts of this Loan Agreement and the other Collateral Documents including, without limitation, the Assignment and such other documents that may be required by Lender; and

(k) the TIF Note, duly executed and issued by the Board, in an aggregate principal amount not to exceed \$13,000,000.

Section 2.9 Execution, Limited Obligations. The TIF Note shall be executed on behalf of the Board with the manual signature of the Chairman, the Secretary or other duly authorized officer of the Board. **THE TIF NOTE, AND THE OBLIGATIONS OF THE BOARD UNDER THIS LOAN AGREEMENT AND THE OTHER DOCUMENTS DESCRIBED HEREIN THAT EVIDENCE OR SECURE THE TIF NOTE, SHALL NOT CONSTITUTE AN INDEBTEDNESS OF THE CITY AND COUNTY WITHIN THE MEANING OF THE CONSTITUTION AND STATUTES OF THE STATE OR THE CHARTER OR ORDINANCES OF THE CITY AND COUNTY. IN THE EVENT THAT A DEFAULT OCCURS UNDER THIS LOAN AGREEMENT, NO JUDGMENT FOR ANY DEFICIENCY FOR THE OBLIGATIONS OF THE BOARD UNDER THE TIF NOTE, THIS LOAN AGREEMENT, OR ANY OF THE COLLATERAL DOCUMENTS SHALL BE SOUGHT OR OBTAINED AGAINST THE BOARD, EXCEPT TO THE EXTENT PAYABLE SOLELY FROM THE ASHMONT TIF REVENUES PLEDGED TO AND DESIGNATED FOR THE PAYMENT OF SUCH OBLIGATIONS.** Nothing contained in this Section 2.9 shall (x) be deemed to be a release or impairment of the indebtedness evidenced by the TIF Note or the lien of this Loan Agreement or any of the Collateral Documents except for the nonrecourse provisions of the immediately preceding sentence, or (y) preclude the Lender from realizing on the collateral described in the Collateral Documents in the event of a Default. Amounts deposited in the Tax Increment Fund and the Ashmont TIF Revenues shall be used only for the purposes set forth in the Development Agreement.

Section 2.10 Form of TIF Note. The TIF Note is to be in substantially the form set forth in Exhibit A attached hereto, with appropriate variations, omissions and insertions as permitted or required by this Loan Agreement, with such changes being conclusively approved by execution of the TIF Note by the Board and acceptance of the TIF Note by the Lender. Without limiting the foregoing, Lender may implement and administer the TIF Note on a standard bank form note for documentation and electronic use by the Lender, issue or reissue serial notes, renewal notes, or amended notes, tied to interest rate change dates, or otherwise, as determined by the Lender. The Board will execute any such forms of the TIF Note as requested by the Lender. In no event will any language contained in any such TIF Note used by the Lender supersede the language of this Loan Agreement or the form of the TIF Note attached hereto as Exhibit A, unless referenced in an amendment to this Loan Agreement signed by all parties.

Section 2.11 Extension of Maturity Date. Following the Initial Interest Period, if Lender determines that the Ashmont TIF Revenues projected to be available for deposit into the Tax Increment Fund will fail to retire the principal and accrued interest due on the TIF Note by the existing Maturity Date, the parties agree to use commercially reasonable efforts to extend the Allocation Period for an addition term up to a maximum term of thirty (30) years pursuant to T.C.A. §§ 9-23-102(3)(B) and 9-23-104, as the same may be amended from time to time, or otherwise pursuant to Tennessee law.

ARTICLE III
COLLATERAL SECURING THE TIF NOTE

Section 3.1 Assignment of Tax Increment Revenues. As a source of and security for the payment of the TIF Note and all amounts due hereunder, the Board has assigned and pledged to the Lender, pursuant to the Assignment, all Ashmont TIF Revenues.

Section 3.2 Pledge of the Tax Increment Fund. To the extent of any interest of the Board therein, all monies in the Tax Increment Fund, including, without limitation, any earnings thereon and proceeds thereof, are hereby pledged to the payment of the principal of and interest on the TIF Note, and the Board hereby grants to the Lender a security interest therein. The Tax Increment Fund shall at all times be subject to the unrestricted right of set-off by the Lender in the event of any Default hereunder or any other failure to pay any amount due on the TIF Note. The Board hereby waives any defense or objection to the Lender's exercise of its right of set-off as provided herein. The Tax Increment Fund shall be maintained with the Lender, at the expense of the Board (chargeable to the TIF Note), and in accounts designated by the Lender, and the Lender shall direct the investment thereof in such investments as are designated by the Board and approved by the Lender, with interest earnings thereon being deposited in the Fund with respect to which the interest earnings relate.

Section 3.3 Right of the Lender to Receive Collateral and Proceeds. The Lender is hereby authorized to receive and hold all the collateral described in this Article III as security for the TIF Note and all amounts due hereunder.

Section 3.4 Waiver of Other Rights. Other than as provided in this Loan Agreement or as subsequently provided in a separate written instrument, the Lender shall not have any right of set-off against any funds of the Board maintained in an account with the Lender and, other than with respect to rights of set-off expressly granted herein or therein, the Lender expressly waives all such rights.

ARTICLE IV
PREPAYMENT OF THE TIF NOTE BEFORE MATURITY

Section 4.1 Extraordinary Prepayment. The TIF Note is subject to prepayment upon the demand of the Lender, in whole, at a redemption price equal to 100% of the principal amount outstanding thereof plus accrued interest to the redemption date, but only from any Ashmont TIF Revenues available therefor or amounts payable by the Developer or by any Guarantor of the Developer's obligations, in the event that:

(a) Developer fails to pay when due (or within any cure or grace period therein provided) any amount required of it under the terms of the Development Agreement and such failure continues for thirty (30) days after Lender and/or Board delivers written notice of default to Developer;

(b) Any Guarantor fails to pay when due (or within any cure or grace period therein provided) any amount required of Guarantor under the terms of any Guaranty as it relates to the TIF Note and such failure continues for thirty (30) days after Lender delivers written notice of default to Guarantors;

(c) Ashmont TIF Revenues cease to be available for principal or interest payments on the TIF Note; or

(d) This Loan Agreement or any of the Collateral Documents becomes void, unenforceable, or impossible of performance as a result of any changes in law or administrative, legislative or judicial action.

Section 4.2 Payment Due. The payment due to the Lender as a result of any prepayment of the TIF Note pursuant to this Article IV shall be paid in full within ten (10) days after the occurrence of the event pursuant to which the TIF Note must be prepaid hereunder.

ARTICLE V REPRESENTATIONS, WARRANTIES AND COVENANTS

Section 5.1 Representations and Warranties of the Board. The Board represents and warrants that:

(a) The Board is a duly established, organized and existing public corporation under the laws of the State of Tennessee.

(b) The Board has all requisite power, authority and legal right to execute and deliver this Loan Agreement, the TIF Note and the Collateral Documents and all other instruments and documents to be executed and delivered by the Board pursuant hereto or thereto, to perform and observe the provisions hereof and thereof and to carry out the transactions contemplated hereby and thereby. All corporate action on the part of the Board which is required for the execution, delivery, performance and observance by the Board of this Loan Agreement, the TIF Note and the Collateral Documents has been duly authorized and effectively taken, and such execution, delivery, performance and observation by the Board do not contravene applicable law or any contractual restriction binding on or affecting the Board.

