

10.14.2020 DRAFT

**REDEVELOPMENT
AGREEMENT**

BY AND AMONG

**THE STILLWATER ECONOMIC DEVELOPMENT
AUTHORITY,**

EVERYMAN, LLC

AND

JUST THE LETTER J CAPITAL, LLC

**REDEVELOPMENT AGREEMENT
BY AND AMONG
THE STILLWATER DEVELOPMENT ECONOMIC AUTHORITY,
EVERYMAN, LLC AND JUST THE LETTER J CAPITAL, LLC**

THIS REDEVELOPMENT AGREEMENT (“Agreement”) is made as of this _____ day of _____, 20__, (“Effective Date”) by and among the Stillwater Economic Development Authority, a public trust (“Authority”), and EVERYMAN, LLC, an Oklahoma limited liability company (“Business”) and JUST THE LETTER J CAPITAL, LLC, an Oklahoma limited liability company (“Property Owner”); the Business and Property Owner are collectively referred to herein as the “Redeveloper.”

WITNESSETH:

WHEREAS, the Authority was created by a First Amended Declaration of Trust, dated as of the 5th day of November, 2012, as a public trust for the use and benefit of the City of Stillwater, Oklahoma (“City”), pursuant to the provisions of 60 O.S. §176, *et seq.*, as amended and supplemented, and other applicable statutes of the State of Oklahoma; and

WHEREAS, the purposes of the Authority are, in part, to promote, stimulate, finance and develop commercial development within and without the territorial limits of the City and to promote additional attractions and employment which will benefit and strengthen the economy of the City and the State of Oklahoma; and

WHEREAS, in order to accomplish its designated purposes, the Authority is empowered to provide funds for the costs of acquiring, constructing, rehabilitating, equipping, securing, maintaining, and developing real and personal property within and near the City; and

WHEREAS, on June 18, 2018, the City Council of the City of Stillwater (“City Council”) adopted Ordinance No. 3407 which approved the Stillwater (Re)Investment Plan (Stillwater Downtown/Campus Link Project Plan), establishing the Project Area, and creating Increment District No. 3, the City of Stillwater, a sales and ad valorem increment district (“Increment District No. 3”), pursuant to the Oklahoma Local Development Act, 62 O.S. §850, *et seq.*, as thereafter amended from time to time (“Project Plan”), including by Ordinance No. 3407 adopted by City Council on November 5, 2018 approving a minor amendment to the Project Plan to provide Payne County, its Health Department, and Meridian Technology a specific revenue source from those properties that generate increased property tax revenue without direct public assistance in Increment District No. 3 and which had no effect on the distributions and capital payment obligations to be made to the Stillwater Public Schools under the Project Plan, and by Ordinance No. 3440 adopted by City Council on October 7, 2019 to correct an error in the denominator of the calculations used to determine the allocations to each of the affected taxing jurisdictions; and

WHEREAS, the Project Plan supports the City’s efforts to achieve its development objectives for Downtown Stillwater and envisions, among other things, the repurposing and activation of vacant and underutilized property in downtown Stillwater; and

WHEREAS, Redeveloper desires to redevelop certain real property located in downtown Stillwater, Oklahoma, as more particularly described on Exhibit A attached hereto (“Property”), which is within the boundaries of Increment District No. 3; and

WHEREAS, the Implementation Policy Committee (“Committee”) has reviewed the application of the Redeveloper for significant impact development assistance (“Application”), as described in the Implementation Policy Guide for Assistance in Development Financing adopted by the City Council; and

WHEREAS, the Committee recommended approval of the Redeveloper’s Application to the Board of Trustees of the Authority (“Board”), finding that the Redeveloper’s proposed redevelopment meets the objectives of the Project Plan by the: (1) renovation of a downtown Stillwater building; (2) creation of an experiential destination in the heart of downtown Stillwater, and (3) offering of competitive salaries with professional level career opportunities for an underserved demographic in Stillwater; and

WHEREAS, on October 5, 2020, during a regular meeting of the Authority, the Board accepted the Committee’s recommendation, approved the Redeveloper’s Application, and directed City staff and development counsel to prepare this Agreement; and

WHEREAS, the parties deem it appropriate to approve and execute this Agreement, which provides for the implementation of the Redevelopment consistent with the Project Plan, and the Authority determines that approval is in the best interests of the City, and the health, safety, and welfare of the City and its residents.

IN CONSIDERATION of the mutual covenants and agreements contained herein, the Authority and the Redeveloper hereby agree as follows:

**ARTICLE I
SUBJECT OF AGREEMENT**

SECTION 1.01 Scope of Agreement.

A. The Redeveloper hereby agrees, subject to the terms and conditions hereinafter provided, to cause the design, construction, and completion, in the time period hereinafter described, of the Redevelopment on the Property substantially in accordance with plans to be approved consistent with this Agreement; and

B. The Authority hereby agrees, subject to the terms and conditions hereinafter provided, to provide \$350,000.00 to the Redeveloper in development financing assistance for the Redevelopment in the manner provided in this Agreement.

SECTION 1.02 Scope of Redevelopment. The Redeveloper will incur and expend development costs of at least \$1,650,000.00 consisting of the following:

Acquisition, renovation, and redevelopment of the land and an existing 10,600 square foot building located on the Property, to expand Redeveloper's existing business and provide a larger footprint for Redeveloper's services, to include barbering, coffee services, alcohol service, menswear, and wedding services specifically tailored to the needs of men; the Property will provide a larger space for the Redeveloper than it currently operates to provide additional services and host events, while increasing the number of full-time employees, with a focused intent on keeping local talent in the City of Stillwater,

all of which shall be reflected in the Redevelopment Plans and Specifications and which shall constitute the "Redevelopment," for purposes of this Agreement.

