

RESOLUTION NO. 2024-2387

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, APPROVING THE FORM OF A DEVELOPMENT AGREEMENT FOR THE PROPERTY LOCATED AT THE SOUTHEAST CORNER OF INTERSTATE 10 AND BULLARD AVENUE, CONDITIONALLY AUTHORIZING ITS EXECUTION, PROVIDING DIRECTION AND AUTHORIZATION, PROVIDING FOR THE TERMINATION OF THE APPROVALS AND AUTHORIZATIONS PROVIDED IN THE RESOLUTION; AND PROVIDING AN EFFECTIVE DATE.

WHEREAS, Cheyenne Valley, LLC, a Nevada limited liability company, (“Owner”), owns 71.48 acres of land located southeast of the intersection of Interstate 10 and Bullard Avenue in Goodyear, Arizona (collectively the “Property”); and

WHEREAS, Owner intends to develop in phases over time an integrated mixed-use project containing light industrial and commercial uses; and

WHEREAS, the Property comprises both the “West Parcel” generally identified as the west approximately 28.03 acres of the Property adjacent to Bullard Avenue and the “East Parcel” generally identified as the east approximately 43.45 acres of the Property adjacent to the east boundary of the West Parcel; and

WHEREAS, the West Parcel is intended to be developed as a retail facility owned by a nationally recognized large retail user (the “Retail User”) that is at least 53,000 square feet in size with at least 75 fueling/charging positions; and

WHEREAS, the Owner will also reserve a total of 7.5 acres on a portion or portions of the East Parcel to solely pursue General Commercial uses for a period of 18 months; and

WHEREAS, the Owner is willing to dedicate, and cause others to dedicate, certain rights-of-way, as well as to undertake the construction of public infrastructure improvements within the planned right-of-way (the “Road Improvements”) that Owner would not ordinarily be responsible to construct or for which Owner would only partially would be responsible to construct; and

WHEREAS, the Road Improvements shall comprise (i) full street improvements for a public street between the Property and the property to the south located between Bullard Avenue and 143rd Avenue (the “East-West Road”) and (ii.) full street improvements for a public street running between the East Parcel and the West Parcel that shall continue north as needed to support the development of both parcels (the “North-South Road”); and

WHEREAS, the Road Improvements may be constructed in phases over time by either the Owner or the Retail User; and

WHEREAS, the City acknowledges that the development of the Property will generate substantial economic benefits to the City and will generate substantial transaction privilege tax and similar revenues for the City, which revenues would not be generated without the development of the Property; and

WHEREAS, the City acknowledges that the development of the site with the Retail User and other commercial and industrial development will create a significant number of net new jobs within the City; and

WHEREAS, the City agrees to reimburse Owner or Retail User for certain costs related to the construction of the Road Improvements, or portions thereof, from a portion of the transaction privilege taxes (Sales Tax) that are generated by both the construction of the Road Improvements, or portions thereof, and the construction and operation of future improvements on the Property and that are collected by the City during the term of the agreement; and

WHEREAS, the Owner or Retail User is required to submit a Preliminary Cost Estimate of the Road Improvements that must be approved by the City Engineer and the Maximum Reimbursement shall be an amount no greater than twenty percent (20%) more than the approved Preliminary Cost Estimate; and

WHEREAS, the City shall deposit fifty percent (50%) of the Sales Tax imposed and actually received by the City for all activities engaged in, on, or within the Property, including from construction; restaurants and bars; and retail sales, into an account separate from the City's general fund (the "Reimbursement Account"); and

WHEREAS, within thirty (30) days following the end of each fiscal quarter the City shall pay the Owner and/or the Retail user their proportionate share of the amounts held in the Reimbursement Account subject to state statute on the disclosure of taxpayer information until each party has been reimbursed their proportionate share of the costs to construct the Road Improvements up to the Maximum Reimbursement or until the Agreement expires.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. The Mayor and Council of the City of Goodyear find the terms set forth in the Development Agreement for Reimbursement of Road Improvements, a copy of which is attached hereto as Exhibit 1 and incorporated herein by this reference, to be in the best interest of the City of Goodyear, and hereby approve the form of the Development Agreement for Reimbursement of Road Improvements.

SECTION 2. The City Attorney or his designee is hereby authorized to make non-substantive changes to the form of the Development Agreement for Reimbursement of Road Improvements attached hereto as Exhibit 1 prior to its execution.

