

**DEVELOPMENT AGREEMENT
BY AND AMONG
THE ECONOMIC DEVELOPMENT GROWTH ENGINE INDUSTRIAL
DEVELOPMENT BOARD OF THE CITY OF MEMPHIS AND COUNTY OF SHELBY,
TENNESSEE,
ELVIS PRESLEY ENTERPRISES, INC., AND
EPPF, LLC**

THIS DEVELOPMENT AGREEMENT (this “Agreement”) is made and entered into as of the ___ day of _____, 2018, by and among THE ECONOMIC DEVELOPMENT GROWTH ENGINE INDUSTRIAL DEVELOPMENT BOARD OF THE CITY OF MEMPHIS AND COUNTY OF SHELBY, TENNESSEE, a public nonprofit corporation organized under Tenn. Code Ann. §§ 7-53-101, et seq. (“EDGE” or the “Board”), and ELVIS PRESLEY ENTERPRISES, INC., a Tennessee corporation (“EPE”), and EPPF LLC, a Delaware limited liability company (“EPPF”, and together with EPE and its affiliates, collectively, the “Developer”)(EDGE, EPE and EPPF, individually “Party” and collectively “Parties”).

W I T N E S S E T H:

WHEREAS, the Board has approved the Economic Impact Plan for Graceland Economic Development Area (the “EIP”) regarding the development of an area in the City and the County identified in the EIP (the “Plan Area”);

WHEREAS, a copy of the EIP is attached hereto as Exhibit A;

WHEREAS, the Plan Area is limited to the approximately 120 acre Graceland Campus located on Elvis Presley Boulevard in the Whitehaven neighborhood as more fully set forth in the EIP;

WHEREAS, Developer, by itself and through its affiliates, has developed, and owns and/or operates, certain real property located in the Plan Area containing the Graceland Mansion; the Guest House at Graceland, a 450 room hotel; and Elvis Presley’s Memphis, approximately 220,000 square feet of pre-function, exhibit, retail and restaurant space;

WHEREAS, Developer proposes to undertake the demolition of the Heartbreak Hotel and construction of parking on its former site, as well as the development of an approximately 80,000 sq. ft. building including two approximately 20,000 sq. ft. exhibition / convention spaces and restaurant, retail and entertainment venues and related roadway improvements and infrastructure within the Plan Area which is described on Exhibit B attached hereto (the “Additional Development”);

WHEREAS, certain incremental and ad valorem property tax revenues, known as the Graceland TIF Payment, certain incremental sales tax revenues derived within the Graceland Tourism Development Zone, known as the Graceland TDZ Payment, and a sales tax surcharge derived from the Graceland Tourism Development Zone, known as the Tourism Surcharge

Payment (collectively, “Tax Increment Revenues”) have been used to finance the Guest House at Graceland and Elvis Presley’s Memphis;

WHEREAS, under Tenn. Code Ann. §§ 7-53-301, et seq., and the Economic Impact Plan, the EDGE is authorized to use the Tax Increment Revenues to pay for, among other things, the eligible costs (the “Eligible Costs”), which shall include without limitation all costs incurred by EDGE associated with the Additional Development and any costs incurred by EDGE associated with any Tax Increment Financing Loan (as herein defined), to the extent permissible under any applicable laws (collectively, the “Transaction Costs”); and

WHEREAS, for the purpose of establishing the rights and obligations of the parties with respect to the Additional Development and certain terms related to the Tax Increment Revenues, the parties have entered into this Agreement.

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

1. Definitions. In addition to the terms defined in the recitals above, the following terms have the following meanings when used in this Agreement:

a. “Administrative Fee” shall mean (i) 2% of the County Tax Increment Revenues, to be deducted by the County Trustee upon receipt, and (ii) 1% of the City Tax Increment Revenues to be deducted by the City Treasurer upon receipt, and (iii) 3% of the County Tax Increment Revenues and 4% of the City Tax Increment Revenues, to be delivered to the Board upon receipt.

b. “Diversity Plan Agreement” or “DPA” shall mean the commitment by Developer to utilize Minority/Woman Business Enterprises as certified by either the City or County government or their successor programs as described in Exhibit C hereto in the construction of the Additional Development, in an amount equal to at least 25 percent of the cost of construction.