SECTION 1.03 Relationship of the Parties. This Agreement specifically does not create any partnership or joint venture between the parties hereto or render any party liable for any of the debts or obligations of any other party.

ARTICLE II AUTHORITY OBLIGATIONS

SECTION 2.01 Project Plan. The Authority shall support the Redevelopment in accordance with the Project Plan and this Agreement.

SECTION 2.02 Development Financing Assistance. As authorized by the Project Plan and subject to the terms, conditions, and limitations contained herein, the Authority shall provide assistance in development financing to the Redeveloper in an amount not to exceed \$350,000.00 to support construction of the Redevelopment. The Authority will issue a Promissory Note in the amount of \$350,000.00, with a 15-year term, at an interest at rate of 1.75% per annum, as more specifically described in Section 4.02 below.

SECTION 2.03 Certificate of Completion. Within 30 days after the Redeveloper has completed the construction of the Redevelopment, as evidenced by the full and final certificate of occupancy, the Authority shall furnish to the Redeveloper a Certificate of Completion, certifying that the Redeveloper has met its construction and development obligations contained in this Agreement.

ARTICLE III DEVELOPER OBLIGATIONS

SECTION 3.01 Control of Property. The Redeveloper hereby represents that it has fee simple title to all of the Property, described on Exhibit A attached hereto.

SECTION 3.02 Design Documents. The Redeveloper shall provide to the Deputy City Manager and Assistant City Attorney the Redevelopment Plans and Specifications for the Redevelopment no later than the time for submission of such plans for building permits. The

Deputy City Manager and Assistant City Attorney shall review the Redevelopment Plans and Specifications to confirm that the Redevelopment meets the City’s development objectives as reflected in this Agreement, including but not limited to the Project Plan’s goal to repurpose and activate vacant and underutilized property and support revitalization of existing historic resources and structures in downtown Stillwater, and complies with the Redevelopment description contained in Section 1.02 above in all material respects.

SECTION 3.03 Development Obligations. Redeveloper shall cause the Redevelopment to be constructed on the Property, at no expense to the City or the Authority. The Redevelopment must be constructed in accordance with the Redevelopment Plans and Specifications approved by the City, or as modified with the consent of the Deputy City Manager and Assistant City Manager, in all material respects. The Redeveloper shall secure or cause the appropriate parties to secure all governmental approvals in connection with (a) the preparation of the Property for construction; (b) the construction, completion, and occupancy of the Redevelopment; and (c) the development and operation of the Redevelopment, including, without limitation, zoning, building code, and environmental laws.

**ARTICLE IV
ASSISTANCE IN DEVELOPMENT FINANCING**

SECTION 4.01 Generally. The Project Plan authorizes Project Costs, including assistance in development financing to support the Redevelopment.

SECTION 4.02 Tax Apportionment Revenue Note. The Authority will provide development financing assistance through the issuance of a Tax Apportionment Revenue Note (“Note”) in the amount of \$350,000.00, to be repaid over fifteen (15) years. The interest rate on the Note shall be 1.75% per annum. The Note will be substantially repaid by the sales, business property and real property tax incremental revenues generated by the Redevelopment, which will be secured by a minimum annual payment in lieu of taxes (PILOT) obligation in the amount of \$26,650, less (a) all real and personal property taxes assessed and paid on the Property; and (b) to the extent two percent (2%) of the taxable sales of the Redeveloper payable to the City of Stillwater exceeds \$15,981.17 (“Minimum Annual Payment”) which shall be paid for a period of fifteen (15) years (“Minimum Annual Payment Period”).

SECTION 4.03 Limitations on Assistance in Development Financing Obligations. Notwithstanding anything to the contrary contained herein, in no event shall the total amount of assistance in development financing provided to the Redeveloper under this Agreement exceed \$350,000.00.

**ARTICLE V
CONSTRUCTION OF REDEVELOPMENT**

SECTION 5.01 Scope of Redevelopment. The Property shall be developed within the general requirements established by the zoning and building codes applicable to the Property by the City’s Land Development Code and Standards (“Code”) and related laws governing municipal planning and zoning. The Redeveloper shall be responsible for the construction, renovation, improvement, equipping, repair and installation of all public and private improvements associated with the Redevelopment as described in, and in conformance with approved schematic drawings,

design documents, constructions documents, and related plans and documents (“Redevelopment Plans and Specifications”).

SECTION 5.02 Redevelopment Plans and Specifications. Following the execution of this Agreement, the Redeveloper shall prepare and submit Redevelopment Plans and Specifications for the Redevelopment to the City for its review pursuant to the Code. Thereafter, if the Redeveloper desires to make any substantial or significant changes in the Redevelopment Plans and Specifications, the Redeveloper shall submit the proposed changes to the City for its approval. The Redeveloper and its approved assignees shall communicate and consult as frequently with the Deputy City Manager and the Assistant City Manager as is necessary to ensure that any modifications to the Redevelopment Plans and Specifications can receive prompt and speedy consideration by the City.

SECTION 5.03 Construction of Redevelopment. The Redeveloper agrees that all construction, renovation, improvement, equipping, repair and installation work on the Redevelopment shall be done substantially in accordance with the Redevelopment Plans and Specifications as approved by the City, or as amended with the approval of the City.

SECTION 5.04 City and Other Governmental Permits. Before commencement of construction, development or work on or in connection with any buildings, structures or other improvements to the Property, the Redeveloper shall, at its own expense, secure or cause to be secured any and all permits and approvals which may be required by the City and any other governmental agency having jurisdiction as to such construction, development or work. The Authority shall cooperate with and provide all usual assistance to the Redeveloper in securing these permits, and approvals, and shall diligently process, review and consider all such permits and approvals as may be required by law.