SECTION 3. The City Manager is hereby authorized to execute the Development Agreement for Reimbursement of Road Improvements as it may be modified by the City Attorney or his designee upon the satisfaction of all of the following by no later than February 8, 2024:

- The finalization of the Development Agreement for Reimbursement of Road Improvements to include the non-substantive changes made by the City Attorney or his designee; and
- Receipt of documentation demonstrating that the person executing the Development Agreement for Reimbursement of Road Improvements for the Owner are authorized to do so; and

- Receipt of an original Development Agreement for Reimbursement of Road Improvements as it may be modified by the City Attorney or his designee executed by Owner.

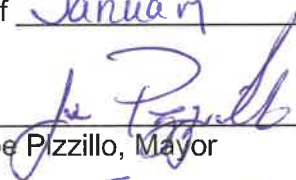
SECTION 4. The City Manager or her designee is hereby authorized and directed to take any and all actions and to execute all the documents necessary to carry out the intent of this Resolution and the terms of the Development Agreement for Reimbursement of Road Improvements as it may be modified by the City Attorney or his designee.

SECTION 5. The approvals and authority granted in this Resolution 2024-2387 shall terminate if the Development Agreement for Reimbursement of Road Improvements as it may be modified by the City Attorney or his designee is not fully executed and recorded by February 8, 2024.

SECTION 6. Following the execution of the Development Agreement for Reimbursement of Road Improvements by the City and the Owner, the City Clerk shall record the Agreement with the Maricopa County Recorder's Office.

SECTION 7. This Resolution 2024-2387 shall be effective as provided by law.

PASSED AND ADOPTED by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona, by a 7-0 vote, this 29th day of January, 2024.



Joe Pizzillo, Mayor

Date: January 29, 2024

ATTEST:



Darcie McCracken, City Clerk

APPROVED AS TO FORM:



Roric Massey, City Attorney



EXHIBIT 1

DEVELOPMENT AGREEMENT FOR REIMBURSEMENT OF ROAD IMPROVEMENTS

(On the following pages)

WHEN RECORDED, RETURN TO:
City of Goodyear, Arizona
Office of the City Clerk
1900 North Civic Square
Goodyear, Arizona 85395

**DEVELOPMENT AGREEMENT FOR REIMBURSEMENT OF ROAD
IMPROVEMENTS**

THIS DEVELOPMENT AGREEMENT FOR REIMBURSEMENT OF ROAD IMPROVEMENTS (“**Agreement**”) is made by CITY OF GOODYEAR, an Arizona municipal corporation (“**City**”), CHEYENNE VALLEY, LLC, a Nevada limited liability company, OXNARD COMMERCEPLEX LLC, a Delaware limited liability company, 19TH AVENUE LLC, a Delaware limited liability company, and BULLARD II PROPERTIES I LLC, a Delaware limited liability company (collectively, “**Owner**”). The City and Owner are referred to herein collectively as the “**Parties**” and individually as a “**Party**.”

RECITALS:

- A. WHEREAS, Owner is the owner of approximately 71.48 acres of land located southeast of the intersection of Interstate 10 and Bullard Avenue in the City of Goodyear, as further depicted and legally described in EXHIBIT 1 attached hereto and made a part of by this reference (the “**Property**”) on which it intends to develop in phases over time an integrated high-quality mixed-use project containing complementary light industrial and commercial uses (the “**Project**”)
- B. WHEREAS, the City Council of the City of Goodyear has adopted or will adopt an ordinance conditionally rezoning the Property to allow for General Commercial and Light Industrial uses, as further provided therein.
- C. WHEREAS, the Property comprises the “**West Parcel**” generally identified as the west approximately 28.03 acres of the Property adjacent to Bullard Avenue and the “**East Parcel**” generally identified as the east approximately 43.45 acres of the Property adjacent to the east boundary of the West Parcel.
- D. WHEREAS, Owner intends to cause the West Parcel to be developed as the Retail Project (as defined herein).

