

March 16, 2023

TO: Mayor Julie Moore Wolfe & Members of the Decatur City Council

FROM: Scot Wrighton, City Manager

RE: Redevelopment Agreement for Property at North Martin Luther King, Jr. Drive and East Sangamon Street

Since the closure of the Prairie Farms Ice Cream plant on North Martin Luther King, Jr. Dr., the City and the Economic Development Corporation have been working together to locate another ice cream manufacturer into this facility. We are pleased to announce that after months of negotiations, we have secured commitments from an out-of-state company who has already purchased the former Prairie Farms plant, is making plans to retrofit the facility, acquire adjacent property for future expansion, invest nearly \$50 million in the site, and bring new manufacturing jobs to Decatur.

The name of the ice cream manufacturer will be announced on Monday, along with extensive background on the company and its plans for Decatur. Company representatives also plan to meet with local media on Monday. Under the terms of the proposed redevelopment agreement, the city of Decatur will assist the company in clearing antiquated structures from adjacent parcels, generally help in clearing and cleaning their campus site, and provide other assistance as they develop their first Illinois plant. Approval of the proposed redevelopment agreement not only advances the city's economic development objectives, but it also assists in neighborhood revitalization by beautifying and eventually cleaning-up an existing eyesore location in the Near North/Wabash neighborhood.

After a brief presentation and Q&A from the company on Monday night, it is recommended that the redevelopment agreement be adopted.

RESOLUTION NO. R2023 _____

**RESOLUTION AUTHORIZING REDEVELOPMENT AGREEMENT
FOR FORMER PRAIRIE FARMS PROPERTY
-CITY OF DECATUR-**

BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DECATUR,
ILLINOIS:

Section 1. That the Agreement presented to the Council herewith, be, and the same is hereby, received, placed on file, and approved.

Section 2. That the Mayor and City Clerk be, and they are hereby, authorized and directed to sign, seal, and attest Agreement on behalf of the City.

PRESENTED AND ADOPTED this 20th day of March, 2023.

JULIE MOORE WOLFE
MAYOR

ATTEST:

KIM ALTHOFF
CITY CLERK

**CITY OF DECATUR/TILLAMOOK ILLINOIS, LLC
DEVELOPMENT AGREEMENT**

THIS CITY OF DECATUR/TILLAMOOK ILLINOIS, LLC DEVELOPMENT AGREEMENT (the "Agreement") is entered into as of the ____ day of _____, 2023, by and between the City of Decatur, Illinois, an Illinois home rule municipal corporation, (hereinafter referred to as the "City") and Tillamook Illinois, LLC, an Oregon limited liability company with primary location in Tillamook, Oregon, U.S.A. (hereinafter referred to as the "Developer").

RECITALS

WHEREAS, the City is a home rule unit of government, pursuant to Section 6 of Article VII of the Constitution of the State of Illinois, and as such has the authority to promote health, safety and welfare, including to prevent the spread of blight and deterioration and inadequate facilities by promoting the development of and private investment in industry, business and housing and enhancing the marketability of the Development Area (as defined herein) and is authorized and empowered to enter into economic incentive agreements pertaining to its government and affairs, including the economic development of the City and the expansion of its tax base thereby reducing unemployment; and,

WHEREAS, the Developer wishes to substantially develop and improve a portion of property Developer owns located in the Development Area for the Project (as defined herein) for use of the same as an ice cream production and regional distribution facility, thereby contributing to the economic development of the City, increasing the tax base thereby reducing unemployment and creating or retaining job opportunities within the City and serving to further and maintain the development of adjacent areas, and the City is willing to enter into a redevelopment agreement with the Developer to assure that said development and improvements occur; and,

WHEREAS, there exists certain property located in the Development Area and owned by Developer that is currently undeveloped and has been for a period in excess of one (1) year; and,

WHEREAS, the Developer has requested that the City provide an incentive to Developer by assisting in the demolition of a structure(s) in the Development Area, located at 805 N. Morgan, Decatur, Illinois owned by Developer and necessary for the Project; and,

WHEREAS, without the incentive and assistance of the City as set forth in this Agreement, the Developer would not undertake the Project and the Project would not be possible; and,

WHEREAS, the cost of the Project (including land acquisition, soft costs and ongoing improvements) is estimated to be no less than \$50,000,000 Dollars; and,

WHEREAS, the Project is projected to employ approximately 45 full time persons; and,

WHEREAS, the City has determined that the Project requires the incentive requested and that the Project will promote the health, safety and welfare of the City and its citizens, strengthen the commercial sector of the City by attracting private investment to prevent blight and deterioration, enhance the tax base of the City and provide employment and generally to enhance the economy of the City and is made and entered into in the best interest of the City.