SECTION 5.05 Construction Schedule. Not later than November 1, 2020, the Redeveloper shall commence renovation of the Property, pursuant to a valid permit, and shall thereafter diligently prosecute to completion, the construction of the Redevelopment in order to complete it and receive the full and final certificate of by August 1, 2021.

SECTION 5.06 Rights of Access. For the purpose of ensuring compliance with this Agreement, representatives of the Authority shall have the right of access to the Property, without charges or fees, at normal construction hours during the period of construction for the purposes of this Agreement, including, but not limited to, the inspection of the work being performed in constructing, renovating, improving, equipping, repairing and installing the Redevelopment, so long as they comply with applicable safety rules and do not unreasonably interfere with the activities of the Redeveloper. Except in the case of an emergency, prior to any such access, such representatives of the Authority will check in with the on-site manager. All such representatives of the Authority shall carry proper identification, shall ensure their own safety, assuming the risk of injury, and shall not interfere with the construction activity. The Authority agrees to cooperate with the Redeveloper in facilitating access by the Redeveloper to the Property for construction purposes, provided that the Authority shall incur no financial obligations therefor.

SECTION 5.07 Indemnification. The Redeveloper shall defend, indemnify, assume all responsibility for, and hold the Authority and the City and their respective elected and appointed officers and employees and agents, harmless from, all costs (including attorney's fees and costs), claims, demands, liabilities or judgments (except those which have arisen from the willful misconduct or negligence of the Authority or the City, their officers, employees and agents) for injury or damage to property and injuries to persons, including death, to the extent determined to be caused directly or indirectly by any of the Redeveloper's activities under this Agreement, whether such activities or performance thereof be by the Redeveloper or anyone directly or indirectly contracted with or employed by the Redeveloper and whether such damage shall accrue or be discovered before or after termination of this Agreement. This indemnity includes, but is not limited to, any repair, cleanup, remediation, detoxification, or preparation and implementation of any removal, remediation, response, closure or other plan (regardless of whether undertaken due to governmental action) concerning any hazardous substance or hazardous wastes including petroleum and its fractions as defined in the Comprehensive Environmental Response, Compensation and Liability Act; codified at Title 42, Sections 9601, *et seq.* of the United States Code (hereinafter, "CERCLA"), and all amendments thereto, at any place where Redeveloper owns or has control of real property pursuant to any of Redeveloper's activities under this Agreement. The foregoing indemnity is intended to operate as an agreement pursuant to Section 107(e) of CERCLA to assure, protect, hold harmless and indemnify Authority from liability.

SECTION 5.08 Liability Insurance.

A. In addition to the indemnification of the Authority and the City required in Section 5.07 hereof, the Redeveloper shall take out and maintain, or cause the general contractor(s) for the Redevelopment to take out and maintain, during the period set forth in subsection (D) of this Section, a comprehensive general liability policy in the amount of at least \$1,000,000.00 for any person, \$2,000,000.00 for any occurrence, and \$1,000,000.00 property damage naming the Authority as an additional insured and loss payee, but only with respect to the liability policy.

B. The Redeveloper shall furnish or cause to be furnished a certificate of insurance signed by an authorized agent of the insurance carrier setting forth the general provisions of the insurance coverage. This certificate of insurance shall name the Authority as an additional insured under the policy. The certificate of insurance shall contain a statement of obligation on the part of the carrier to notify the Authority by certified mail of any modification, cancellation or termination of the coverage at least 30 days in advance of the effective date of any such modification, cancellation or termination. Coverage provided hereunder by the Redeveloper shall be primary insurance and not contributing with any insurance maintained by the Authority, and the policy shall contain such an endorsement. The required certificate shall be filed with the Authority at the time of execution of this Agreement.

C. The Redeveloper shall also furnish or cause to be furnished to the Authority evidence satisfactory to the Authority that any contractor with whom it has contracted for the performance of work on the Property or otherwise pursuant to this Agreement carries workers compensation insurance as required by law at the time of execution of the Agreement.

D. The insurance obligations set forth in this Section shall remain in effect until the Authority issues the Certificate of Completion for the Redevelopment.

SECTION 5.09 Local, State and Federal Laws. The Redeveloper shall carry out the provisions of this Agreement in conformity with all applicable local, state and federal laws and regulations.

SECTION 5.10 Antidiscrimination During Construction. The Redeveloper, for itself, its successors and assigns, and any contractor with whom Redeveloper has contracted for the performance of work on the Property, agrees that in the construction of the Redevelopment, the Redeveloper shall not discriminate against any employee or applicant for employment because of race, color, creed, religion, age, sex, marital status, handicap, national origin or ancestry.

SECTION 5.11 Taxes Assessments, Encumbrances and Liens. The Redeveloper shall pay, or cause to be paid, when due all sales taxes, real estate taxes and assessments on the Property which the Redeveloper is responsible to pay.

A. Minimum Tax Payment Covenant. Within 15 days of the Effective Date of this Agreement, a Covenant Agreement, in substantially the form attached hereto as **Exhibit B**, shall be recorded in the land records of Payne County, Oklahoma, requiring the Minimum Annual Payment to begin on December 31, 2022. The Minimum Annual Payment obligations of the Property shall be secured by a lien (or liens) on the Property in favor of the Authority for the benefit of the apportionment fund of Increment District No. 3 arising annually at the same time, in the same manner, having the same priority, and subject to the same enforcement and remedies as liens to secure the annual payments of other ad valorem taxes, which lien or liens may also be evidenced by written notice executed by or on behalf of the Authority, or the duly authorized designee of the Authority and filed in the records of the County Clerk of Payne County, and which lien or liens may also be enforced by the Authority, or on its behalf by its authorized designee by foreclosure in the same manner as foreclosure of a mortgage.