- E.** WHEREAS, the City and Owner acknowledge that the development of the Project, including the Retail Project, will generate substantial economic benefits to the City and will generate substantial transaction privilege tax and similar revenues for the City, which revenues would not be generated without the development of the Project, including the Retail Project, or which revenues will exceed revenues that would be generated by alternative uses of the Property.
- F.** WHEREAS, the City Council is of the opinion, and the City has determined, that the development of the Project, including the Retail Project, as well as the construction and dedication of the “Road Improvements” (defined herein), or portions thereof: (i) will result in a net increase or retention of jobs in the City; (ii) will add to the City’s tax base; (iii) will otherwise improve or enhance the economic welfare and quality of life of the residents and businesses of the City; (iv) would not otherwise occur in the City without the incentives provided herein; (v) will drive additional development in the vicinity of the Project; and (vi) demonstrates the potential to generate significant revenues and other benefits to the City, which is of such significance that the City desires to encourage and facilitate its development and construction.
- G.** WHEREAS, the Parties acknowledge that development of the Project, pursuant to this Agreement requires the construction of the Road Improvements, or portions thereof, which will benefit and facilitate development within the Property, but which also will benefit and facilitate development within surrounding properties.
- H.** WHEREAS, Owner has agreed to reserve a portion or portions of the East Parcel to pursue C-2 (General Commercial) uses, as detailed herein.
- I.** WHEREAS, subject to the terms and conditions set forth in this Agreement, Owner is willing to dedicate, and cause others to dedicate, certain rights-of-way required for the Road Improvements, as well as to undertake the construction of Road Improvements that Owner would not ordinarily be responsible to construct and/or that Owner only partially would be responsible to construct.
- J.** WHEREAS, in exchange for Owner committing to and doing all of the following, as further provided herein: (i) dedicating and causing to be dedicated certain rights-of-way; (ii) completing, or causing to be completed, the Road Improvements, the “Phase I Road Improvements” (defined herein), or the “Phase II Road Improvements” (defined herein), as applicable; (iii) developing, or causing to be developed, the Retail Project; (iv) reserving a portion or portions of the East Parcel to pursue General Commercial uses; and (v) otherwise complying with the terms of this Agreement, the City agrees to reimburse Owner or “Retail User” (as defined herein) for certain costs related to the construction of the Road Improvements, or portions thereof, from a portion of the transaction privilege taxes/sales tax that are generated by both the construction of the Road Improvements, or portions thereof, and the construction and operation of future improvements on the Property and that are collected by the City during the Term (as defined herein).

- K.** WHEREAS, the Parties now desire to enter into this Agreement in order to set forth the terms for the construction of the Road Improvements, or portions thereof, and the City's reimbursement obligations for the costs of such Road Improvements, or portions thereof.
- L.** WHEREAS, the Parties understand and acknowledge that this Agreement is a "Development Agreement" within the meaning of, and entered into pursuant to the terms of, A.R.S. § 9-500.05, and that the terms of this Agreement shall constitute covenants running with the Property as more fully described in this Agreement.

AGREEMENT:

NOW, THEREFORE, in consideration of the covenants herein and of the benefits to be provided hereunder, the Parties agree as follows:

1. **Incorporation of Recitals.** The Parties hereby adopt and incorporate, as if fully set forth herein, the Recitals stated above.
2. **Definitions.** Capitalized terms not defined in the foregoing Recitals or elsewhere in this Agreement are defined as follows:

2.1. **"Accept,"** or derivations thereof, means the City Engineer has accepted the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, constructed pursuant to the approved plans following the dedication of the right-of-way required therefor in accordance with the terms of Section 4.3. Notwithstanding anything to the contrary herein, Acceptance of the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, is subject to the warranty obligations required by Section 4.8.

2.2. **"Actual Costs"** means the final costs, expenses, and fees incurred after the Effective Date that have been paid by a Constructing Party or constructing Third Parties to contractors, construction managers, architects, engineers, surveyors, consultants, governmental agencies, and other Third Parties for studies, reports, tests, inspections, reviews, materials, labor, design, engineering, surveying, site excavation and preparation, grading, drainage, removal, relocation, and replacement of utility facilities and improvements, governmental permits and fees, payment, performance, and other bonds, insurance premiums, and all other costs and expenses that are reasonably and solely necessary for the design, and construction of the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable.

2.3. **"Adjacent Property"** means the real property located adjacent to and to the south of the Property on which the south approximately half of the portion of the Road Improvements identified on EXHIBIT 2 as the "East-West Road" will be constructed.

2.4. “**Adjacent Owners**” means the owner or owners, as applicable, of fee simple title to the Adjacent Property.