NOW THEREFORE, in consideration of the promises and mutual covenants and obligations of the parties contained herein, and other good and valuable consideration, the receipt and sufficiency whereof are hereby acknowledged, the parties hereto, intending to be legally bound, hereby covenant and agree as follows:

ARTICLE I: DEFINITIONS

"Applicable Law" means all laws, statutes, acts, ordinances, rules, regulations, permits, licenses, authorizations, directives, orders and requirements of all governmental authorities having jurisdiction, that now or hereafter during the term of this Agreement may be applicable to the City, the Developer, and/or the Project, and the design, improvement, maintenance, use and operation thereof, including those relating to employees, zoning, building, health, safety, hazardous materials, and accessibility of public facilities.

"Project" means the design, renovation, improvement, and opening of a manufacturing facility and, at Developer's option, a regional distribution facility to be constructed, owned and operated by the Developer, each within the Development Area.

"Public Investment" means the costs actually incurred by the City for demolition costs for the Project as set forth in Article IV of this Agreement.

"Development Area" means the properties and parcels owned by Developer or an affiliate of Developer in Decatur, IL in the area generally located in and described as north of East Wabash, east of N. Martin Luther King Jr. Dr., south of E. Marietta St., and west of the CN Railroad tracks, subject to change in accordance with Section 3.3 below.

"Substantial Completion or Substantially Complete" means complete renovation of the shell and core, with finished interiors of common areas to the point of qualification for the issuance of certificates of occupancy pursuant to codes of the City, except for minor and ancillary alterations or additional work (including, without limitation, typical punch list items), and shall include complete construction of the shell and core with respect to any new structures erected by Developer as part of the Project, it being understood that, notwithstanding anything to the contrary in this Agreement, Developer's initial plan for the Project is limited to the improvement and renovation of structures existing in the Development Area as of the date of this Agreement.

ARTICLE II: DEVELOPMENT OF THE PROJECT

2.1 Development of the Project.

The Developer will utilize its best efforts to develop the Project in a manner that is compatible with this Agreement and Applicable Law.

2.2 Commencement and Completion Requirements.

2.2.1 Completion.

The Developer shall Substantially Complete the Project within three (3) years from the date of this Agreement or other mutually agreeable date.

2.2.3 Delay – rendezvous clause.

Where the Developer would not be able to meet the above Commencement and Completion Requirements, both Parties agree to discuss and try to reach, in good faith and amicably, an agreement to postpone such Commencement and/or Completion Requirements.

2.3 Certificate of Completion.

Promptly after Substantial Completion of the Project or any phase thereof and upon request of the Developer, the City will execute, and deliver to the Developer a certificate of completion. Said instrument of certification by the City shall be (and it shall be so provided

in the certification itself) a conclusive determination of satisfaction with respect to the obligations of the Developer and its successors and assigns that the Project has been Substantially Complete in accordance with the provisions of this Agreement.

2.4 Quality of Construction and Conformance to Federal, State and Local Requirements.

All work with respect to the Project, including demolition, shall conform to Applicable Law including, but not limited to, design standards, environmental codes, life safety codes and prevailing wage laws. The Developer shall cause the Project to be commenced and to be prosecuted with due diligence and in good faith in accordance with the terms of this Agreement, and without undue delay and shall cause the Project to be performed in a good and workmanlike manner in accordance with the approved plans for the Project.

2.5 Rights of Inspection.

During improvement of the Project, the City or its designee shall have the right at any time and from time to time to enter upon the Project for the purposes of inspection upon reasonable prior notice to Developer. In no event will City's exercise of its inspection rights unreasonably interfere with Developer's completion of the Project.