Nothing herein contained shall be deemed to prohibit Redeveloper from contesting the validity or amounts of any tax assessment, encumbrance or lien, or to limit the remedies available to Redeveloper in respect thereto.

Redeveloper agrees to provide copies of its personal property ad valorem tax returns reflecting the amount of personal property ad valorem taxes paid by Redeveloper and/or any tenants for their respective personal property located within the Redevelopment.

B. Encumbrance or Lien. Prior to the performance of the obligations of this Agreement, the Redeveloper shall not place or allow to be placed on the Property or any part thereof any uncontested mechanic's lien, any mortgage, trust deed, encumbrance or lien other than as expressly allowed by this Agreement.

Nothing herein contained shall be deemed to prohibit the Redeveloper from contesting the validity or amounts of any tax assessment, encumbrance or lien, or to limit the remedies available to the Redeveloper in respect thereto.

SECTION 5.12 Prohibition Against Transfer of the Property or Structures Thereon and Assignment of Agreement. Prior to completion of the Redevelopment, the Redeveloper, except as permitted by this Agreement, without prior written approval of the Authority which shall not be unreasonably withheld, make any total or partial sale, transfer, conveyance, assignment or lease of the Property. The foregoing restrictions on assignment, transfer, and conveyance shall not apply to any mortgage lien or security interest granted by the Redeveloper to secure indebtedness to any construction or permanent lender with respect to the Redevelopment. The foregoing restrictions on assignment, transfer, and conveyance shall not apply to the rental and leasing of portions of the Property by the Redeveloper for any uses contemplated for the Redevelopment.

SECTION 5.13 Restrictions on Sale of Control By the Redeveloper. The qualifications of the Redeveloper are of particular importance to the Authority. It is because of the qualifications and identity of the Redeveloper, and the management thereof, that the Authority has entered into this Agreement with the Redeveloper. Therefore, the Redeveloper agrees that it will not sell a controlling interest in the Redevelopment or in its own membership interests to any individual or entity which is not currently a member of the Redeveloper without the written approval of the Authority. Without limiting the generality of the foregoing, except as otherwise expressly agreed by the Authority in writing, the Redeveloper shall not terminate its existence, liquidate or dissolve, or sell all or substantially all of its assets until after five years from the date of completion of the Redevelopment.

SECTION 5.14 Covenants for Non-Discrimination. The Redeveloper covenants by and for itself and any successors in interest that there shall be no discrimination against or segregation of any person or group of persons on account of race, color, creed, religion, sex, familial status, marital status, age handicap, national origin or ancestry in the sale, lease, sublease, transfer, use occupancy, tenure or enjoyment of the Property, nor shall the Redeveloper itself or any person claiming under or through it establish or permit any such practice or practices of discrimination or segregation with reference to the selection, location, number, use or occupancy of tenants, lessees, subtenants, sublessees, or vendees of the Property. The covenant established in this Section shall, without regard to technical classification and designation, be binding for the benefit and in favor of the Authority, its successors and assigns and any successor in interest to the Property or any part thereof. The covenants contained in this Section shall remain for so long as any amounts due under this Agreement remains unpaid or outstanding.

SECTION 5.15 Maintenance Covenants. The Redeveloper, and all successors and assigns in interest to the Redeveloper, shall be obligated to maintain the Redevelopment and all improvements and landscaping situated on the Property in a clean and neat condition and in a continuous state of good repair in accordance with the Code.

**ARTICLE VI
REPRESENTATIONS AND WARRANTIES**

SECTION 6.01 Redeveloper Representations and Warranties. The Redeveloper represents and warrants the following:

10.14.2020 DRAFT

A. The Redeveloper represents that it is a limited liability company duly organized and existing under the laws of the State of Oklahoma. The Redeveloper is authorized to conduct business in the State of Oklahoma, and is not in violation of any provisions of its articles of organization, operating agreement, or any other agreement governing the Redeveloper, or any law of the State of Oklahoma affecting Redeveloper's ability to perform under this Agreement.

B. The Redeveloper's ability to accomplish the Redevelopment with financing assistance from the Authority has induced the Redeveloper to proceed with the Redevelopment, and the Redeveloper hereby covenants to complete the same and thereafter continuously and fully operate the Redevelopment for a period of no less than five (5) years.

C. The Redeveloper represents that it has the full power and authority to execute this Agreement and this Agreement shall constitute a legal, valid and binding obligation of the Redeveloper in accordance with its terms, and the consent of no other party is required for the execution and delivery of this Agreement by such Redeveloper or the consummation of the transactions contemplated hereby, subject to laws relating to bankruptcy, moratorium, insolvency, or other laws affecting creditor's rights generally and subject to general principles of equity.

D. The Redeveloper represents that the execution and delivery of this Agreement, the consummation of the transactions contemplated herein, and the fulfillment of or compliance with the terms and conditions of this Agreement are not prevented or limited by or in conflict with, and will not result in a breach of, other provisions of its articles of organization, operating agreement or any other agreement governing the Redeveloper or with any evidence of indebtedness, mortgages, agreements, or instruments of whatever nature to which the Redeveloper is a party or by which it may be bound, and will not constitute a default under any of the foregoing.

E. To the knowledge of the undersigned representative of the Redeveloper, there is not currently pending any action, suit, proceeding or investigation, nor, is any such action threatened which, if adversely determined, would materially adversely affect the Redeveloper or the Redevelopment, or impair the ability of the Redeveloper to carry on its business substantially as now conducted or result in any substantial liability not adequately covered by insurance.