2.5. “**Affiliate**” means, as applied to any person or business entity, any person or business entity directly or indirectly controlling, controlled by, or under common control with, that person or business entity.

2.6. “**Agreement**” means this Development Agreement for Reimbursement of Road Improvements.

2.7. “**City Engineer**” means the City of Goodyear City Engineer and any designee identified by the City Engineer, the City of Goodyear City Manager (the “**City Manager**”), and/or a Deputy City Manager to perform any duty or task assigned to the City Engineer.

2.8. “**Complete**,” or derivations thereof, means (i) as to the Retail Project, the Retail Project has been issued a temporary or final certificate of occupancy by the City, and (ii) as to the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, have been Accepted.

2.9. “**Constructing Party**” means either the Owner or the Retail User, whichever party constructs the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements.

2.10. “**Maximum Reimbursement Amount**” means an amount no greater than twenty percent (20%) more than the agreed upon Preliminary Cost Estimate as set forth in Section 4.1 below.

2.11. “**Phase I Road Improvements**” means the portion of the Road Improvements approximately designated as the “Phase I Road Improvements” on EXHIBIT 2-B.

2.12. “**Phase II Road Improvements**” means the portion of the Road Improvements approximately designated as the “Phase II Road Improvements” on EXHIBIT 2-B.

2.13. “**Property**” means approximately 71.48 acres located southeast of the intersection of Interstate 10 and Bullard Avenue in the City of Goodyear as depicted and legally described in EXHIBIT 1.

2.14. “**Proportionate Share**” means a fraction, the numerator of which is the Actual Costs incurred by the relevant Constructing Party and the denominator of which is the Actual Costs incurred, in the aggregate, by all Constructing Parties.

2.15. “**Retail Project**” means a retail facility on the West Parcel owned by the Retail User that is at least 53,000 square feet in size with a fueling/EV charging station containing at least 75 fueling/charging positions and on-premises prepared food options .

2.16. “**Retail User**” means a nationally recognized large retail user that acquires fee title to the West Parcel, directly or through an Affiliate, from Owner.

2.17. “**Road Improvements**” means the public infrastructure improvements within the planned right-of-way that are to be constructed on the Property and the Adjacent Property, which may include, without limitation, sidewalks, paving, curbs, gutters, landscaping, street lighting, water, sewer, storm sewer, and as generally described in EXHIBIT 2 and as further generally depicted in EXHIBIT 2-A and EXHIBIT 2-B.

2.18. “**Sales Tax**” means the transaction privilege taxes imposed and actually received by the City including, without limitation, from the following sources: advertising; amusements, exhibitions, and similar activities; contracting; construction; job printing; publication; hotels and related hospitality operations, commercial rental, leasing and licensing for use; restaurants and bars; and retail sales.

2.19. “**Sales Tax Reimbursement**” means the reimbursement of fifty percent (50%) of the Sales Tax from Taxable Activities.

2.20. “**Taxable Activities**” means (i) all activities engaged in, on, or within the Property that result in the generation of Sales Tax, and (ii) the design and construction of the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable.

2.21. “**Term**” means the duration of this Agreement as more accurately described in Section 3.

2.22. “**Third Party**” or “**Third Parties**” means any individual(s) or business entity(ies), other than a Party or an Affiliate of a Party.

3. **Term of Agreement.**

3.1. **Effective Date.** This Agreement shall take effect upon the later of full execution of this Agreement by the Parties, and the date the City’s resolution approving this Agreement becomes effective, such later date is the “**Effective Date**”.

3.2. **Expiration.** This Agreement shall expire after the obligations of the Parties have been fully satisfied, but in no event later than twenty (20) years following the Effective Date. However, if the (a) Retail Project and the Phase I Road Improvements, and/or (b) Phase II Road Improvements have not been Completed on or before the date that is five (5) years following the Effective Date, this Agreement automatically shall terminate

as of such date as to the portion ((a) or (b)) that has not, or portions that have not, been Completed.

3.3. Minor Date Adjustments. The deadlines set forth in Sections 3.2(a) and (b) of this Agreement may be extended only by written consent of the City, given or withheld in its reasonable discretion. The City Manager may exercise authority for the City to consent to extensions of any time frame or period of time, but such authority is limited to extensions not exceeding one hundred eighty (180) days, each exercised in the City Manager's reasonable discretion.