2.6 Enterprise Zone and Related Benefits.

Developer shall apply for Enterprise Zone benefits through the Economic Development Corporation of Decatur and Macon County seeking property tax abatement on the incremental increase in property taxes generated by the Project and a waiver of State and local sales taxes on the purchase of those eligible materials used in the Project as permitted by Applicable Law. Further, Developer may apply for any other available local, State or Federal tax incentives in connection with the Project including, without limitation, New Markets Tax Credit.

ARTICLE III: CITY Obligations

3.1 Public Investment.

The City shall provide the Public Investment pursuant to Article IV below.

3.2 Zoning.

It is contemplated by the City and the Developer that the Project shall have a zoning classification which will permit the use of the Project as intended by this Agreement. City will use reasonable efforts, in accordance with Applicable Laws, to assist Developer in

connection with any required re-zoning or variances to permit the improvement, renovation and operation of the Project, and will provide timely review and comment of permit applications for the Project.

3.3 Additional Parcels.

It is contemplated by the City and the Developer that the Developer will attempt to acquire additional parcels adjacent to the Development Area (the "Additional Parcels"). The City will use commercially reasonable efforts to (i) assist in Developer's efforts to obtain the Additional Parcels, including, without limitation, facilitating communications between Developer and the owners of such Additional Parcels, and (ii) beautify other parcels adjacent to the Development Area to enhance the aesthetic quality of the Project and the Development Area. If Developer acquires title to any Additional Parcels, such Additional Parcels will be considered part of the Development Area for all purposes under this Agreement. City may, but will not be required, to expend additional funds in furtherance of its efforts under this Section 3.3.

ARTICLE IV: PUBLIC INVESTMENT

4.1 Public Investment.

The City will provide assistance for the demolition of the structure(s) located at 805 N. Morgan St., Decatur, IL (the "Structure") through reimbursement to Developer for the reasonable and actual incurred cost of demolition of the Structure or, in the alternative, the actual demolition of the Structure by the City. The obligation of the City for this public investment shall terminate and cease to be an obligation of the City if Developer has not demolished the Structure and requested reimbursement from the City within twenty-four (24) months of the date of this Agreement or, in the alternative, has not, within twenty-four (24) months of the date of this Agreement, requested the City to demolish the structure.

4.2 Reimbursement Conditions.

The obligation for the reimbursement to Developer for expenses described in Section 4.1 above as part of the Project shall not be incurred until the final inspection and approval of the demolition by the City. Following final inspection and approval of the demolition by the City and upon proof of payment of the demolition costs by Developer, City shall reimburse Developer within sixty (60) days of request by Developer to City for such reimbursement.

4.3 Demolition by City.

In the alternative to reimbursement of demolition costs incurred by Developer as set forth in Section 4.2 above, upon substantial completion of the Project by Developer and upon written request to the City, the City shall cause the demolition of the structure(s) located at 805 N. Morgan.

4.4 Public Infrastructure.

The City will assist Developer with necessary and required public rights of way vacations for approved expansions of the Project in the Development Area so long as the vacations do not impact required public access.

4.5 Energy Related Assistance.

The City will assist Developer in seeking and developing energy efficiencies and energy related tax advantages where available.

ARTICLE V: DEVELOPER COVENANTS AND RESTRICTIONS

5.1 Project Subject to Development Agreement.

The Developer agrees to comply with the terms and conditions of this Agreement and to use its best efforts to construct the Project subject to the terms, covenants, building and use restrictions, and other conditions in this Agreement.

5.2 Non-discrimination.

The Developer shall not discriminate in violation of any Applicable Laws or regulations upon the basis of race, color, religion, sex, age, or national origin or other applicable factors in the sale, lease or rental, or in the use or occupancy of the Project or any part thereof.

5.3 Property Taxes.

Developer acknowledges that the City in executing this Agreement has relied upon its reasonable expectation that the renovation, improvement and operation of the Project will increase the amount of real property taxes with respect to the Project and the Development Area.