F. The Redeveloper warrants that it has not paid or given and will not pay or give any officer, employee or agent of the City or the Authority any money or other consideration for obtaining this Agreement. The Redeveloper further represents that, to its best knowledge and belief, no officer, employee or agent of the City or the Authority who exercises or has exercised any functions or responsibilities with respect to the Redevelopment during his or her tenure, or who is in a position to participate in a decision making process with regard to the Redevelopment, has or will have any interest, direct or indirect, in any contract or subcontract, or the proceeds thereof, for work to be performed in connection with the Redevelopment, or in any activity, or benefit therefrom, during or after the term of this Agreement.

G. All utility services necessary for the development and construction of the Redevelopment are, or by completion of the Redevelopment will be, available to the Property,

including water, storm and sanitary sewer facilities, electric and gas utilities, and telephone services.

H. Financial statements of the Redeveloper heretofore delivered to the Authority and the City are true and correct in all material respects, and fully and accurately present the financial condition of the Redeveloper on the respective dates thereof. There has been no material adverse change in the financial condition of the Redeveloper since the date of the latest statement furnished.

I. To the Redeveloper's knowledge, the Property is free of all contamination requiring remediation including, but not limited to, (a) any "hazardous waste," "underground storage tanks," "petroleum," "regulated substance," or "used oil" as defined by the Resource Conservation and Recovery Act of 1976, as amended, or by any regulations promulgated thereunder; (b) any "hazardous substance" as defined by the Comprehensive Environmental Response, Compensation and Liability Act of 1980, as amended, or by any regulations promulgated thereunder; (c) any substance the presence of which on, in, or under the Property is prohibited by any federal, state, or local law, rule, regulation, or ordinance similar to those set forth above; and (d) any other substance which by federal, state, or local law, rule, regulation, or ordinance requires special handling in its collection, storage, treatment, or disposal.

J. Neither this Agreement nor any statement or document referred to herein or delivered by the Redeveloper pursuant to this Agreement contains any statement which Redeveloper knows to be untrue or omits to state a material fact known to Redeveloper that is necessary to make the statements made herein or therein not misleading.

SECTION 6.02 Authority Representations and Warranties. The Authority represents and warrants the following:

A. The Authority is a duly organized and validly existing public trust under the laws of the State of Oklahoma and as such, is a duly constituted authority of the City and an agency of the State of Oklahoma.

B. The Authority is fully empowered to enter into this Agreement and to perform the transactions contemplated thereby and generally to carry out its obligations hereunder and thereunder. The Authority has duly authorized its Chairman to execute and deliver this Agreement and all other documentation required to consummate the transaction contemplated herein on behalf of the Authority.

C. The performance by the Authority under this Agreement will not violate any provision or constitute a default under any indenture, agreement or instrument to which the Authority is currently bound or by which it is affected.

D. To the knowledge of the undersigned officer of the Authority, there is no action, suit, proceeding or inquiry at law or in equity pending or threatened, affecting the Authority wherein any unfavorable decision, ruling or finding would materially adversely affect the Authority's ability to perform under this Agreement or under any other instrument pertinent to the transaction contemplated herein to which the Authority is a party.

**ARTICLE VII
EVENTS OF DEFAULT AND REMEDIES**

SECTION 7.01 Events of Default. The following shall constitute Events of Default hereunder and under each of the instruments executed pursuant to this Agreement:

A. A material default by the Redeveloper in the performance or observance of any covenant or condition contained in this Agreement, any instrument executed pursuant to this Agreement, or under the terms of any other instrument delivered to the Authority in connection with this Agreement, including, without limitation, the material falsity or breach of any representation, warranty or covenant;

B. Material variance from the approved Redevelopment Plans and Specifications without prior written consent of the Authority with regard to any of the materials, machinery, or equipment acquired in connection with the Redevelopment or the appurtenances thereto, or any other material variance from the Redevelopment Plans and Specifications;

C. Any representation, statement, certificate, schedule or report made or furnished to the Authority by the with respect to the matters and transactions covered by this Agreement which proves to be false or erroneous in any material respect at the time of its making or any warranty of a continuing nature which ceases to be complied with in any material respect and the Redeveloper fail to take or cause to be taken corrective measures satisfactory to the Authority within 30 days after written notice by the Authority; or

D. The initiation of bankruptcy or receivership proceedings by or against the Redeveloper and the pendency of such proceedings for 60 days.

SECTION 7.02 Remedies. The Authority will provide the Redeveloper with notice and 30 days opportunity to cure any Event of Default described in Section 7.01. No Event of Default, default, or breach by Redeveloper under this Agreement shall be material unless and until the Authority has provided written notice to Redeveloper identifying all specific action(s) or omission(s) of Redeveloper and the section(s) of this Agreement which render such action(s) or omission(s) defaults or breaches by Redeveloper. If the Authority notifies Redeveloper of a default or breach under the preceding sentence, then such default or breach shall not be material so long as Redeveloper begins undertaking actions or omissions to cure such default or breach within thirty (30) business days of receiving such notice and thereafter pursues such cure with reasonable diligence. The Authority shall have no remedies for any defaults or breaches by Redeveloper which are not material. For material defaults or breaches of Redeveloper, the City's and Authority's sole remedy shall be termination of this Agreement, including termination of the public assistance herein provided. Under no circumstances shall the City or the Authority be entitled to any actual damages, including any indirect, consequential or punitive damages for any breach or default of this Agreement by Redeveloper.

SECTION 7.03 Termination.