(c) No authorization or approval or other action by, and no notice to or filing with, any governmental authority or regulatory body is required for the due execution and delivery by the Board of, and performance by the Board of its obligations under, this Loan Agreement, the TIF Note or any of the Collateral Documents.

(d) This Loan Agreement is, and the TIF Note and the Collateral Documents when delivered will be, legal, valid, and binding obligations of the Board enforceable against the Board in accordance with their respective terms.

(e) There is no default of the Board in the payment of the principal of or interest on any of its indebtedness for borrowed money or under any instrument or instruments or agreements under and subject to which any indebtedness for borrowed money has been incurred which does or could affect the validity and enforceability of this Loan Agreement, the TIF Note or any of the Collateral Documents or the ability of the Board to perform its obligations hereunder or thereunder, and no event has occurred and is continuing under the provisions of any such instrument or agreement which constitutes or, with the lapse of time or the giving of notice, or both, would constitute such a default.

(f) There is no pending or, to the knowledge of the undersigned officers of the Board, threatened, action or proceeding before any court, governmental agency or arbitrator (i) to restrain or enjoin the issuance or delivery of the TIF Note or the collection of any revenues pledged under this Loan Agreement or any of the Collateral Documents, (ii) in any way contesting or affecting the validity, authorization or enforceability of this Loan Agreement, the TIF Note, or any of the Collateral Documents, the availability of Ashmont TIF Revenues to pay and secure this Loan

Agreement, the TIF Note, the Development Agreement, or any of the Collateral Documents, or (iii) in any way contesting the existence or powers of the Board which could have an adverse effect on the validity, authorization or enforceability of this Loan Agreement, the TIF Note or any of the Collateral Documents with respect to the Board or on the ability of the Board to carry out its obligations hereunder or thereunder.

(g) In connection with the authorization, issuance and sale of the TIF Note, the Board has complied with all provisions of the Act and Sections 8-44-104, et seq., of Tennessee Code Annotated.

(h) The Board has not assigned or pledged and will not assign or pledge its interest in the Ashmont TIF Revenues with respect to the period prior to payment in full of the indebtedness evidenced by the TIF Note for any purpose other than to secure the TIF Note under this Loan Agreement. The TIF Note constitutes the only bond or note or obligation of the Board in any manner payable from the revenues to be derived from the Ashmont TIF Revenues.

(i) Other than the TIF Note, no bonds or notes or other obligations have been or will be issued payable, in whole or in part, from the Ashmont TIF Revenues.

(j) Other than as expressly provided in this Loan Agreement, the Tax Increment Fund is not subject to any lien, security interest or right of set-off in favor of any lender, creditor, or claimant of the Board.

(k) The Board is not in default under any provision of its Charter or Bylaws and is not in default under any of the provisions of the laws of the State which default would affect its existence or its powers referred to in Section 5.1(b).

(l) Pursuant to the Economic Impact Plan, the Board hereby designates the property described in the Site Plan as a group of parcels of property with respect to which the Ashmont TIF Revenues shall be allocated and calculated.

Section 5.2 Covenants of the Board. The Board covenants with the Lender as follows:

(a) The Board will not allow the Tax Increment Fund to become subject to any lien, security interest or right of set-off in favor of any lender, creditor or claimant of the Board, other than the Lender pursuant to this Loan Agreement and the Collateral Documents.

(b) The Board will not enter into any agreement or instrument that might in any way prevent or materially impair its ability to perform its obligations hereunder or under this Loan Agreement, the TIF Note or any of the Collateral Documents.

(c) So long as the TIF Note shall remain outstanding, the Board will, upon the reasonable request of the Lender:

(i) take all action and do all things that it is authorized by law to take and do in order to perform and observe all covenants and agreements on its part to be performed and observed under this Loan Agreement, the TIF Note and the Collateral Documents; and

(ii) execute, acknowledge where appropriate, and deliver from time to time, promptly at the request of the Lender, all such instruments and documents as in the

reasonable opinion of the Lender are necessary or desirable to carry out the intent and purpose of this Loan Agreement, the TIF Note and the Collateral Documents.

(d) So long as the TIF Note shall remain outstanding, the Board will not, without the prior written consent of the Lender:

(i) take any action that, directly or indirectly, adversely affects its existence or status as a public corporation under the laws of the State; or

(ii) take any action that would cause or permit the City and County not to collect and pay to the Board (or deposit into the Tax Increment Fund) the Ashmont TIF Revenues.

ARTICLE VI DISBURSEMENTS OF PROCEEDS

Section 6.1 Disbursements of Proceeds. Proceeds of the Loan shall be disbursed from the Project Fund solely in the manner provided herein. The proceeds of the Loan shall be used solely to pay or to reimburse the Developer and/or Board for Eligible Costs and Transaction Costs. The proceeds of the Loan may not be repaid and reborrowed. Amounts will be deposited by the Lender in the Project Fund at such times and in such amounts as are necessary to make disbursements that are permitted pursuant to this Article, and each such deposit will be considered an advance under the TIF Note. Amounts shall not be deposited in the Project Fund until required for disbursement pursuant to this Article.

Section 6.2 Disbursement Procedure.

(a) On the Closing Date, the Lender will disburse \$_____ at the direction of the Developer and with the approval of the Lender, to pay Eligible Costs, all as are detailed on a Borrowing Certificate delivered to the Board and the Lender.

(b) On each subsequent Disbursement Date, the Lender will disburse such amount as is eligible for disbursement pursuant to Section 6.3. The Lender shall not be required to make more than one (1) disbursement from the Project Fund each month. Each Disbursement Date shall occur within ten (10) days after the conditions to the disbursement on the Disbursement Date set forth in Section 6.3, have been met.

Section 6.3 Conditions Precedent to Each Disbursement. Disbursement by the Lender of the Loan proceeds on any Disbursement Date (other than the Closing Date) shall be subject to the prior satisfaction of each of the following conditions:

(a) No Default shall then be existing;

(b) No default beyond any applicable notice and cure period shall exist under any Loan Document;

(c) The Developer has provided to Lender evidence, wholly acceptable to Lender, of definitive plans and agreements for construction of the above-ground building improvements contemplated in the Planned Improvements;

(d) The amount requested to be disbursed does not exceed the percentage completion of the Planned Improvements as verified by an inspection performed by an independent engineer acceptable to Lender;

(e) The Developer has provided to the Board and the Lender photographic verification of the status of completion and provided a certificate of insurance for any uninstalled materials included in the disbursement request; and

(f) The Developer has delivered to the Board and the Lender a Borrowing Certificate with respect to such disbursement, and the Board has approved it.

Section 6.4 Reserve and Disbursement for First Three Years' Interest. Notwithstanding anything herein to the contrary, during the period commencing on the Closing Date through and including the third anniversary of the Closing Date, a reserved amount equal to \$_____ shall not be available for disbursement, except in accordance with this Section 6.4. On the first and second anniversaries of the Closing Date, and, as the Lender may determine in its reasonable discretion, for the third anniversary of the Closing Date, Lender shall disburse proceeds of the Loan to pay Lender interest that has accrued under the TIF Note through such time and, upon any such disbursement, shall provide written notice to the Board and Developer within five (5) days after such disbursement.