ARTICLE VI: INDEMNIFICATION

6.1 Developer Indemnification of the City.

So long as the Developer maintains a direct interest in the Project or Development Area or any part thereof (excluding, for example, an interest therein solely as a creditor or mortgagee) and notwithstanding anything to the contrary in this Agreement, the Developer agrees to indemnify, defend and save the City, its officers, employees, Council members, Mayor, agents and representatives and each of their successors and assigns harmless from and against any and all claims, liabilities, demands, suits, administrative proceedings, causes of action, costs, damages (excluding consequential, punitive, special and similar

type damages), personal injuries and property damages, losses, attorney's fees and costs of litigation and other expenses, both known and unknown, present and future, at law or in equity by or on behalf of any person, firm or corporation arising from (i) the Developer's operation or management of the Project, or from any work or thing done by the Developer in the Development Area, or any work or activity of the Developer connected to the construction of the Project; (ii) any breach or default on the part of the Developer in the performance of any of its obligations, terms, conditions, representations or warranties under or in respect of this Agreement; (iii) any act of negligence or willful or wanton misconduct of the Developer or any of its agents, contractors, servants or employees related to the construction or operation of the Project; (iv) any violation by the Developer of any easements, conditions, restrictions, building regulations, zoning ordinances, environmental regulations or land use regulations affecting the Development Area or the Project; (v) any violation of Applicable Law related to the Project, or (vi) any violation by the Developer of state or federal securities law in connection with the offer and sale of interests in the Developer, its affiliates or any part of the Project. Subject to the foregoing, the Developer agrees to indemnify and save the City harmless from and against all costs and expenses incurred in or in connection with any such claim arising as aforesaid or in connection with any action or proceeding brought thereon. In case any such claim shall be made or action brought based upon any such claim in respect of which indemnity may be sought against the Developer, upon receipt of notice in writing from the City setting forth the particulars of such claim or action, the Developer shall assume the defense thereof including the employment of counsel and the payment of all costs and expenses, provided that City tenders [defense of any claim made against City which is subject to Developer's indemnity to Developer in sufficient time to avoid prejudice to Developer for handling by counsel of Developer's selection and reasonably acceptable to City.](#) The City shall have the right to employ separate counsel in any such action and to participate in the defense thereof, but the fees and expenses of such counsel shall be at the expense of the City. It is agreed and understood that the aforesaid indemnities in this Article shall be binding on the Developer only for such period as the Developer maintains a direct interest in the Project or Development Area or part thereof (excluding, for example, an interest therein solely as a creditor or mortgagee), and only with respect to such direct interest in the Project or Development Area or part thereof. Provided, notwithstanding the foregoing, the Developer shall not be liable to indemnify and hold the City harmless from any portion of any such loss, liability, cost or expense which results from the negligence or willful misconduct of the City, its officials, agents, or employees or the acts of any unrelated third party.

6.2 City Indemnification of the Developer.

To the extent not prohibited by law, the City , so long as the Developer maintains a direct interest in the Project or Development Area or any part thereof (excluding, for example, an interest therein solely as a creditor or mortgagee), shall indemnify and hold harmless the Developer and its directors, officers, employees and agents from any and all claims, damages (excluding consequential, punitive, special and similar type damages), costs, and

expenses, caused by the City of Decatur or any of its agents, contractors, officials or employees arising from: (i) any act of negligence or willful and wanton misconduct of the City or any of its agents, contractors, officials or employees; (ii) any breach or default on the part of the City in the performance of any of its obligations under or in respect of this Agreement; or (iii) any violation of Applicable Law. The City agrees to indemnify and save the Developer harmless from and against all costs and expenses incurred in or in connection with any such claim arising as aforesaid or in connection with any action or proceeding brought thereon. Notwithstanding the foregoing, the City of Decatur retains any and all defenses and immunities provided by the Local Governmental and Governmental Employees Tort Immunity Act, 745 ILCS 10/1-101 *et seq.* In addition, neither party intends this paragraph to waive its rights to limited liability under the Illinois Worker's Compensation Act or *Kotecki* line of cases (146 Ill 2d 155, 585 NE 2d 1023 (1991)). Provided, further, notwithstanding the foregoing, the City shall not be liable to indemnify and hold the Developer harmless from any portion of any such loss, liability, cost or expense which results from the negligence or willful misconduct of the Developer, its officials, agents, or employees.