A. In the event that the City unreasonably fails to approve the Redevelopment Plans and Specifications, and, if any such default or failure shall not be cured within 30 days after the date of written demand by the Redeveloper, then this Agreement, or the relevant portion thereof, may, at the option of the Redeveloper, be terminated by written notice thereof to the Authority, and, neither the Authority, nor the Redeveloper shall have any further rights against or liability to the others under this Agreement with respect to the terminated portion thereof.

B. In the event that the Redeveloper fails to submit the Redevelopment Plans and Specifications to the City, or the Redeveloper fails to obtain evidence of financing capacity satisfactory to the Authority, and, if any default or failure shall not be cured within 30 days after the date of written demand by the Authority, then this Agreement, or the relevant portion thereof, may, at the option of the Authority, be terminated by written notice thereof to the Redeveloper, and, neither the Authority nor the Redeveloper shall have any further rights against or liability to the others under this Agreement with respect to the terminated portion thereof.

SECTION 7.04 Enforced Delay; Extension of Times of Performance.

A. In addition to specific provisions of this Agreement, performance by either party hereunder shall not be deemed to be in default, and all performance and other dates specified in this Agreement shall be extended, where the party seeking the extension has acted diligently and delays or defaults are due to events beyond the reasonable control of the party such as but not limited to: default of other party; war; insurrection; strikes; lockouts; riots; floods; earthquakes; fires; casualties; acts of God; acts of the public enemy; epidemics and pandemics, including COVID-19; quarantine restrictions; freight embargoes; invasion, lack of transportation; litigation; unusually severe weather; or any other causes beyond the control or without the fault of the party claiming an extension of time to perform.

B. Times of performance under this Agreement may also be extended in writing by the mutual agreement of the Authority and the Redeveloper.

SECTION 7.05 Non-liability of Officials, Employees and Agents of the Authority or the City. No official, employee or agent of the Authority or the City shall be personally liable to the Redeveloper, or any successor in interest, pursuant to the provisions of this Agreement, for any default or breach by the Authority.

**ARTICLE VIII
MISCELLANEOUS**

SECTION 8.01 Authority's Obligations Limited. Nothing in this Agreement is intended to require or obligate nor shall anything herein be interpreted to require or obligate the Authority to provide, apply or make any payment or advance from any revenue or funds coming into its hands other than funding the Note in the manner provided in this Agreement.

SECTION 8.02 Notices. Any notices or other communications required or permitted hereunder shall be sufficiently given if (a) delivered personally, or (b) sent by registered or certified mail, postage prepaid, return receipt requested and addressed as set forth below or to such other address as the party concerned may substitute by written notice to the other. All notices shall be deemed received (i) if delivered personally, on the date of delivery, or (ii) if given by mail, within three days (excluding Saturdays, Sundays and holidays recognized by national banking associations) after being mailed:

To the Authority: Stillwater Economic Development Authority
723 S. Lewis Street/P.O. Box 1449
Stillwater, Oklahoma 74076-1449
Attn: Secretary

To the City of Stillwater: City of Stillwater
723 S. Lewis Street/P.O. Box 1449
Stillwater, Oklahoma 74076-1449
Attn: Municipal Counselor

To the Redeveloper: EVERYMAN, LLC
JUST THE LETTER J CAPITAL, LLC

Attn:

SECTION 8.03 Amendment. This Agreement may not be amended or modified in any way, except by an instrument in writing executed by both parties hereto and approved in writing by the Redeveloper and the Authority.

SECTION 8.04 Non-Waiver; Cumulative Remedies. No failure on the part of the Authority to exercise and no delay in exercising any right hereunder shall operate as a waiver thereof, nor shall any single or partial exercise by the Authority of any right hereunder preclude any other or further right thereof. The remedies herein provided are cumulative and not alternative.

SECTION 8.05 Assignment. Other than provided by Section 5.12 herein, this Agreement shall not be assignable by the Redeveloper without the prior written consent of the Authority. The rights and obligations of this Agreement shall inure to the benefit of and bind the parties' respective successors and/or assigns.

SECTION 8.06 Applicable Law. This Agreement and the documents issued and executed hereunder shall be deemed to be a contract made under the laws of the State of Oklahoma and shall not be construed to constitute the Authority as a joint venturer with the Redeveloper or to constitute a partnership among the parties.

SECTION 8.07 Descriptive Headings. The descriptive headings of the articles and sections of this Agreement are for convenience only and shall not be used in the construction of the terms hereof.

SECTION 8.08 Integrated Agreement. This Agreement constitutes the entire agreement between the parties hereto, and there are no agreements, understandings, warranties or representations between the parties regarding the financing of the Redevelopment other than those set forth herein.

SECTION 8.09 Time of Essence. Time is of the essence in the performance of this Agreement.

SECTION 8.10 Binding Effect. This Agreement shall be binding upon and inure to the benefit of the parties hereto and their respective successors, legal representatives and assigns.

SECTION 8.11 Right to Defend. The Authority shall have the right, but not the obligation, with benefit of counsel selected by the Authority, all at the Redeveloper's expense, to commence, appear in or defend any action or proceeding purporting to affect the rights or duties of the parties hereunder, and in connection therewith, if the Redeveloper fails to so commence, appear in or defend any such action or proceeding, except in a suit between the Redeveloper and the Authority, in which case the prevailing party shall be entitled to such fees and expenses as a part of any judgment obtained.

SECTION 8.12 Counterparts. This Agreement may be executed in several counterparts, and all such executed counterparts shall constitute the same Agreement. It shall be necessary to account for only one such counterpart in proving this Agreement.

SECTION 8.13 Construction of this Agreement. The parties acknowledge that the parties and their counsel have reviewed and revised this Agreement and that the normal rule of construction to the effect that any ambiguities are to be resolved against the drafting party shall not be employed in the interpretation of this Agreement or any exhibits or amendments hereto.