ARTICLE VII PROJECT FUND AND TAX INCREMENT FUND

Section 7.1 Establishment of Fund. There are hereby established by the Board with the Lender (a) a special fund to be held in a segregated account with the Lender called "Lakeland Gateway TIF Development Account," that is not commingled with other funds of the Board, the Lender or the Developer into which shall be deposited all proceeds of the TIF Note prior to their disbursement to pay Eligible Costs and (b) a special fund to be held in an account with the Lender called "The Ashmont Tax Increment Fund," into which shall be deposited all Ashmont TIF Revenues and any interest earnings thereon. Neither the Project Fund account nor the Tax Increment Fund account will not be closed or transferred without the consent of the Lender. Lender, in its sole discretion, may use the same numbered account for the Project Fund and the Tax Increment Fund.

Section 7.2 Disbursements from Project Fund. All proceeds of the TIF Note shall be deposited in the Project Fund. Amounts deposited in the Project Fund shall be applied and disbursed in accordance with Article VI.

Section 7.3 Disbursements from Tax Increment Fund. All Ashmont TIF Revenues on deposit in the Tax Increment Fund shall be paid by the Board to the Lender to be applied to the payment of the interest and principal due under the TIF Note as provided in Sections 2.4, 2.5, and 2.6. After payment in full of the TIF Note and any other amounts then due to Lender under the Loan Documents, any remaining Ashmont TIF Revenues on deposit in the Tax Increment Fund may be used to repay Developer Loans.

ARTICLE VIII DEFAULTS AND REMEDIES

Section 8.1 Defaults. Each of the following events shall constitute a "Default" hereunder:

(a) default in the due and punctual payment of interest on or principal of the TIF Note on any Annual Principal Payment Date or the Maturity Date (without regard to the sufficiency of Ashmont TIF Revenues available therefor) after ten (10) days' written notice thereof to the Board and the Developer;

(b) the occurrence of a material breach under or failure to comply with terms of the Development Agreement or the Collateral Documents and the passage of the period of time, if any, allowed thereunder for the remedying or curing of such breach or failure of compliance; and

(c) the occurrence of a material breach under or failure to comply with terms of any other of the covenants, agreements or conditions on the part of the Board contained in this Loan Agreement or the TIF Note (except as described in Sections 8.1(a)) and the failure to remedy the same within thirty (30) days after written notice thereof to the Board, provided, however, that if any such breach or failure to comply (i) is such that it cannot be cured or remedied within such thirty-day period, (ii) does not involve the payment of any monetary sum, and (iii) does not place any rights or interest in collateral of the Lender in immediate jeopardy, then such breach or failure to comply shall not constitute a Default if corrective action is instituted by the Board to the reasonable satisfaction of the Lender within such thirty-day period and diligently pursued until such breach or failure to comply is corrected; provided, further, however, that in no event shall any such cure period exceed ninety (90) days without the express written consent of the Lender, not to be unreasonably withheld, conditioned, or delayed. If the Board or the Developer on behalf of the Board shall fail to correct or cure such breach or failure to comply within such ninety-day period (as such ninety-day period may be extended pursuant to the foregoing sentence), a Default shall be deemed to have occurred hereunder without further notice or demand of any kind being required;

Section 8.2 Acceleration. Upon the occurrence of any Default hereunder, Lender may, after first providing Developer with written notice of such Default and a period of thirty (30) days in which to cure such Default, declare the principal of the TIF Note and all accrued and unpaid interest thereunder to be immediately due and payable. Upon any acceleration hereunder, Lender shall immediately be entitled to set-off or disburse to itself all amounts in the Tax Increment Fund and to receive thereafter all Ashmont TIF Revenues until the TIF Note is paid in full.

Section 8.3 Other Remedies.

(a) Upon the occurrence of a Default, and subject to the provisions of Section 2.9, the Lender may pursue any available remedy at law or in equity to enforce the payment of the principal of and interest on the outstanding TIF Note and to enforce the Collateral Documents and all rights derived therefrom.

(b) No remedy conferred upon or reserved to the Lender by the terms of this Loan Agreement or the Collateral Documents is intended to be exclusive of any other remedy, but, subject to the provisions of Section 2.9 above, each and every such remedy shall be cumulative and shall be in addition to any other remedy given to the Lender hereunder or now or hereafter existing at law or in equity.

(c) No delay or omission to exercise any right or power accruing upon any Default shall impair any such right or power or shall be construed to be a waiver of any such Default or acquiescence therein; such right or power may be exercised from time to time as often as may be deemed expedient.

(d) No waiver of any Default hereunder, whether by the Lender or by any holder of the TIF Note, shall extend to or shall affect any subsequent Default or shall impair any rights or remedies consequent thereon.

Section 8.4 Waiver. Upon the occurrence of a Default, to the extent that such rights may then lawfully be waived, neither the Board nor anyone claiming through or under it, shall set up, claim or seek to take advantage of any stay or extension laws of any jurisdiction now or hereafter in force, in order to prevent or hinder the collection of the TIF Note or the enforcement of this Loan Agreement or any of the Collateral Documents, and the Board, for itself and all who may claim through or under it, hereby waives, to the extent that it lawfully may do so, the benefit of all such laws.

By written notice to the Board provided in accordance with Section 9.2, the Lender shall have the right to waive any breach of any promise made in the TIF Note, or any Default under Section 8.1, or any default under any of the Collateral Documents or other documents relating to, securing or otherwise executed in connection with the TIF Note, and its consequences. In case of any such waiver or rescission, then and in every such case the Board and the Lender shall be restored to their former positions and rights hereunder, but no such waiver or rescission shall extend to any subsequent or other breach, Default or default or impair any right consequent thereon.

Section 8.5 Application of Monies. All monies received by the Lender pursuant to any right given or action taken under the provisions of this Article VIII shall, after payment of the costs and expenses of the proceedings resulting in the collection of such monies and of the fees of, and expenses, liabilities and advances incurred or made by, the Lender, be allocated to and applied first to accrued interest and then to principal due on the TIF Note.

Section 8.6 Board Obligations. The Board hereby grants to the Lender the full authority for the account of the Board to perform any covenant or obligation of the Board hereunder, in the name and stead of the Board, with full power to do any and all things and acts to the same extent that the Board could do and perform any such things and acts and with power of substitution.

ARTICLE IX MISCELLANEOUS

Section 9.1 Term of Loan Agreement. This Loan Agreement shall remain in full force and effect from the date hereof to and including such time as all of the TIF Note and the fees and expenses of the Lender relating to this Loan Agreement, the TIF Note and the Collateral Documents shall have been fully paid.

Section 9.2 Notices. Any notice, request, demand, tender or other communication under this Agreement shall be in writing, and shall be deemed to have been duly given at the time and on the date when personally delivered, or upon the Business Day following delivery to a nationally recognized commercial courier for next day delivery, to the address for each party set forth below, or upon the third Business Day after being deposited in the United States Mail, Certified Mail, Return Receipt Requested, with all postage prepaid, to the address for each party set forth below:

If to the Developer to:

Ashmont Developer, LLC
c/o Vincent Smith, Jr.
355 Tara Lane

Memphis, Tennessee 38111

If to the Lender to:

First Citizens National Bank
P.O. Box 370
Dyersburg, Tennessee 38025
Attention: Nelson Williams, Regional President

With a copy to:

Scott K. Haight
Lannom Coronado Haight PLLC
422 McGaughey Street
Dyersburg, TN 38024

If to the Board to:

The Industrial Development Board of the
City of Lakeland, Tennessee
c/o President
10001 Highway 70
Lakeland, Tennessee 38002

Rejection or other refusal to accept or inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of such communication. By giving prior notice to all other parties, any party may designate a different address for receiving notices. No such notice, demand, tender or other communication under this Agreement shall be valid unless the Lender receives a copy thereof as provided above.