ARTICLE VII: DEFAULT AND REMEDIES

7.1 Events of Default.

The following shall be events of default (each, an "Event of Default") with respect to this Agreement:

7.1.1 Misrepresentation.

If any material representation made by the Developer or the City in this Agreement, or in any certificate, notice, demand or request made by the Developer or the City in writing and delivered to the other party pursuant to or in connection with any of said documents shall prove to be untrue or incorrect in any material respect as of the date made; or

7.1.2 Breach.

Breach by the Developer or the City of any material covenant, warranty or obligation set forth in this Agreement.

7.2 Remedies Upon Default.

In the case of an Event of Default by either party hereto or any successors to such party, such party or successor shall, upon written notice from the other party, take immediate action to cure or remedy such Event of Default within sixty (60) days after receipt of such

notice (or within a reasonable time if the Event of Default cannot be diligently cured within such sixty (60) day period, provided that the defaulting party commences to cure such default within such 60-day period and thereafter diligently pursues completion of the same). If, in such case action is not taken, or not diligently pursued, or the Event of Default shall not be cured or remedied within a reasonable time, the aggrieved party may institute such proceedings as may be necessary or desirable in its opinion to cure or remedy such Event of Default, including but not limited to, proceedings to compel specific performance by the party in default of its obligations.

In case the City or the Developer shall have proceeded to enforce its rights under this Agreement and such proceedings shall have been discontinued or abandoned for any reason or shall have been determined adversely to the party initiating such proceedings, then and in every such case the Developer and the City shall be restored respectively to their several positions and rights hereunder, and all rights, remedies and powers of the Developer and the City shall continue as though no such proceedings had been taken.

7.3 Other Rights and Remedies of City and Developer: Delay in Performance Waiver.

7.3.1 No Waiver by Delay.

Any delay by the City or the Developer in instituting or prosecuting any actions or proceedings or otherwise asserting their rights under this Agreement shall not operate to act as a waiver of such rights or to deprive them of or limit such rights in any way (it being the intent of this provision that the City or the Developer should not be constrained so as to avoid the risk of being deprived of or limited in the exercise of the remedies provided in this Agreement because of concepts of waiver, laches or otherwise); nor shall any waiver in fact made by the City or the Developer with respect to any specific Event of Default by the Developer or the City under this Agreement be considered or treated as a waiver of the rights of the City or the Developer under this Section or with respect to any Event of Default under any section in this Agreement or with respect to the particular Event of Default, except to the extent specifically waived in writing by the City or the Developer.

7.3.2 Rights and Remedies Cumulative.

The rights and remedies of the parties to this Agreement (or their successors in interest) whether provided by law or by this Agreement, shall be cumulative, and the exercise by either party of any one or more of such remedies shall not preclude the exercise by it, at the time or different times, of any other such remedies for the same Event of Default by the other party. No waiver made by either such party

with respect to the performance, nor the manner or time thereof, or any obligation of the other party or any condition to its own obligation under the Agreement shall be considered a waiver of any rights of the party making the waiver with respect to the particular obligation of the other party or condition to its own obligation beyond those expressly waived in writing and to the extent thereof, or a waiver in any respect in regard to any other rights of the party making the waiver or any other obligations of the other party.

7.3.3 Delay in Performance.

For the purposes of any of the provisions of this Agreement, neither the City, nor the Developer, shall be considered in breach of, or in default of, its obligations with respect to the beginning and completion of improvement work or other construction or renovation work of the Project, in the event of enforced delay in the performance of such obligation due to unforeseeable causes beyond its control and without its fault or negligence, including, but not restricted to acts of God, acts of the public enemy, acts of federal, state or local government, application of Applicable Laws, acts of the federal or state judiciary, acts of the other party, fires, floods, epidemics, quarantine restrictions, strikes, embargoes, acts of nature, unusually severe weather or delays of subcontractors due to such causes; it being the purposes and intent of this provision that in the event of the occurrence of any such enforced delay, the time or times for performance of the obligations of the City or the Developer with respect to the beginning and completion of the improvement of the Project or the demolition of structure(s) shall be extended for the period of the enforced delay. Provided, that the party seeking the benefit of the provisions of this Section, shall within thirty (30) days after the beginning of any such enforced delay have first notified the other party thereof in writing, of the cause or causes thereof, and requested an extension of the period of enforced delay. Such extensions of schedule shall be agreed to in writing by the parties hereto. Nothing in this Section will excuse payment by City or Developer of any amounts owing under this Agreement.