IN WITNESS WHEREOF, the Authority and Redeveloper have caused this Agreement to be duly executed as of the Effective Date.

AUTHORITY: **STILLWATER ECONOMIC DEVELOPMENT AUTHORITY**
a public trust

By: _____
Chairman

(SEAL)
ATTEST:

By: _____

REDEVELOPER:

EVERYMAN, LLC,
an Oklahoma limited liability company

JUST THE LETTER J CAPITAL, LLC
an Oklahoma limited liability company

By: _____
Bryson Baker, Manager

By: _____
Name: _____
Title: _____

ACKNOWLEDGEMENTS

STATE OF OKLAHOMA)
)
COUNTY OF PAYNE)

SS:

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by Bryson Baker, the Manager of EVERYMAN, LLC, an Oklahoma limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the date and year first above written.

Notary Public

My Commission No.: _____
My Commission Expires: _____

(Notary Stamp or Seal)

STATE OF OKLAHOMA)
)
COUNTY OF _____)

SS:

The foregoing instrument was acknowledged before me this ____ day of _____, 2020, by _____, as the _____ of JUST THE LETTER J CAPITAL, LLC, an Oklahoma limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the date and year first above written.

Notary Public

My Commission No.: _____
My Commission Expires: _____

(Notary Stamp or Seal)

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EXHIBIT A

Legal Description of the Property

The North 9 inches of Lot Sixteen (16) and all of Lots Seventeen (17), Eighteen (18) and Nineteen (19), in Block Eighteen (18) ORIGINAL TOWN, now the City of Stillwater, Payne County, State of Oklahoma, according to the record plat thereof along with interests in party walls.

EXHIBIT B

Form of Covenant Agreement

After Recording, Return To:

COVENANT AGREEMENT

This Covenant Agreement (the “Covenant Agreement”) is made effective as of _____, 2020 (“Effective Date”), by and between the **STILLWATER ECONOMIC DEVELOPMENT AUTHORITY**, an Oklahoma public trust (“Authority”), with a notice address of 723 S. Lewis, Stillwater, Oklahoma 74076, **JUST THE LETTER J CAPITAL**, an Oklahoma limited liability company, with a notice address of 11624 Kings Circle, Oklahoma City, Oklahoma 73162, and **EVERYMAN, LLC**, an Oklahoma limited liability company (collectively, herein the “Owner”), with a notice address of _____, with reference to the following:

A. June 18, 2018, the City Council of the City of Stillwater (“City Council”) adopted Ordinance No. 3407 which approved the Stillwater (Re)Investment Plan (Stillwater Downtown/Campus Link Project Plan), establishing the Project Area, and creating Increment District No. 3, the City of Stillwater, a sales and ad valorem increment district (“Increment District No. 3”), pursuant to the Oklahoma Local Development Act, 62 O.S. §850, *et seq.*, as thereafter amended from time to time (“Project Plan”), including by Ordinance No. 3407 adopted by City Council on November 5, 2018 approving a minor amendment to the Project Plan to provide Payne County, its Health Department, and Meridian Technology a specific revenue source from those properties that generate increased property tax revenue without direct public assistance in Increment District No. 3 and which had no effect on the distributions and capital payment obligations to be made to the Stillwater Public Schools under the Project Plan, and by Ordinance No. 3440 adopted by City Council on October 7, 2019 to correct an error in the denominator of the calculations used to determine the allocations to each of the affected taxing jurisdictions.

B. Owner has acquired by Special Warranty Deed, dated _____, 2020, and recorded as Document # _____ in Book _____, at Page _____ of the records of the County Clerk of Payne County, Oklahoma, all right, title and interest in and to certain real property located in Payne County, Oklahoma, which is more particularly described on **Exhibit A** to this Covenant Agreement (the “Property”).

C. The Authority and Owner have entered into the Redevelopment Agreement, dated _____, 2020 (the “Redevelopment Agreement”), pursuant to which the Authority has agreed to provide certain financial assistance to support the development of the Property and Owner has agreed to make a payment of taxes in an annual minimum amount for a 15-year duration.

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D. Accordingly, Owner has agreed that a recordable instrument would include a covenant running with the land providing that the owner(s) and any successors in interest of the Property will pay or cause to be paid a minimum annual amount in lieu of taxes on the Property and taxable personal property during the Minimum Annual Payment Period (as defined below).

The parties hereby agree and covenant as follows:

1. Imposition of Covenants. This Covenant Agreement is made concurrently with and as consideration for the execution and delivery of the Redevelopment Agreement. This Covenant Agreement imposes the covenants herein on the Property. Pursuant to Section 5.11A of the Redevelopment Agreement, Owner hereby binds itself and its successors and assigns to the covenants herein, which shall continue in effect for a duration of fifteen (15) years.

2. Minimum Annual Payment. Commencing December 31, 2022, the Property shall be subject to a minimum annual payment (whether classified, in whole or in part, as a tax payment or an in lieu of payment) obligation in the amount of \$26,500.00 for each year in which the minimum tax payment is payable as set forth herein, less (a) all real and personal property taxes assessed and paid on the Property; and (b) to the extent two percent (2%) of the taxable sales of the Redeveloper payable to the City of Stillwater exceeds \$15,981.17 (“Minimum Annual Payment”), which shall continue in effect for each year thereafter through the duration of fifteen years, through December 31, 2037 (the “Minimum Annual Payment Period”).