Section 9.3 Binding Effect. This Loan Agreement shall inure to the benefit of and shall be binding upon the Lender and the Board and their respective successors and assigns.

Section 9.4 Severability. In any event any provision of this Loan Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof or thereof.

Section 9.5 Amendments, Changes and Modifications. This Loan Agreement may not be effectively amended, changed, modified, altered or terminated without the written consent of the Lender and the Board.

Section 9.6 Execution in Counterparts. This Loan Agreement may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

Section 9.7 Applicable Law. This Loan Agreement shall be governed by and construed in accordance with the laws of the State, and the venue of any litigation with respect hereto shall be exclusively in state court in Shelby County or federal court in the U.S. District Court for the Western District of Tennessee.

Section 9.8 Captions and Internal References. The captions and headings in this Loan Agreement are for convenience only and in no way define, limit or describe the scope or intent of any provisions or Sections of this Loan Agreement. All article and section references used in this Loan Agreement refer to the Articles and Sections of this Agreement unless expressly stated otherwise.

Section 9.9 Payment or Performance on Business Days. If the date for any payment hereunder, or the last date for performance of any act or the exercising of any right as provided in this Loan Agreement, shall not be a Business Day, such payment may be made or act performed or right exercised on the next succeeding Business Day.

Section 9.10 No Liability of Officers. No recourse under or upon any obligation, covenant or agreement herein or in the TIF Note, or under any judgment obtained against the Board, or by the enforcement of any assessment or by any legal or equitable proceeding by virtue of any constitution or statute or otherwise or under any circumstances, shall be had against any incorporator, member, employee, director or officer, as such, past, present, or future, of the Board, either directly or through the Board, or otherwise, for the payment for or to the Board or any receiver thereof, or for or to the holder of the TIF Note, of any sum that may be due and unpaid by the Board upon the TIF Note. Any and all personal liability of every nature, whether at common law or in equity, or by statute or by constitution or otherwise, of any such incorporator, member, employee, director or officer, as such, to respond by reason of any act or omission on his part or otherwise, for the payment for or to the Board or any receiver thereof, or for or to the holder of the TIF Note, of any sum that may remain due and unpaid upon the TIF Note, is hereby expressly waived and released as a condition of and consideration for the execution of this Loan Agreement and the issuance of the TIF Note.

Section 9.11 No Liability of City and County. **NEITHER THE CITY NOR THE COUNTY SHALL IN ANY EVENT BE LIABLE FOR THE PERFORMANCE OF ANY PLEDGE, MORTGAGE, OBLIGATION OR AGREEMENT OF ANY KIND WHATSOEVER HEREIN OR INDEBTEDNESS BY THE BOARD, AND NEITHER THE TIF NOTE NOR ANY OF THE AGREEMENTS OR OBLIGATIONS OF THE BOARD CONTAINED IN THIS LOAN AGREEMENT OR OTHERWISE SHALL BE CONSTRUED TO CONSTITUTE AN INDEBTEDNESS OF THE CITY AND COUNTY WITHIN THE MEANING OF ANY CONSTITUTIONAL OR STATUTORY PROVISION WHATSOEVER, PROVIDED, HOWEVER, THAT THE TERMS OF THIS SECTION 9.11 SHALL IN NO WAY LIMIT OR AFFECT THE OBLIGATION OF THE CITY AND COUNTY TO REMIT THE ASHMONT TIF REVENUES FOR THE BENEFIT OF THE LENDER AND THE BOARD.**

Section 9.12 Interest and Charges. Notwithstanding any provision herein to the contrary, it is the intent of the Lender and the Board that neither the Lender nor any subsequent holder of the indebtedness evidenced by this Loan Agreement or the TIF Note shall be entitled to receive, collect, reserve or apply, as interest or other charges, any amounts in excess of the maximum amounts legally permitted to be charged under applicable law or regulations. In the event this Loan Agreement or the TIF Note requires a payment of interest or other charges that exceeds the maximum amounts legally permitted to be charged under applicable law or regulations, such interest or other charges, as the case may be, shall not be received, collected, charged or reserved until such time as such interest or other charges, as the case may be, together with all other interest and other charges then payable, fall within the maximum amounts legally permitted to be charged under applicable law and regulations. In determining whether or not the interest paid or payable, under any specific contingency, exceeds the amount provided by application of the maximum lawful rate of interest, the Board and the Lender, to the greatest extent permitted under applicable law, (a) shall exclude voluntary prepayments and the effects thereof, and (b) shall amortize, prorate, allocate and spread, in equal parts, the total amount of interest throughout the entire term hereof; provided, however, that if the principal indebtedness evidenced hereby is paid in full prior to the end of the full contemplated

term hereof, and if the interest received for the actual period of existence hereof exceeds the amount provided by application of the maximum lawful rate of interest, the Lender shall refund to the Board the amount of such excess or credit the amount of such excess against the principal portion of the principal indebtedness hereunder as of the date it was received, and, in such event, the Lender shall not be subject to any penalties provided by any laws for contracting for, charging, reserving, collecting or receiving interest in excess of the amount provided by application of the maximum lawful rate of interest. The term "maximum lawful rate of interest" as used herein shall mean a rate of interest equal to the maximum lawful rate of interest permitted to be charged under the applicable laws and regulations of the State of Tennessee.

[Signatures to follow on next page]

IN WITNESS WHEREOF, the Board has caused this Loan Agreement to be executed in its name and the Lender has caused this Loan Agreement to be executed in its name, all as of the date first above written.

BORROWER:

**THE INDUSTRIAL DEVELOPMENT BOARD
OF THE CITY OF LAKELAND, TENNESSEE**

By: _____
Chairman

ATTEST:

By: _____
Secretary

LENDER:

FIRST CITIZENS NATIONAL BANK

By: _____
Title: _____

Developer joins in this Loan Agreement for the limited purpose of agreeing to the provisions of Section 2.7.

DEVELOPER:

ASHMONT DEVELOPER, LLC

By: _____
Vincent D. Smith, Jr., President

EXHIBIT A
TIF Note Form

EXHIBIT B

BORROWING CERTIFICATE

DISBURSEMENT REQUEST

To: First Citizens National Bank
P.O. Box 370
Dyersburg, Tennessee 38025
Attn: Nelson Williams,
Regional President

cc: The Industrial Development Board of the
City of Lakeland, Tennessee
c/o Chairman
10001 Highway 70
Lakeland, Tennessee 38002

Re: Loan evidenced by The Industrial Development Board of the City of Lakeland, Tennessee Tax Increment Revenue Note (Lakeland Gateway Ashmont Project) in the principal amount not to exceed \$13,000,000 dated November __, 2023 (the "Loan"), made pursuant to a Loan Agreement, dated as of November __, 2023 (the "Loan Agreement"), between The Industrial Development Board of the City of Lakeland, Tennessee (the "Board") and First Citizens National Bank ("Lender")

You are hereby authorized and requested to disburse pursuant to Article VI of the Loan Agreement the sum of \$ _____ from the Tax Increment Fund created pursuant to the Loan Agreement. In connection with such disbursement, the undersigned hereby certifies as follows:

(a) All amounts disbursed shall be applied to the payment of or the reimbursement to the Developer for the payment of costs relating to Eligible Costs.

(b) With the delivery of this Certificate, all requirements for disbursement of amounts pursuant to this request under Article VI of the Loan Agreement have been satisfied.

Please disburse all such amounts to the parties in the manner described on Exhibit A attached hereto.