ARTICLE VIII: EQUAL EMPLOYMENT OPPORTUNITY

The Developer, for itself and its successors and assigns, agrees that during and with respect to renovation and improvement of the Project provided for in this Agreement that the following will apply:

8.1 Nondiscrimination.

The Developer will not discriminate against any employee or applicant for employment on the basis of race, color, religion, sex, creed, disability, age or national origin. The

Developer will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their race, color, religion, sex or national origin. Such action shall include, but not be limited, to the following: employment, upgrading, demotion, transfer, recruitment, recruitment advertising, layoff, termination, rate of pay or other forms of compensation, and selection for training, including apprenticeship. The Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this non-discrimination clause.

8.2 Advertising.

The Developer will, in all solicitations or advertisements for employees placed by or on behalf of the Developer, state that all qualified applicants will receive consideration for employment without regard to race, color, religion, sex, or national origin.

ARTICLE IX: REPRESENTATIONS OF THE DEVELOPER

The Developer represents warrants and agrees as the basis for the undertakings on its part herein contained that:

9.1 Organization.

The Developer is in good standing with the State of Oregon and the State of Illinois.

9.2 Authorization.

The Developer has power to enter into, and by proper action has been duly authorized to execute, deliver and perform this Agreement.

9.3 Non-Conflict or Breach.

Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement, conflicts with or results in a breach of any of the terms, conditions or provisions of any restriction, agreement or instrument to which the Developer is now a party or by which the Developer is bound.

9.4 Pending Lawsuits.

To the knowledge of the Developer (which for all purposes hereunder shall mean the actual, present knowledge of Mike Bever, without independent inquiry or investigation), there are no lawsuits either pending or threatened that would materially, adversely affect the ability of the Developer to proceed with the improvement and development of the Project in the Development Area.

9.5 Location of Project.

The Project will be located within the Development Area.

9.6 Conformance with Requirements.

The Developer represents and warrants that the improvement of the Project will in all respects conform to and comply with all covenants, conditions, restrictions, zoning ordinances, environmental regulations and land use regulations affecting the Project and Development Area.

ARTICLE X: REPRESENTATIONS OF THE CITY

The City represents, warrants and agrees as a basis for the undertakings on its part contained herein that:

10.1 Organization and Authorization.

The City is a municipal corporation organized and existing under the laws of the state of Illinois, and has the power to enter into and by proper action has been duly authorized to execute, deliver and perform this Agreement.

10.2 Non-Conflict or Breach.

Neither the execution and delivery of this Agreement, nor the consummation of the transactions contemplated hereby, nor the fulfillment of or compliance with the terms and conditions of this Agreement, conflicts with or results in a breach of any of the terms, conditions or provisions of any restriction, agreement or instrument to which the City is now a party or by which the City is bound.

10.3 Pending Lawsuits.

To the knowledge of the City, there are no lawsuits either pending or threatened that would affect the ability of the City to perform this Agreement.

ARTICLE XI: MISCELLANEOUS

11.1 Authorized Representatives.

11.1.1 Developer.

By complying with the notice provisions hereof, the Developer shall designate an authorized representative from time to time, who, unless applicable law requires action by the Board of Directors of the Developer, shall have the power and authority to make or grant or do all things, requests, demands, approvals, consents, agreements and other actions required or described in this Agreement for and on behalf of the Developer.

11.1.2 City.

By complying with the notice provisions hereof, the City shall designate an authorized representative from time to time, who shall communicate with the Developer on behalf of the City. Such representative shall not have the authority to make agreements on behalf of the City.

11.2 Limited Liability to Others.

Except as otherwise expressly provided herein, the City shall not be obligated to make any payments to any person other than the Developer (and its permitted assignees), nor shall the City be obligated to pay any contractor, subcontractor, mechanic, materialman providing services or materials to the Developer for or in respect of the Development Project.

11.3 Binding Upon Successors in Interest.

This Agreement shall be binding upon and inure to the benefit of all the parties hereto and their respective heirs, successors, administrators, assigns or other successors in interest.