3. Obligation to Pay Minimum Annual Payment. Subject to Section 8 of this Covenant Agreement, during the Minimum Annual Payment Period, the owner(s), and any successors in interest, of the Property will pay not less than the Minimum Annual Payment (or will make a payment in lieu of taxes in the Minimum Annual Payment amount). During the Minimum Annual Payment Period, if the county assessment ratios, levy rates, or taxable assessed values that are in effect for any subsequent fiscal year prior to the end of the Minimum Annual Payment Period results in a tax liability that is less than the Minimum Annual Payment amount, the owner(s) of the Property shall, in addition to paying ad valorem taxes on the property based on the county assessment ratios, levy rates, and taxable assessed values then in effect, make a payment in lieu of taxes in the amount of the difference between (i) the ad valorem tax calculation then in effect, and (ii) the Minimum Annual Payment amount.

4. Payments in Lieu of Taxes. During the Minimum Annual Payment Period, if all or a portion of the Property is exempt from taxes (whether resulting from ownership of such real or personal property by a public or private tax-exempt entity or a lease or sublease of such property to a public or private tax-exempt entity), the owner(s) of the Property shall make (or cause to be made) payments in lieu of taxes with respect to the real property and/or personal property to which such exemption applies, commencing in any year in which such tax exemption is in effect and terminating upon the first to occur of termination of such tax exemption or the end of the Minimum Annual Payment Period.

5. Lien Securing Minimum Annual Payment Obligations. The Minimum Annual Payment obligations of the Property pursuant to the covenants in this Covenant Agreement are secured by a lien (or liens) on the Property in favor of the Authority for the benefit of the

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apportionment fund of Increment District No. 3 arising annually at the same time, in the same manner, having the same priority, and subject to the same enforcement and remedies as liens to secure the annual payments of other ad valorem taxes, which lien or liens may also be evidenced by written notice executed by or on behalf of the Authority, or the duly authorized designee of the Authority and filed in the records of the County Clerk of Payne County, and which lien or liens may also be enforced by the Authority, or on its behalf by its authorized designee by foreclosure in the same manner as foreclosure of a mortgage.

6. Covenants Running with the Land. The covenants in this Covenant Agreement shall run with the land described in Exhibit A to this Covenant Agreement. The Authority, the Stillwater Utilities Authority, a public trust (“SUA”), and the City shall each be deemed a beneficiary of the covenants in this Covenant Agreement, and such covenants shall run in favor of the Authority, SUA, and the City for the entire period during which such covenants shall be in force and effect. As such beneficiaries, in the event of any breach of such covenants, the Authority, SUA, and the City shall have the right to exercise all the rights and remedies, and to maintain any actions at law or suits in equity or other proper proceedings to enforce the curing of such breach, to which beneficiaries of such covenant may be entitled; provided, however, that in all such events, the Authority, SUA, and/or the City, as applicable, shall be required to provide notice of any such breach to all lienholders of record at such notice address as is provided in such record document prior to the exercise of any of its rights and remedies hereunder; further provided, however, that the failure to provide such notice shall not prevent the exercise of any of its rights and remedies hereunder.

7. Timing of Minimum Annual Payment. The Minimum Annual Payment shall be made by December 31 of each year to the Stillwater Economic Development Authority.

8. No Personal Liability; Right to Dispute Any Tax Increases. In no event shall the covenants in this Covenant Agreement constitute a personal liability of Owner (or its successors and assigns), nor will the owner(s) of any portion of the Property be prevented from disputing in good faith any proposed increased ad valorem taxes that may be in excess of the Minimum Annual Payment amount. In the event of a default in payment of the Minimum Annual Payment obligation, the beneficiaries of the Minimum Annual Payment pursuant to this Covenant Agreement shall look exclusively to the Property for satisfaction thereof and shall not seek or obtain a personal judgment against Owner or its successors or assigns. Nothing herein is intended to imply that any property that formerly was publicly held is exempt from being placed on the ad valorem tax rolls after transfer to Owner.

9. Termination of Tax Covenants. The covenants in this Covenant Agreement shall terminate upon the expiration of the Minimum Annual Payment Period, and, upon such expiration, shall be extinguished and of no further force and effect.

[REMAINDER OF PAGE INTENTIONALLY LEFT BLANK]

The Authority has executed this Covenant Agreement as of the Effective Date.

AUTHORITY: STILLWATER ECONOMIC DEVELOPMENT AUTHORITY
a public trust

By: _____
Chairman

(SEAL)
ATTEST:

By: _____
Secretary

ACKNOWLEDGEMENT

STATE OF OKLAHOMA)
) SS:
COUNTY OF PAYNE)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by _____, Chairman of the Stillwater Economic Development Authority, a public trust, on behalf of the Trust.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the date and year first above written.

Notary Public

My Commission No.: _____
My Commission Expires: _____

(Notary Stamp or Seal)

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The Owner has executed this Covenant Agreement as of the Effective Date.

OWNER: **JUST THE LETTER J CAPITAL,**
an Oklahoma limited liability company

By: _____
Name: _____
Title: _____

EVERYMAN, LLC,
an Oklahoma limited liability company

By: _____
Bryson Baker, Manager

ACKNOWLEDGEMENTS

STATE OF OKLAHOMA)
) SS:
COUNTY OF PAYNE)

The foregoing instrument was acknowledged before me this _____ day of _____, 2020, by _____, as the _____ of JUST THE LETTER J CAPITAL, an Oklahoma limited liability company.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed my notarial seal the date and year first above written.

Notary Public

My Commission No.: _____
My Commission Expires: _____

(Notary Stamp or Seal)

10.14.2020 DRAFT

Exhibit A

Legal Description of the Property

The North 9 inches of Lot Sixteen (16) and all of Lots Seventeen (17), Eighteen (18) and Nineteen (19), in Block Eighteen (18) ORIGINAL TOWN, now the City of Stillwater, Payne County, State of Oklahoma, according to the record plat thereof along with interests in party walls.