c. “Venue Restrictions” The intent of the Venue Restrictions is to insure that the spaces within the Additional Development cannot be joined or operated so that more than 1,700 seated individuals can view a music, sporting, or theatrical performance. The Additional Development shall be substantially constructed in accordance with Exhibit B. No individual component, space or venue located within the Additional Development shall contain seating for more than 1,700. Developer has agreed that the two 20,000 sq. ft. exhibition/convention spaces will each be limited to non-fixed seating restrictions of 1,700 seats per space in the Use and Occupancy Permit with the City of Memphis (“Seating Restrictions”) and that at a minimum the walls separating the two 20,000 sq. ft. exhibition/convention spaces from the additional spaces in the Additional Development shall be permanent and substantially opaque in nature and may not be removed (“Fixed Walls”). Developer shall provide EDGE with a copy of the building plans submitted to the City of Memphis to obtain necessary building permits (“Plans”). EDGE will have its architect review the Plans for compliance with the Venue Restrictions. If EDGE has not

objected in writing to the Plans within ten (10) business days of receipt of the Plans, the Plans will be deemed to be approved. EDGE's approval of the Plans must be completed before any draws are disbursed from any financing closed or debt issued by EDGE. Developer shall materially build according to the Plans, with any significant variation requiring written approval from EDGE. Prior to obtaining the Use and Occupancy Permit, ("Permit"), Developer shall permit EDGE's architect to inspect the Additional Development to determine compliance with the Plan and Venue Restrictions. If EDGE has not provided a written objection to the construction of the Additional Development within five (5) business days of the inspection, EDGE will be deemed to have approved the construction and Developer may seek the permit.

2. Pledge of Tax Increment Revenues to Secure Indebtedness. The Board shall continue to pledge the Tax Increment Revenues to the payment of the indebtedness incurred to finance Eligible Cost in accordance with the terms of the financing documents and the Economic Impact Plan.

3. Developer Obligations.

a. Developer shall cause the Additional Development that Developer elects to develop to be constructed in accordance with the applicable plans, specifications, contracts and applicable law.

b. Developer agrees to comply with the target percentages in the Elvis Presley's Memphis Diversity Plan Agreement (formerly known as Elvis Past, Present & Future) except that all references to locally owned small businesses shall be deleted. The only acceptable vendors shall be women and minority owned vendors registered with the City of Memphis or County of Shelby, Tennessee.

c. Developer agrees to comply with the Venue Restrictions and to construct the Additional Development substantially as shown in the building plans submitted to EDGE as outlined in 1c.

4. Board Obligations.

a. The Board acknowledges that it has pledged the Tax Increment Revenues (less the Administrative Fee) to U.S. Bank National Association, as Master Trustee (the "Master Trustee"), under that certain Master Trust Indenture dated as of June 1, 2015, by and between the Board and the Master Trustee (as amended and supplemented from time to time, the "Master Indenture") pursuant to which the Tax Increment Revenues will be kept separate and apart from all other funds of the Board, pursuant to the requirements of Tenn. Code Ann. § 7-53-312. The Board shall deposit, or cause to be deposited, all Tax Increment Revenues (less the Administrative Fee) with the Master Trustee to be used as provided in the Master Indenture. Nothing contained herein shall modify the Boards obligations under the Master Indenture, as amended.

b. The Board, the City Treasurer and the County Trustee shall receive the Administrative Fee to compensate each for its administrative expenses in connection with administering the Tax Increment Revenues.

6. Developers Default/Liquidated Damages. Should Developer remain in default related to any Developer obligations contained in Section 3(c), above, it will be difficult or impossible to ascertain the specific amount of damages suffered by EDGE. THE PARTIES ACKNOWLEDGE AND AGREE THAT THE DAMAGES TO EDGE IN THE EVENT OF DEVELOPER'S DEFAULT OR BREACH WOULD BE IMPOSSIBLE TO ACCURATELY DETERMINE, THAT PROOF OF THE AMOUNT OF SUCH DAMAGES WOULD BE COSTLY AND INCONVENIENT AND THAT THE LIQUIDATED DAMAGES AMOUNT STATED BELOW IS FAIR AND REASONABLE IN LIGHT OF ALL OF THE CIRCUMSTANCES EXISTING ON THE DATE OF THIS AGREEMENT, INCLUDING THE PARTIES' ESTIMATION OF THE POSSIBLE RANGE OF DAMAGES TO EDGE IN THE EVENT OF SUCH A DEFAULT OR BREACH BY DEVELOPER. SUCH LIQUIDATED DAMAGES SHALL BE EDGE'S SOLE AND EXCLUSIVE REMEDY FOR DEVELOPER'S DEFAULT OR BREACH AND THE DEVELOPER SHALL HAVE NO OTHER OR FURTHER OBLIGATION OR LIABILITY UNDER THIS AGREEMENT TO EDGE ON ACCOUNT OF SUCH DEFAULT OR BREACH, EXCEPT FOR DEVELOPER'S OBLIGATION TO PAY THE PREVAILING PARTY'S ATTORNEYS FEES AS PROVIDED IN THIS SECTION. THEREFORE, BOTH EDGE AND DEVELOPER AGREE THAT DEVELOPER SHALL PAY LIQUIDATED DAMAGES FOR ANY BREACH OF THIS AGREEMENT AND THAT SAID LIQUIDATED DAMAGES ARE NOT DEEMED A PENALTY HEREUNDER. AS LIQUIDATED DAMAGES, DEVELOPER SHALL PAY \$15,000,000 (HALF TO THE CITY OF MEMPHIS AND HALF TO SHELBY COUNTY, TENNESSEE) FOR BREACHING THE VENUE RESTRICTIONS IN SECTION 3(C) DEVELOPER AGREES TO PAY ALL EXPENSES EDGE MAY INCUR IN CONNECTION WITH THE ENFORCEMENT OF ANY OF ITS REMEDIES UNDER THIS AGREEMENT, INCLUDING ALL COSTS, LEGAL EXPENSES AND REASONABLE ATTORNEY'S FEES.