All capitalized terms used herein and not otherwise defined shall have the meanings given to such terms in the Loan Agreement.

Dated as of _____, 2023.

ASHMONT DEVELOPER, LLC

By: _____
Name: _____
Title: _____

APPROVED BY:

FIRST CITIZENS NATIONAL BANK

By: _____
Title: _____

EXHIBIT C

Site Plan

36781466.1

C-1

ASSIGNMENT OF TAX INCREMENT REVENUES

THIS ASSIGNMENT OF TAX INCREMENT REVENUES (the "Assignment") is entered into as of November ___, 2023, by and between **THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKE LAND, TENNESSEE**, a public nonprofit corporation organized under Tenn. Code Ann. §§ 7-53-101, *et seq.* (the "Board"), and **FIRST CITIZENS NATIONAL BANK**, in Dyersburg, Tennessee, with offices in Memphis, Tennessee, and its successors and assigns (collectively, the "Lender").

RECITALS:

A. The Lender and the Board have entered into a Loan Agreement, dated as of the date hereof (as it may be amended from time to time, the "Loan Agreement"). Any capitalized terms not otherwise defined hereunder shall have the meanings given them in the Loan Agreement.

B. One condition to the Lender's agreement to extend credit under the Loan Agreement to the Board is the execution and delivery of this Assignment of the Board's rights to receive those Tax Increment Revenues defined as the Ashmont TIF Revenues in the Loan Agreement.

C. The Board has agreed to cause to be deposited all of the Ashmont TIF Revenues into The Ashmont Tax Increment Fund established under the Loan Agreement.

NOW, THEREFORE, in consideration of the above Recitals, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, it is agreed as follows:

TERMS:

1. Definition of Secured Indebtedness. As used in this Assignment, "Secured Indebtedness" shall mean all of the obligations of the Board under the documents and instruments described in Exhibit A hereto, and all modifications, extensions and renewals thereof.

2. Assignment; Lien and Pledge. To secure the payment and performance of the Secured Indebtedness, the Board hereby pledges and assigns to the Lender and grants to the Lender a first priority lien upon, pledge of and security interest in the Board's right to receive the Ashmont TIF Revenues.

3. No Assumption of Obligations. Neither the Lender's execution hereof nor its exercise of any remedies hereunder shall cause the Lender to assume any obligations of the Board under the Loan Agreement or any document relating thereto.

4. Representations and Warranties. The Board represents and warrants to the Lender as follows:

(a) Validity of Rights. The Board is duly entitled to receive the Ashmont TIF Revenues imposed with respect to the Allocation Period, has complied with all applicable laws and regulations relating thereto and has full power and authority to segregate such Ashmont TIF Revenues and pledge them to the Lender for the repayment of the Secured Indebtedness.

(b) No Other Lien. The Ashmont TIF Revenues are not subject to any lien, assignment, pledge, security interest or encumbrance other than the lien and pledge of this Assignment in favor of the Lender.

(c) No Conflicts. The Board is not a party to any contract or agreement and is not subject to any contingent liability that does or may impair the Board's ability to perform under the terms of this Assignment.

(d) No Defaults. The execution and performance of this Assignment will not cause a default under any other contract or agreement to which the Board is a party or any property of the Board is subject, and will not result in the imposition of any charge, penalty, lien or other encumbrance against any of the Board's property, except in favor of the Lender.

(e) Legal and Binding Agreement. The execution and performance of this Assignment will not violate any judicial or administrative order or governmental law or regulation, and this Assignment is valid, binding and enforceable in every respect according to its terms.

(f) No Consent Required. The execution and performance of this Assignment by the Board do not require the consent of or the giving of notice to any third party including, without limitation, any other lender, governmental body or regulatory authority.

(g) Valid Assignment and Lien. This Assignment provides the Lender with a valid assignment of and lien upon and pledge of the Ashmont TIF Revenues.

5. Covenants. The Board covenants with the Lender as follows:

(a) Performance of Contract Obligations. The Board shall continue to duly comply with all requirements in order to continue to be entitled to receive the Ashmont TIF Revenues.

(b) No Amendment Without Consent. The Board shall not reduce, cancel or waive any right of the Board to receive the Ashmont TIF Revenues without the prior written approval of the Lender. Any attempted reduction, cancellation or waiver without such prior written approval of the Lender shall be void.

(c) The Tax Increment Fund. The Board will cause all Ashmont TIF Revenues to be deposited in the Ashmont Tax Increment Fund.

(d) No Other Lien. The Board shall not grant nor allow any security interest or lien to attach to the Ashmont TIF Revenues, except for the pledge and lien in favor of the Lender provided for herein.

(e) Further Assurances. The Board agrees to execute any and all necessary financing statements or other documents in order to perfect the lien and pledge granted herein or otherwise to complete and/or perfect this Assignment. The Board authorizes the Lender to file Uniform Commercial Code financing statements (and any financing statement amendments and correction statements thereto deemed necessary by the Lender) at any time deemed necessary or desirable by the Lender, covering the Lender's lien against the Ashmont TIF Revenues and containing such legends, descriptions or statements as the Lender shall deem necessary or desirable to protect the Lender's interest. The Board shall not file any amendments, correction statements or termination statements relating to this Assignment or the Lender's rights hereunder without the prior written consent of the Lender.

6. Lender's Rights. The Lender shall be entitled to avail itself of all rights and remedies as may now or hereafter exist, at law or in equity, for the collection of the Secured Indebtedness or any part thereof and the enforcement of the lien and pledge created hereby. The resort to any remedy provided hereunder or provided by the Uniform Commercial Code as adopted in the State of Tennessee, or by any other applicable law, shall not prevent the concurrent employment of any other appropriate remedy or remedies. The subsequent taking of additional collateral for the Secured Indebtedness or any part thereof shall not effect a release or termination of this Assignment or any terms or provisions hereof. No failure or delay on the part of the Lender in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The rights, powers and remedies hereunder are cumulative and may be exercised by the Lender either independently of or concurrently with any other right, power or remedy of the Lender contained herein or otherwise. The Lender shall have the right, but without the obligation so to do, to take any such action that the Lender may deem necessary to prevent the material impairment of the lien and pledge of the Ashmont TIF Revenues provided by this Assignment, including, without limitation, the right to appear in and defend any action or proceeding purporting to affect the lien and pledge of this Assignment or the rights or powers of the Lender.

7. Recitals. The Board warrants and agrees that the recitals set forth at the beginning of this Assignment are true.

8. No Default. The Board warrants that, as of the execution of this Assignment, no default exists hereunder.

9. Default Defined. A "Default" as defined under the Loan Agreement shall constitute a default under this Assignment.

10. Remedies Upon Default. Upon the occurrence of a default hereunder, the Lender may pursue any or all remedies available under the Loan Agreement or any other document evidencing or securing the Secured Indebtedness or otherwise available at law or in equity, without any notice to the Board except as otherwise required by law.

11. Indulgence Not Waiver. The Lender's indulgence in the existence of a default hereunder or any other departure from the terms of this Assignment shall not prejudice the Lender's rights to declare a default or otherwise demand strict compliance with this Assignment.

12. Cumulative Remedies. The remedies provided the Lender in this Assignment are not exclusive of any other remedies that may be available to the Lender under any other document or at law or in equity.

13. Amendment and Waiver in Writing. No provision of this Assignment can be amended or waived, except by a statement in writing signed by the party against which enforcement of the amendment or waiver is sought.