4. Owner's Obligations.

4.1. Preliminary Cost Estimate. The Road Improvements may be constructed at once or, alternatively, the Retail User may construct the Phase I Road Improvements and Owner may construct, or cause Third Parties to construct, the Phase II Road Improvements in phases and at different times. At least thirty (30) days before the commencement of construction of the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, the Constructing Party shall submit or cause to be submitted to the City Engineer a preliminary estimate of the costs of the design and construction thereof (the "**Preliminary Cost Estimate**"). The Preliminary Cost Estimate shall be prepared by a licensed engineer or construction consultant and shall include estimates of the design and construction costs for the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable. The City Engineer shall review the Preliminary Cost Estimate and either approve or provide any objections to the estimated costs within ten (10) business days following the date the Preliminary Cost Estimate is received by the City Engineer. The Constructing Party and the City Engineer shall meet to discuss any objections of the City Engineer and shall use good faith efforts to reach an agreement on the Preliminary Cost Estimate. The Preliminary Cost Estimate approved by the City and the Constructing Party shall be used to establish the "Maximum Reimbursement Amount" for the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable.

4.2. Construction of Road Improvements. The Constructing Party shall design and construct, and/or shall cause Third Parties to design and construct, the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, to the ultimate full-street design specifications as described in EXHIBIT 2 attached hereto and incorporated by this reference, as may be modified by mutual agreement of the City, Owner, and, if applicable, the Retail User. The Constructing Party shall make, or cause Third Parties to make, the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, at its or their sole cost, subject to the terms of, and the reimbursement provisions expressly provided in, this Agreement.

4.3. Dedications at No Cost. Owner has entered into, or will enter into, a reciprocal easement agreement with the Adjacent Owners that will permit either Owner or

Third Parties to fully construct the Road Improvements and that requires the Adjacent Owners to dedicate necessary portions of the Adjacent Property to the City for the operation, maintenance, repair, and replacement of the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable. Prior to Acceptance of the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, and as a condition thereto, Owner shall dedicate and/or cause the Adjacent Owners to dedicate, to the City, at no cost to the City, the right-of-way required for the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable. The City hereby agrees to accept the foregoing right-of-way dedication and to execute any documents reasonably necessary for its completion. The right-of-way dedicated to the City shall be free of monetary liens and any other encumbrances, except as expressly agreed to by the City Engineer, it being understood and agreed by the Parties that the right-of-way may be encumbered by certain Roosevelt Irrigation District easements, public and private utility easements, and other similar easements customarily found in public roadways.

4.4. Development Regulations. The Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, shall be designed as required by EXHIBIT 2 and EXHIBIT 2-A and constructed consistent with the construction plans therefor approved by the City. The Constructing Party will comply, or will require all Third Parties designing and/or constructing the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, to comply, with all applicable laws, codes, ordinances, rules, regulations, standards, guidelines, conditions of approval, and the like governing the construction and dedication of the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, as they may be amended from time to time (the “**Development Regulations**”). Development Regulations include, by way of example but not limitation: the Building Codes and Regulations, the Subdivision Regulations adopted by the City of Goodyear, the City's Zoning Ordinance, the City of Goodyear's Design Guidelines Standards, the City of Goodyear Engineering Design Standards and Policies as they all may be adopted and amended from time to time; ordinances rezoning the Property, including stipulations and conditions of approval thereto; and conditions of approvals of approved preliminary and final plats and/or site plans for the Property. The City Engineer, in the sole discretion of the City Engineer, may waive requirements in the Development Regulations if the City Engineer determines, to the City Engineer's satisfaction, that there is good cause for the waiver, the alternative materials, design, or method of construction proposed meets the intent of the standard being waived and will not result in any increase in costs to the City such as, but not limited to, increased costs because the life of the alternative materials is shorter than what is required in the standards, or the alternative construction method will result in the need for more frequent repairs or replacement.

4.5. Financial Assurance. Prior to, or concurrently with, making an application for a permit to construct the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, and as a condition to the issuance of such

permit, the Constructing Party shall provide, or cause to be provided, to City financial assurance to assure that the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, will be completed. Financial assurance may be provided through corporate surety, escrowed funds (with release provisions to pay for the costs and expenses incurred for the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable), performance bonds, set aside letter from a money center bank, or another form of assurance in a form acceptable to the City Attorney. The amount of any financial assurance provided to the City shall be adjusted periodically to reflect the remaining value of the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, to be completed and payments made by the Constructing Party to Third Parties on account thereof. Immediately upon Acceptance of the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, except as otherwise expressly provided in the Development Regulations, the City shall allow any applicable financial assurances to be fully released.