7. Assignment. Developer may not assign or transfer this Agreement or any interest of Developer hereunder other than to an affiliate thereof, without the prior written consent of the Board, which consent shall not be unreasonably withheld or delayed. Any such assignment shall not relieve Developer of Developer's liability for the performance of its duties and obligations hereunder unless the Board consents in writing to such release. The Board may not assign or transfer this Agreement or any interest of the Board hereunder without the prior written consent of Developer.

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

9. Third Party Beneficiary Enforcement. The City of Memphis ("City") and the County of Shelby, Tennessee ("County") shall only be third party beneficiaries for the purpose of enforcing their respective rights pursuant to Section 6, above, regarding the Liquidated Damages. However, the City and the County jointly may not take any action to enforce their rights until they have given EDGE a sixty (60) day written notice and opportunity to cure by taking action to

enforce the Liquidated Damages rights against the Developer and by continuing to enforce said rights.

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

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

If to Developer to:
Elvis Presley Enterprises, Inc.
3734 Elvis Presley Blvd.
Memphis, TN 38116
Attention: Jack Soden
Email: jsoden@graceland.com

If to the Board to:
The Economic Development Growth Engine Industrial Development Board of the City of
Memphis and County of Shelby, Tennessee
100 Peabody Place, Suite 1100,
Memphis, TN 38103-3652
Attention: Reid Dulberger
Email: rdulberger@growth-engine.org

Rejection or other refusal to accept or inability to deliver because of changed address of which no notice was given shall be deemed to be receipt of such communication. By giving prior notice to all other parties, any party may designate a different address for receiving notices.

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

13. Entire Agreement. This Agreement supersedes all prior discussions and agreements between the Board, Developer, City, and County with respect to the subject matter hereof. This Agreement contains the sole and entire agreement between the Board, Developer, City, and County with respect to the transactions contemplated by this Agreement.

14. Amendment. This Agreement may not be modified or amended in any respect except by written agreement executed by the parties to this Agreement in the same manner as this Agreement is executed.

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

16. Captions. All captions, headings and section and paragraph numbers and letters and other reference numbers or letters are solely for the purpose of facilitating reference to this Agreement and shall not supplement, limit or otherwise vary in any respect the text of this Agreement. All references to particular sections, paragraphs or subparagraphs by number refer to the particular section, paragraph or subparagraph so numbered in this Agreement unless reference to another document or instrument is specifically made.

17. Counterparts. This Agreement may be executed in one or more counterparts, each of which constitutes an original and all of which together constitute one and the same Agreement.

18. Inspection Rights. Upon reasonable prior notice, EDGE may inspect the Additional Development to assure that the terms of this Agreement are being satisfied by Developer. EDGE agrees to not unreasonably interfere with the construction or operation of the Additional Development during such inspections.

19. Term. This Agreement shall be effective as of the date hereof and shall remain in effect until the date which is ten (10) years following the expiration of the EIP.

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

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

[Remainder of the Page Left Intentionally Blank.]

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

**THE ECONOMIC DEVELOPMENT GROWTH ENGINE
INDUSTRIAL DEVELOPMENT BOARD OF
THE CITY OF MEMPHIS AND
COUNTY OF SHELBY, TENNESSEE**

By: _____
Name: _____
Title: _____

ELVIS PRESLEY ENTERPRISES, INC.

By: _____
Name: _____
Title: _____

EPPF LLC

By: _____
Name: _____
Title: _____

EXHIBIT A

Economic Impact Plan

EXHIBIT B

Additional Development

EXHIBIT C

Local Business Participation Plan