14. Assignment. This Assignment shall be binding upon and inure to the benefit of the respective successors and assigns of the Board and the Lender, except that the Board shall not assign any rights or delegate any obligations arising hereunder without the prior written consent of the Lender. Any attempted assignment or delegation by the Board without the required prior written consent of the Lender shall be void.

15. Entire Agreement. This Assignment, the Loan Agreement and the other written agreements between the Board and the Lender regarding the Ashmont TIF Revenues represent the entire agreement between the parties concerning the subject matter hereof, and all oral discussions and prior agreements are merged herein and therein.

16. Severability. The provisions of this Assignment shall be deemed severable. If any part of this Assignment shall be held unenforceable by a court of competent jurisdiction, the remainder shall remain in full force and effect, and such unenforceable provision shall be reformed by such court so as to give maximum legal effect to the intention of the parties as expressed herein.

17. Time of Essence. Time is of the essence of this Assignment, and all dates and time periods specified herein shall be strictly observed, except that the Lender may permit specific deviations therefrom by its written consent.

18. Applicable Law. The validity, construction and enforcement of this Assignment shall be determined according to the laws of Tennessee, in which state this Assignment has been executed and delivered.

19. Notices. All notices required or permitted to be given under this Assignment shall be in writing and shall be given in the manner and to the addresses specified for notices pursuant to the Loan Agreement, and the effectiveness of each such notice shall be determined as provided in the Loan Agreement for a notice given thereunder.

20. Execution in Counterparts. This Assignment may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[Signatures to follow on next page]

IN WITNESS WHEREOF the parties have executed this Assignment as of the date first stated above.

**THE INDUSTRIAL DEVELOPMENT BOARD OF
THE CITY OF LAKELAND, TENNESSEE**

By: _____
Title: _____

ATTEST:

Secretary

FIRST CITIZENS NATIONAL BANK

By: _____
Title: _____

Exhibit A

List of TIF Documents

1. The Tax Increment Revenue Note (The Lakeland Gateway Ashmont Project), dated as of the date hereof, issued by The Industrial Development Board of the City of Lakeland, Tennessee and payable to First Citizens National Bank in the original principal amount of \$13,000,000, as it may be amended, modified, extended or renewed from time to time;
2. The Loan Agreement, dated as of as of the date hereof, by and between The Industrial Development Board of the City of Lakeland, Tennessee and First Citizens National Bank, as it may be amended, modified, extended or renewed from time to time;
3. The Development and Financing Agreement, dated as of as of the date hereof, by and between The Industrial Development Board of the City of Lakeland, Tennessee and Ashmont Developer, LLC, as it may be further amended, modified, extended or renewed from time to time;
4. The Collateral Assignment of Development Agreement, dated as of as of the date hereof, by and between The Industrial Development Board of the City of Lakeland, Tennessee and First Citizens National Bank; and
5. This Assignment of Tax Increment Revenues, dated as of as of the date hereof, by and between The Industrial Development Board of the City of Lakeland, Tennessee and First Citizens National Bank.

THE INDUSTRIAL DEVELOPMENT BOARD
OF THE CITY OF LAKE LAND, TENNESSEE
TAX INCREMENT REVENUE NOTE
(Lake Land Gateway Ashmont Project)

\$13,000,000

November __, 2023

FOR VALUE RECEIVED, **THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKE LAND, TENNESSEE**, a public nonprofit corporation organized under Tenn. Code Ann. §§ 7-53-101, *et seq.* (the "Board") promises and agrees to pay to the order of **FIRST CITIZENS NATIONAL BANK**, with offices in Memphis, Tennessee (the "Lender"), or at such other place as may be designated in writing by the holder, in lawful money of the United States of America, a principal sum of THIRTEEN MILLION DOLLARS (\$13,000,000), or such lesser amount as is advanced hereunder pursuant to the Loan Agreement, as hereinafter defined, together with interest from the date hereof on the unpaid principal balance outstanding from time to time, at such rate(s) as are set forth below and in the Loan Agreement. Interest shall be computed based upon a year of 360 days and based upon the actual number of days elapsed. This Note is issued pursuant to that certain Loan Agreement, dated as of the date hereof (as it may be amended, modified, extended, or renewed from time to time, the "Loan Agreement"), by and between the Lender and the Board. Any capitalized term used in this Note that is not otherwise defined herein shall have the meaning given to it in the Loan Agreement.

Amounts disbursed under this Note commencing on the date hereof shall bear interest in accordance with and at a rate as set out in the Loan Agreement. Payments of principal and interest shall be made in accordance with the terms of the Loan Agreement.

The Board may prepay all or any portion of the outstanding balance under this Note at any time without penalty or premium.

The proceeds hereunder shall be disbursed in accordance with Article VI of the Loan Agreement.

This Note shall mature on November __, 2046 (the "Maturity Date"), unless earlier called pursuant to the terms of the Loan Agreement, including, without limitation, the right of Lender to require prepayment pursuant to Section 4.1 of the Loan Agreement.

Principal and interest are due and payable under this Note in accordance with the Loan Agreement.

All payments hereunder shall be applied in accordance with the terms and provisions of the Loan Agreement.

To the extent permitted by law, the undersigned shall pay to the holder hereof a late charge of the lesser of (i) five percent (5%) of any payment hereunder which is not received by the holder hereof within ten (10) days of when said payment is due hereunder or (ii) any lesser maximum amount permitted under applicable law. No late charge, however, shall be imposed on any payment made on time and in full solely by reason of any previously accrued and unpaid late charge. The parties agree that said late charge represents a reasonable sum considering all of the circumstances existing on the date of this Note and represents a fair and reasonable estimate of the costs that Lender will incur by reason of the late payment. The parties further agree that proof of actual damages would be difficult. Acceptance of any late charge shall not constitute a waiver of any default with respect to any overdue payment and shall not prevent the holder hereof from exercising any other rights and remedies available to the holder hereof.

Notwithstanding any provision herein to the contrary, it is the intent of the Lender, the Board and all parties liable on this Note that neither the Lender nor any subsequent holder shall be entitled to receive, collect, reserve or apply, as interest or other charges, any amounts in excess of the maximum lawful rate of interest. In the event this Note requires a payment of interest or other charges that exceeds the maximum lawful rate of interest, such interest or other charges, as the case may be, shall not be received, collected, charged or reserved until such time as such interest or other charges, as the case may be, together with all other interest and other charges then payable, fall within the maximum lawful rate of interest. In determining whether or not the interest paid or payable, under any specific contingency, exceeds the amount provided by application of the maximum lawful rate of interest, the Board and the Lender, to the greatest extent permitted under applicable law, (a) shall exclude voluntary prepayments and the effects thereof, and (b) shall amortize, prorate, allocate and spread, in equal parts, the total amount of interest throughout the entire term hereof; provided, however, that if the principal indebtedness evidenced hereby is paid in full prior to the end of the full contemplated term of this Note, and if the interest received for the actual period of existence hereof exceeds the amount provided by application of the maximum lawful rate of interest, the holder shall refund to the Board the amount of such excess or credit the amount of such excess against the principal portion of the principal indebtedness hereunder as of the date it was received, and, in such event, the Lender shall not be subject to any penalties provided by any laws for contracting for, charging, reserving, collecting or receiving interest in excess of the amount provided by application of the maximum lawful rate of interest.