4.6. Title 34. The Constructing Party shall comply, or will require any constructing Third Parties to comply, with all applicable state, county, and City laws governing the procurement of services related to the design, installation, and/or construction of the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, for which reimbursement is sought, including but not limited to the public bidding requirements of Arizona Revised Statutes (A.R.S.) Title 34. The Constructing Party shall not be eligible to receive any Sales Tax Reimbursements unless and until the Constructing Party has, or any constructing Third Parties have, provided to the City Engineer all documentation reasonably requested by the City Engineer to demonstrate compliance with A.R.S. Title 34. For the avoidance of doubt, and by way of example only, if the Retail User fails to comply with A.R.S. Title 34 with respect to the Phase I Road Improvements but Owner, or a constructing Third Party, complies with A.R.S. Title 34 with respect to the Phase II Road Improvements, only the Phase I Road Improvements shall be ineligible for reimbursement as a result.

4.7. Reimbursement Documentation. The Constructing Party shall not be eligible to receive any Sales Tax Reimbursements unless and until the Constructing Party has provided or has caused to be provided to the City Engineer all documentation reasonably requested by the City Engineer to demonstrate compliance with A.R.S. Title 34 as set forth in Section 4.6 above, the Actual Costs of the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, that the Actual Costs have been paid by the Constructing Party and/or Third Parties, and that final, unconditional lien releases have been obtained from all contractors and subcontractors that have performed any work on the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, and that have filed valid preliminary 20-day lien notices (each, a “**Reimbursement Package**”). The amounts of the Actual Costs must be approved by the City Engineer prior to the City paying the Sales Tax Reimbursements to the Constructing Party. The City Engineer shall promptly review each

Reimbursement Package and notify the Constructing Party of its approval or disapproval thereof. If the City Engineer does not approve the Actual Costs, or a portion thereof (such portion, the “**Disputed Portion**”), within twenty-one (21) days of the City Engineer’s receipt of a Reimbursement Package, the Constructing Party may submit the Actual Costs or the Disputed Portion, as applicable, to the City Manager, for review and approval. If neither the City Engineer nor the City Manager approves the Actual Costs or the Disputed Portion, as applicable, within forty-five (45) days following the Constructing Party’s initial submittal thereof to the City Engineer, the Constructing Party and the City Manager shall thereafter use good faith efforts to reach an agreement on the Actual Costs or the Disputed Portion, as applicable. “Actual Costs” for the purpose of the City’s reimbursement obligations under Section 5 of this Agreement shall be deemed to include (a) all or any portion of the Actual Costs approved by the City Engineer or the City Manager, as applicable, and (b) upon agreement of the Parties regarding any Disputed Portion, all or a portion thereof, as determined by agreement of the Parties.

4.8. Warranty. The Constructing Party shall provide, or shall cause a constructing Third Party to provide, a warranty for any Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, warranting against defective workmanship and/or materials that lasts for two (2) years starting on the date the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, are Completed.

4.9. East Parcel Reservation Requirements. Owner shall reserve 7.5 acres of land within the East Parcel (the “**Reserved Land**”) for C-2 (General Commercial) uses for a period of 18 months from the Effective Date (the “**Reservation Requirement**”). The Reserved Land may be located anywhere within the East Parcel and may comprise multiple parcels that are not required to be contiguous to one another or to the West Parcel. If the Reserved Land is split or divided into multiple parcels each parcel shall be a minimum of 2.5 acres that can be reasonably used for C-2 (General Commercial) uses. During the period covered by the Reservation Requirement (the “**Reservation Period**”), the City’s Economic Development Department intends to pursue for Owner’s consideration C-2 (General Commercial) uses for the Reserved Land that complement the Retail Project. For the avoidance of doubt, Owner is not obligated to take any action in pursuit of C-2 (General Commercial) uses for the Reserved Land during the Reservation Period, but Owner agrees to work in good faith with the City to evaluate the feasibility of any potential uses or users proposed by the City’s Economic Development Department. Owner shall not be prohibited hereby from pursuing site plan approval or construction permits for uses other than C-2 (General Commercial) during the Reservation Period and the City agrees to process any applications submitted by Owner during such period; provided, however, the City will not issue during the Reservation Period site plan approvals or construction permits for the development of more than 39.95 acres of the East Parcel for uses other than C-2 (General Commercial).