11.4 Titles of Paragraphs.

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

11.5 Notices.

All notices, requests, consents, approvals, demands or other instruments required or permitted by this Agreement shall be in writing and shall be executed by the party or an officer, agent or attorney of the party, and shall be deemed to have been effective as the date of actual service, if personally served, or as of the third (3rd) day from and including the date of posting, if mailed by registered or certified mail, return receipt requested, or by reputable overnight courier, with postage prepaid, addressed to:

the City:

City Clerk
One Gary K. Anderson Plaza
Decatur, IL 62523

with copies to:

City Manager
One Gary K. Anderson Plaza
Decatur, IL 62523

the Developer:

Tillamook Illinois, LLC
c/o Tillamook County Creamery Association
4185 Highway 101 North
Tillamook, OR 97141
Attn: Mike Bever

or to the last known address of either party or to the address provided by any assignee if such address has been given in writing. In the event said notice is mailed, the date of service of such notice shall be deemed to be two (2) business days after the date of delivery of said notice to the United States Post Office.

11.6 Further Assistance and Corrective Instruments.

The City and the Developer agree that they will, from time to time, execute, acknowledge and deliver, or cause to be executed, acknowledged and delivered, such supplements hereto

and such further instruments as may reasonably be required by the parties hereto for carrying out the intention of or facilitating the performance of this Agreement.

11.7 No Joint Venture, Agency, or Partnership Created.

Neither anything in this Agreement nor any acts of the City and/or the Developer under this Agreement shall be construed by the parties or any third person to create the relationship of a partnership, agency, or joint venture between them. No covenant or agreement contained in this Agreement shall be deemed to be the covenant or agreement of any official, officer, agent, employee or attorney of the City , in his or her individual capacity, and neither the members of the Corporate Authorities nor any other official or employee of the City shall be liable personally under this Agreement or be subject to any personal liability or accountability by reason of or in connection with or arising out of the execution, delivery and performance of this Agreement, or any failure in that connection.

ARTICLE XII: TERMS OF THE AGREEMENT

12.1 Entire Agreement.

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

12.2 Severability.

Wherever possible, each provision hereof shall be interpreted in such manner as to be effective and valid under applicable law, but in case any one or more of the provisions contained herein shall, for any reason, be held to be invalid, illegal or unenforceable in any respect, such provision shall be ineffective to the extent, but only to the extent, of such invalidity, illegality, or unenforceable provision or provisions or any other provisions hereof, unless such a construction would be unreasonable.

12.3 Execution.

This Agreement may be executed in one or more counterparts (including counterparts executed by DocuSign or similar electronic means), each of which shall be considered an original instrument, but all of which shall be considered one and the same Agreement, and shall become binding when one or more counterparts have been signed by each of the parties hereto and delivered to each of the parties hereto.

12.4 Laws.

This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois.

12.5 Language.

The language used in this Agreement shall be deemed to be the language chosen by the parties hereto to express their mutual intent, and no rule of strict construction will be applied against either party, regardless of which is the drafter.

12.6 Headings.

All headings contained in this Agreement are for convenience of reference only and shall not be interpreted to expand or limit any provision hereof.

12.7 Legal Authority.

Each of the above said parties represents and warrants that each of the above said parties has the right and legal authority to execute this Agreement. Each of the above said parties further acknowledges and represents to one another that the representatives who execute this Agreement have the authority under the law to execute this Agreement and to bind their respective principals to the obligations under this Agreement and further, that any legal requirements conferring authority upon the representatives who execute this Agreement have been met by each of the respective parties as required by law.

IN WITNESS WHEREOF, the parties hereto have executed this Agreement and caused their respective seals to be affixed and attested thereto as of the date first above written.

CITY OF DECATUR

an Illinois municipal corporation

TILLAMOOK ILLINOIS, LLC,

an Oregon limited liability company

By: _____
Julie Moore Wolfe
Mayor of Decatur

By: TILLAMOOK COUNTY CREAMERY
ASSOCIATION, an Oregon cooperative
corporation, its Manager

Attest:

By: _____

By: _____
Kim Althoff
City Clerk

Its: _____

Attest:

By: _____

Its: _____