Principal and unpaid interest shall bear interest following any default in payment of principal of or interest on this Note and the expiration of the cure period provided in the Loan Agreement at the maximum lawful rate of interest until paid. In case of suit, or if this obligation is placed in an attorney's hands for collection, or to protect the security for its payment, the Board will pay, but only from any Tax Increment Revenues that may be available to it to the holder hereof, all costs of collection and litigation, including reasonable attorneys' fees, incurred by the holder hereof.

This Note and all obligations relating hereto or hereunder shall not be general obligations of the Board and shall in any event be payable only from any Tax Increment Revenues. Nothing contained in this paragraph shall (x) be deemed to be a release or impairment of the indebtedness evidenced by this Note or the lien of the Loan Agreement or any Collateral Documents, or (y) preclude the Lender from (1) realizing on the collateral described in the Collateral Documents, or (2) enforcing any other rights of the Lender against third parties other than the Board, including any remedies the Lender may have under the Loan Agreement or the Collateral Documents.

The makers, endorsers, guarantors and all parties to this Note and all who may become liable for the same, jointly and severally waive presentment for payment, protest, notice of protest, notice of nonpayment of this Note, demand and all legal diligence in enforcing collection, and hereby expressly agree that the lawful owner or holder of this Note may defer or postpone collection of the whole or any part hereof, either principal and/or interest, or may extend or renew the whole or any part hereof, either principal and/or interest, or may accept additional collateral or security for the payment of this Note, or may release the whole or any part of any collateral security and/or liens given to secure the payment of this Note, or may release from liability on account of this Note any one or more of the makers, endorsers, and/or other parties hereto, all without notice to them or any of them; and such deferment, postponement, renewal, extension, acceptance of additional collateral or security and/or release shall not in any way affect or change the obligation of any such maker, endorser, guarantor or other party to this Note, or of any who may become liable for the payment hereof.

The term "maximum lawful rate of interest" as used herein shall mean a rate of interest equal to the higher or greater of the following: (a) the "applicable formula rate" defined in Tenn. Code Ann. § 47-14-

102(3), or (b) such other rate of interest as may be legally charged under other applicable laws or regulations.

This Note is secured by an Assignment of Tax Increment Revenues from the Board to the holder hereof. It is the intent of the parties that all Ashmont TIF Revenues shall be made available for and applied to debt service on this Note, and to no other purpose or use until the indebtedness evidenced by this Note has been paid in full.

The validity, interpretation, enforcement and effect of this Note shall be governed by, and construed in accordance with, the laws of the State of Tennessee.

This Note may not be changed or terminated without the prior written approval of the holder hereof and the Board. No waiver of any term or provision hereof shall be valid unless in writing signed by the holder.

Executed as of the ____ day of November, 2023.

**THE INDUSTRIAL DEVELOPMENT BOARD
OF THE CITY OF LAKELAND, TENNESSEE**

By: _____
Chairman

ATTEST:

Secretary

COLLATERAL ASSIGNMENT OF DEVELOPMENT AND FINANCING AGREEMENT

THIS COLLATERAL ASSIGNMENT OF DEVELOPMENT AND FINANCING AGREEMENT (the "Collateral Assignment") is entered into as of November __, 2023, by and between **THE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF LAKELAND, TENNESSEE**, a public nonprofit corporation organized under Tenn. Code Ann. §§ 7-53-101, *et seq.* (the "Board"), and **FIRST CITIZENS NATIONAL BANK**, in Dyersburg, Tennessee, with offices in Memphis, Tennessee (the "Lender").

RECITALS

A. The Lender and the Board have entered into a Loan Agreement, dated as of the date hereof (as it may be amended from time to time, the "Loan Agreement"). Any capitalized terms not otherwise defined herein shall have the meanings given them in the Loan Agreement.

B. The Board has agreed to secure repayment of amounts due to the Lender under the TIF Note and the Loan Agreement by the collateral assignment of the Development and Financing Agreement dated as of as of the date hereof, by and between The Industrial Development Board of the City of Lakeland, Tennessee and Ashmont Developer, LLC ("Ashmont Developer"). Ashmont Developer, an Affiliate thereof, or any other permitted assignee thereof (including, without limitation, any successor by merger or conversion) is referred to herein as the "Developer".

C. The Lender agrees to accept, among other things, this Collateral Assignment in consideration of its extending credit pursuant to the Loan Agreement and the TIF Note.

NOW, THEREFORE, in consideration of the Recitals above, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the parties hereto agree as follows:

1. For purposes of this Collateral Assignment, the term "Secured Indebtedness" shall mean all amounts at any time due to the Lender under the documents and instruments described in Exhibit A hereto, and all modifications, extensions and renewals thereof (collectively, the "TIF Documents"). The Board hereby assigns to the Lender as collateral for the payment in full of the Secured Indebtedness, and pledges to the Lender and grants a security interest to the Lender in the following (collectively, the "Collateral"): (i) any and all amounts payable by the Developer to or on behalf of the Board under the terms of the Development Agreement, including, without limitation, the required payments described in Section 5 of the Development Agreement, (ii) the present and continuing right to make claim for, collect, receive and retain all such amounts, and to bring actions and proceedings thereunder or for the enforcement thereof, and to do any and all things which the Board is or may become entitled to do with respect to all such rights and payments under the Development Agreement, and (iii) all other rights, privileges and remedies of the Board under the Development Agreement; provided, however, that (a) the Collateral shall not include the Board's inspection rights and rights to receive amounts payable by the Developer to the Board as reimbursement for costs and expenses incurred by the Board pursuant to the provisions of Section 22 of the Development Agreement and (b) the Board shall retain the right to enforce either on its own or jointly with the Lender, the obligations of the Developer under Section 4 of the Development Agreement and to declare a default of the Developer under the Development Agreement if the Developer breaches any of such obligations. The Developer shall be subrogated to all rights of the Lender in the pledged Collateral to secure any loans made by the Developer pursuant to the Development Agreement to the extent that the Developer

is authorized to exercise such rights pursuant to the terms of the Development Agreement and other TIF Documents.

2. Upon payment in full of the Secured Indebtedness and all other amounts due and the performance of all other obligations under the terms of the TIF Documents, this Collateral Assignment shall be null and void.

3. The Board hereby covenants with and warrants and represents to the Lender that:

(a) The Board is not a party to any contract or agreement, and is not subject to any contingent liability, that does or may impair the Board's ability to perform under the terms of this Collateral Assignment;

(b) The execution and performance of this Collateral Assignment will not cause a default under any other contract or agreement to which the Board is a party or to which any property of the Board is subject, and will not result in the imposition of any charge, penalty, lien or other encumbrance against any of the Board's property, except in favor of the Lender;

(c) The execution and performance of this Collateral Assignment will not violate any judicial or administrative order or governmental law or regulation, and this Collateral Assignment is valid, binding and enforceable in every respect according to its terms;

(d) The execution and performance of this Collateral Assignment by the Board do not require the consent of or the giving of notice to any third party including, without limitation, any other lender, governmental body or regulatory authority;

(e) This Collateral Assignment provides the Lender with a valid assignment of and lien upon and pledge of the Collateral;

(f) The Development Agreement is in full force and effect, and no default, or event that with the passage of time or giving of notice or both would constitute a default, has occurred thereunder;

(g) Without the prior written consent of the Lender, the Board shall not, either orally or in writing, modify, extend or in any way alter the terms of the Development Agreement or accept a surrender of the Development Agreement, grant any consent or approval under the Development Agreement, or waive, excuse, condone or in any manner release or discharge the Developer of or from any of the obligations, covenants, conditions and agreements to be performed by the Developer in the manner and at the place and time specified therein. The Board hereby expressly releases, relinquishes and surrenders unto the Lender all of its right, power and authority to amend, modify, cancel, terminate or in any way alter the terms or provisions of the Development Agreement without the prior written consent of the Lender;

(h) Without the Lender's prior written consent, the Board shall not terminate or permit the termination of the Development Agreement nor release the Developer from any obligation thereunder; and

(j) The Development Agreement is not subject to any lien, assignment, pledge, security interest or encumbrance other than the lien and pledge of this Collateral Assignment in favor of the Lender.