4.10. Condition of Reimbursement. Owner is not obligated by this Agreement to develop or construct, or cause to be developed or constructed, all or any portion of the Retail Project, the Project, or the Road Improvements; provided, however, as an express condition to the City's reimbursement obligations under Section 5 the Constructing Parties shall have caused the Retail Project and the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, to be Completed within the time frame set forth in Section 3.2. For the avoidance of doubt, if the Phase II Road Improvements are not Completed within the time frame set forth in Section 3.2, but the Retail Project and the Phase I Road Improvements are Completed within such time frame, the Phase I Road Improvements shall remain eligible for reimbursement under Section 5.

5. City's Obligations.

5.1. Reimbursements. In consideration for the construction and dedication to the City of the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, and developing or causing to be developed the Retail Project, and otherwise satisfying the terms and conditions of this Agreement the City shall, subject to the terms and conditions in this Agreement, reimburse each Constructing Party its Actual Costs, as approved by the City pursuant to the terms of Section 4.7 above, up to the applicable Maximum Reimbursement Amount.

5.2. Payments. In consideration of the Constructing Party constructing or causing to be constructed the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, and otherwise satisfying, or causing to be satisfied, the terms and conditions of this Agreement, the City shall, subject to the terms and conditions of this Agreement, pay the Sales Tax Reimbursements to the Constructing Party from the Reimbursement Account as outlined in Section 5.5 below.

5.3. Condition of Reimbursement. The City's obligation to pay the Sales Tax Reimbursements to the Constructing Party is conditioned upon the Retail Project and the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, being Completed within the time frame set forth in Section 3.2 above, Owner's satisfaction of the Reservation Requirement described in Section 4.9 above, and satisfaction of the requirements set forth in Section 4.7 above. Prior to the Completion of the Retail Project and the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, the City shall accumulate the Sales Tax Reimbursements in a Reimbursement Account as described in Section 5.5 for the benefit of Owner for the subsequent disbursement to each Constructing Party in accordance with the terms and conditions of Section 5.6.

5.4. Reimbursement. The City's reimbursement obligation under this Agreement is limited to Sales Taxes collected by the City from Taxable Activities occurring during the Term of this Agreement. No interest shall accrue or be paid on the amounts of any reimbursements to be paid under this Agreement.

5.5. Reimbursement Account. After the Effective Date the City shall create an account separate from the City's general fund which may take the form of a separate or segregated accounting or journal entry (the "**Reimbursement Account**") into which the City shall deposit the Sales Tax Reimbursements. The first deposit into the Reimbursement Account shall be made within thirty (30) days following the City's receipt of its monthly transaction privilege tax report from the Arizona Department of Revenue that includes Sales Taxes actually received by the City from the Taxable Activities (the "**Monthly Report**"), and subsequent deposits shall be made within thirty (30) days following the City's receipt of each subsequent Monthly Report, until each Constructing Party has been reimbursed the Actual Costs incurred by such Constructing Party, or until the expiration of this Agreement, whichever occurs first. The Reimbursement Account shall terminate if (a) the Retail Project and the Phase I Road Improvements are not Completed by the deadline set forth in Section 3.2 above, and/or (b) Owner fails to satisfy the Reservation Requirement set forth in Section 4.9 above. Upon the termination of the Reimbursement Account, all funds therein shall be retained by the City free and clear of any claims by Owner.

