

**RELOCATION AGREEMENT
FOR DICK'S SPORTING GOODS**

This **Relocation Agreement** (the "**Agreement**") is made this ____ day of _____, 2016, between RED Lee's Summit East, LLC (the "**Developer**"), a Missouri limited liability company, and the City of Lee's Summit, Missouri, a municipal corporation (the "**City**").

WHEREAS, the City and Developer executed the Amended and Restated Tax Increment Financing Contract on May 27, 2008 (as amended, the "**TIF Contract**") to implement the Lee's Summit East Tax Increment Financing Plan (the "**TIF Plan**"), for development of the Summit Fair Shopping Center;

WHEREAS, Section 19.D of the TIF Contract provides that the Developer shall not lease or sell any portion of the Redevelopment Area for the TIF Plan (the "**Summit Fair Redevelopment Area**") to any business operation that will operate under the same trade name as any business which is currently located in the City during the term of the TIF Contract without the prior approval from the City Council;

WHEREAS, the Dick's Sporting Goods store (the "**Store**") that is currently open in the Summit Woods Shopping Center ("**Summit Woods**") proposes to close its current store location and relocate into a larger space in the Summit Fair Redevelopment Area, and Developer has sought permission from the City to allow the relocation pursuant to the requirements of Section 19.D of the TIF Contract;

WHEREAS, the Store is expected to open for business within the Summit Fair Redevelopment Area during the first quarter of 2017 and immediately thereafter close its existing store in Summit Woods;

WHEREAS, by motion on May 5, 2016, the City Council approved the relocation of the Store into the Summit Fair Redevelopment Area and found that the Store was not a direct beneficiary of tax increment financing or other development financing;

WHEREAS, the City and Developer desire to enter into this Agreement to provide for the terms and conditions under which the City approves the relocation of the Store to the Summit Fair Redevelopment Area; and

WHEREAS, by Ordinance No. ____, the City Council approved this Relocation Agreement with Developer and authorized the City Manager to execute the Relocation Agreement on behalf of the City.

NOW THEREFORE, in consideration of the mutual covenants hereinafter set forth, the City and Developer do hereby covenant and agree upon the following terms and conditions:

1. **Definitions.** As used in this Agreement, capitalized terms which are not defined in the recitals above shall have the meaning assigned to them in the TIF Contract, and the following additional terms shall have these meanings:
 - A. “**City Sales Tax Revenues**” means the actual sales tax revenues received by the City as the result of all of the City’s sales taxes imposed upon the sale of goods at retail by all business establishments which are open within the Summit Woods Location during the Reconciliation Period. For all sales that occur during a partial calendar month at either the beginning and/or end of the Reconciliation Period, the City shall calculate such sales tax revenues for such partial calendar month on an average per-day basis for the applicable portion of the partial calendar month that occurred during the Reconciliation Period based on the sales tax revenues actually received by the City as the result of sales in the Summit Woods Location during such full month.
 - B. “**Commencement Date**” means the first day that the Store is no longer open for business at the Summit Woods Location due to relocating its business to the Summit Fair Redevelopment Area.
 - C. “**Guaranteed Amount**” means \$291,600.
 - D. “**New Store**” means the first new business establishment that receives a temporary certificate of occupancy to open for business within the Summit Woods Location.
 - E. “**Reconciliation Period**” means a period of time that commences on the Commencement Date and ends on the date that is two calendar years following the Commencement Date.
 - F. “**Summit Woods Location**” means the space occupied by the Store within Summit Woods on the effective date of this Agreement.
2. **City Sales Tax Revenues Guaranty.** In the event the City Sales Tax Revenues during the Reconciliation Period are less than the Guaranteed Amount, Developer agrees to pay the City the difference between the Guaranteed Amount and the actual City Sales Tax Revenues the City receives during the Reconciliation Period. At the end of the Reconciliation Period, the City shall calculate the City Sales Tax Revenues. If the City Sales Tax Revenues are less than the Guaranteed Amount, the City shall send an invoice to Developer for payment by Developer to the City of an amount equal to the Guaranteed Amount minus the City Sales Tax Revenues and the City shall include with such invoice a detailed statement evidencing the amount of City Sales Tax Revenues the City received and such other documentation as the Developer may reasonably request to evidence the City Sales Tax Revenues (the “**Supporting Documentation**”); provided, however, that such Supporting Documentation will only be required if the business establishments within the Summit Woods Location have agreed in writing that the City may disclose such information to Developer. Such invoice shall be paid by Developer within thirty (30) days after receipt of such invoice and the Supporting Documentation. In the event that the City Sales Tax Revenues exceed the Guaranteed Amount, then no payment shall be owed by Developer

pursuant to this Agreement and the City shall send notice to Developer that no payment is due and this Agreement shall automatically terminate without further action of the parties. In no event shall the City owe any payment to Developer pursuant to this Agreement.

3. **Termination of Agreement.** This Agreement shall automatically terminate without further action of the parties upon the earlier of (a) the date Developer receives notice from the City, as specified in Section 2, that no payment is due by Developer, (b) the date the City has received payment from Developer for the amount due pursuant to Section 2, or (c) the date that is 180 days after the end of the Reconciliation Period if the City has failed to provide Developer (i) with a notice that no payment is due or (ii) an invoice of the amount Developer owes the City pursuant to this Agreement.
4. **Default.** If Developer is required to make such payment referenced in Section 2 and Developer fails to make such payment within 30 days after receipt of the invoice and Supporting Documentation evidencing the amount Developer owes City, City shall have the right to pursue all remedies available to City at law or in equity and, in addition, shall have the right to withhold or apply funds, otherwise payable to Developer pursuant to the TIF Contract, from the Special Allocation Fund up to the amount Developer owes to the City pursuant to this Agreement. If any action is instituted by the City hereunder and the City prevails in such action, the Developer shall pay any and all costs, fees and expenses, including attorney's fees, incurred by the City in enforcing this Agreement.
5. **Validity and Severability.** It is the intention of the parties hereto that the provisions of this Agreement shall be enforced to the fully extent permissible under the laws and public policies of the State of Missouri and the unenforceability (or modification to conform with such laws or public policies) of any provision hereof shall not render unenforceable or impair the remainder of this Agreement. Accordingly, if any provision of this Agreement shall be deemed invalid or unenforceable in whole or in part, this Agreement shall be deemed amended to delete or modify, in whole or in part if necessary, the invalid or unenforceable provision or provisions, or portions thereof, and to alter the balance of this Agreement in order to render the same valid and enforceable.
6. **Execution of Counterparts.** This Agreement may be executed simultaneously in two or more counterparts, each of which shall be deemed an original, but all of which shall constitute one and the same instrument.
7. **Applicable Law.** This Agreement shall be governed and construed in accordance with the laws of the State of Missouri.

IN WITNESS WHEREOF, the parties hereunto have executed this Agreement this ____ day of _____, 2016.

CITY OF LEE'S SUMMIT, MISSOURI

By: _____
Stephen Arbo, City Manager

[SEAL]

ATTEST:

Denise Chisum
City Clerk

RED LEE'S SUMMIT EAST, LLC

By: _____

Name: _____

Title: _____