4. The Board shall remit to the Lender any and all sums received with respect to the Collateral, including, without limitation, any amounts received by the Board under the provisions of the Development Agreement, as and when received, except for amounts paid to the Board as reimbursement for expenses of the Board as provided in Section 22 of the Development Agreement. The Lender is entitled, but not required, to act in the place and stead of the Board as necessary to perform the Board's obligations or enforce the Board's rights under the Development Agreement with respect to any such payments, and any costs and expenses incurred by the Lender in such action shall become part of the Secured Indebtedness. The Board hereby irrevocably appoints the Lender as its attorney-in-fact and grants to the Lender all rights and powers to act in its place and stead with respect to the Collateral, subject to and in accordance with the terms and conditions of the TIF Documents.

5. The Lender shall be entitled to avail itself of all other rights and remedies as may now or hereafter exist, at law or in equity, for the collection of the Secured Indebtedness or any part thereof and the enforcement of the lien and pledge created hereby. The resort to any remedy provided hereunder or provided by the Uniform Commercial Code as adopted in the State of Tennessee, or by any other applicable law, shall not prevent the concurrent employment of any other appropriate remedy or remedies. **Notwithstanding the foregoing, in the event that a default occurs hereunder, no judgment for any deficiency upon the Secured Indebtedness shall be sought or obtained against the Board, except with respect to the funds pledged hereunder and any Ashmont TIF Revenues.** Nothing contained in this paragraph shall (i) be deemed to be a release or impairment of the Secured Indebtedness or any part thereof or the lien and pledge of this Collateral Assignment or the Loan Agreement, or (ii) preclude the Lender from (1) exercising its rights and remedies against any other collateral for the Secured Indebtedness or any part of such other collateral, or (2) enforcing any other rights of the Lender against third parties other than the Board, including, without limitation, any remedies the Lender may have under this Collateral Assignment, the Loan Agreement, any of the Collateral Documents or any Guaranty. The subsequent taking of additional collateral for the Secured Indebtedness or any part thereof shall not effect a release or termination of this Collateral Assignment or any terms or provisions hereof. No failure or delay on the part of the Lender in exercising any right, power or remedy hereunder shall operate as a waiver thereof, nor shall any single or partial exercise of any right, power or remedy hereunder preclude any other or further exercise thereof or the exercise of any other right, power or remedy. The rights, powers and remedies hereunder are cumulative and may be exercised by the Lender either independently of or concurrently with any other right, power or remedy of the Lender contained herein or otherwise. The Lender shall have the right, but without the obligation so to do, to take any such action that the Lender may deem necessary to prevent the material impairment of the security provided by this Collateral Assignment, including, without limitation, the right to appear in and defend any action or proceeding purporting to affect the lien and pledge of this Collateral Assignment or the rights or powers of the Lender.

6. The Board agrees to execute any and all necessary financing statements or other documents in order to perfect the lien and pledge granted herein or otherwise to complete and/or perfect this Collateral Assignment. The Board authorizes the Lender to file Uniform Commercial Code financing statements (and any financing statement amendments and correction statements thereto deemed necessary by the Lender), at any time deemed necessary or desirable by the Lender, covering the Lender's lien against the Collateral and containing such legends, descriptions or statements as the Lender shall deem necessary or desirable to protect the Lender's interest. The Board shall not file any amendments, correction statements or termination statements relating to this Collateral Assignment or the Lender's rights hereunder without the prior written consent of the Lender.

7. This Collateral Assignment shall be binding upon and inure to the benefit of the respective successors and assigns of the Board and the Lender, except that the Board shall not assign any rights or delegate any obligations arising hereunder without the prior written consent of the Lender.

8. No provisions of this Collateral Assignment shall be deemed waived or amended except by a written instrument unambiguously setting forth the matter waived or amended and signed by the party against which enforcement of such waiver or amendment is sought. Waiver of any matter shall not be deemed a waiver of the same or any other matter on any future occasion.

9. The provisions of this Collateral Assignment shall be deemed severable. If any part of this Collateral Assignment shall be held unenforceable by a court of competent jurisdiction, the remainder shall remain in full force and effect, and such unenforceable provision shall be reformed by such court so as to give maximum legal effect to the intention of the parties as expressed herein.

10. This Collateral Assignment and the other written agreements between the Board and the Lender referred to herein represent the entire agreement between the parties concerning the subject matter hereof, and all oral discussions and prior agreements are merged herein and therein.

11. The validity, construction and enforcement of this Collateral Assignment shall be determined according to the laws of the State of Tennessee, in which state this Collateral Assignment has been executed and delivered.

12. All notices required or permitted to be given under this Collateral Assignment shall be in writing and shall be given in the manner and to the addresses specified for notices pursuant to the Loan Agreement, and the effectiveness of each such notice shall be determined as provided in the Loan Agreement for a notice given thereunder.

13. This Collateral Assignment may be executed in several counterparts, each of which shall be an original and all of which shall constitute but one and the same instrument.

[Signatures to follow on next page]

IN WITNESS WHEREOF the parties have executed this Collateral Assignment as of the date first stated above.

**THE INDUSTRIAL DEVELOPMENT BOARD OF
THE CITY OF LAKELAND, TENNESSEE**

By: _____
Title: _____

ATTEST:

Secretary

FIRST CITIZENS NATIONAL BANK

By: _____
Title: _____

The Developer hereby executes this Collateral Assignment to acknowledge its consent to (i) the assignment of the Development Agreement as provided herein, and (ii) the exercise by the Lender of all of the Board's rights, privileges and remedies as set forth in the Development Agreement. The Developer hereby further agrees that no other consent by the Developer shall be required for any further assignment of the rights and remedies of the Board under the Development Agreement or in connection with any transfer by the Lender of the Secured Indebtedness or any part thereof.

ASHMONT DEVELOPER, LLC

By: _____
Vincent D. Smith, Jr., President

Exhibit A

List of TIF Documents

1. The Tax Increment Revenue Note (The Lakeland Gateway Ashmont Project), dated as of the date hereof, issued by The Industrial Development Board of the City of Lakeland, Tennessee and payable to First Citizens National Bank in the original principal amount of \$13,000,000, as it may be amended, modified, extended or renewed from time to time;
2. The Loan Agreement, dated as of as of the date hereof, by and between The Industrial Development Board of the City of Lakeland, Tennessee and First Citizens National Bank, as it may be amended, modified, extended or renewed from time to time;
3. The Development and Financing Agreement, dated as of as of the date hereof, by and between The Industrial Development Board of the City of Lakeland, Tennessee and Ashmont Developer, LLC, as it may be further amended, modified, extended or renewed from time to time;
4. This Collateral Assignment of Development Agreement, dated as of as of the date hereof, by and between The Industrial Development Board of the City of Lakeland, Tennessee and First Citizens National Bank; and
5. The Assignment of Tax Increment Revenues, dated as of as of the date hereof, by and between The Industrial Development Board of the City of Lakeland, Tennessee and First Citizens National Bank.

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