5.6. Reimbursement Procedure. Unless this Agreement is terminated as set forth in Section 3.2 above and/or the Reimbursement Account is terminated as set forth in Section 5.5 above, and subject to satisfaction of the requirements set forth in Section 4.7 above, the City shall pay the Sales Tax Reimbursements to the Constructing Party from the Reimbursement Account in accordance with the provisions of this Section 5.6. Thirty (30) days after the end of the first full fiscal quarter following the Completion of the Retail Project and the Phase I Road Improvements, the satisfaction of the Reservation Requirement described in Section 4.9 above, and the approval of the applicable Reimbursement Package described in Section 4.7 above, and subject to the Confidentiality requirements set forth in section 5.7 below, the City shall pay to each Constructing Party its Proportionate Share of Sales Tax Reimbursements then held or reflected in the Reimbursement Account up to the Maximum Reimbursement Amount. The City shall continue to pay to each Constructing Party thereafter its Proportionate Share of all Sales Tax Reimbursements held or reflected in the Reimbursement Account within thirty (30) days after the end of each fiscal quarter until each Constructing Party has been reimbursed the Actual Costs. The City shall pay to each Constructing Party its Proportionate Share of any Sales Tax Reimbursements held or reflected in the Reimbursement Account, up to the Maximum Reimbursement Amount, upon the expiration of this Agreement, notwithstanding such expiration, which obligation of the City shall survive the expiration of this Agreement. Provided the City has received applicable "Consent Forms" (as defined herein) for all necessary taxpayers within the Property, the City shall deliver to each Constructing Party a report of Sales Taxes from Taxable Activities with each payment of Sales Tax Reimbursements. Notwithstanding the above the City will comply with all state statutes or Arizona Department of Revenue guidelines regarding confidential taxpayer information. Each Constructing Party shall have the right to contest the City's calculation of its Proportionate Share of Sales Tax Reimbursements in accordance with applicable laws.

5.7. Confidentiality. No payment of Sales Tax Reimbursements may be made until at least ten (10) taxpayers are remitting Sales Taxes from the Property. However, prior to such time, each applicable Constructing Party may receive its Proportionate Share of Sales Tax Reimbursements applicable to the Taxable Activities of any taxpayer for which the City has received an Arizona Department of Revenue form 285B Disclosure Authorization Form or a Consent to Release of Tax Information similar to the form set forth as EXHIBIT 3 attached hereto as the same may be modified to reflect reasonable changes requested by any taxpayer (each such form, a “**Consent Form**”).

5.8. Multiple Location Taxpayers. Since some businesses with multiple locations in the City (a “**Multiple Location Taxpayer**”) report their Sales Taxes on the basis of revenues from all of their locations in the City, rather than separately for each location, (a) Retail User shall, to the extent Retail User is a Multiple Location Taxpayer, and (b) Owner shall request each such Multiple Location Taxpayer located in the Project, to separately report its Sales Taxes. Similarly, since some contractors and subcontractors with multiple projects or jobs in the City (also, a “**Multiple Location Taxpayer**”) report their Sales Taxes on the basis of revenues for all their projects or jobs in the City, rather than separately for each project or job, each Constructing Party shall exercise reasonable efforts to require each contractor and subcontractor having Taxable Activities in constructing the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, or the Project to separately report its Sales Taxes. Furthermore, each Constructing Party shall exercise reasonable efforts to obtain from each Multiple Location Taxpayer a Consent Form. If such separate reporting is not received by the City for a Multiple Location Taxpayer, the City shall make a reasonable estimate of the Sales Taxes derived from such Taxable Activities on the Property or from construction of the Road Improvements based on all information available to the City, including information provided by the Constructing Party.

5.9. Reimbursements to Owner. With respect to the right to reimbursement, references to the “Constructing Party” in this Agreement means solely the Retail User and/or the “Owner” defined on the first page of this Agreement, whichever party constructs, or causes to be constructed, the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements (as applicable, a “**Receiving Owner**”), and only a Receiving Owner shall be entitled to receive Sales Tax Reimbursements, notwithstanding the sale by a Receiving Owner of the West Parcel or any portion of the East Parcel, as applicable, until a Receiving Owner provides written notice to the City signed by an authorized officer of such Receiving Owner designating an Affiliate of such Receiving Owner or a Third Party to receive such Sales Tax Reimbursements. A Receiving Owner’s right to receive Sales Tax Reimbursements hereunder shall not run with the land.

5.10. Acceptance of Road Improvements. Upon Acceptance, the Road Improvements situated within the dedicated right-of-way shall become public facilities and property of the City; the City shall be solely responsible for all subsequent operation, maintenance, repairs, or replacements thereof; and the City shall bear the risk of, and shall

indemnify each Constructing Party or any applicable Third Parties and their respective successors, Affiliates, members, managers, agents, and representatives, against any claim arising after Acceptance of the Road Improvements from any injury (personal, economic, or other) or property damage to any person, party, or utility, arising from the condition, operation, or use of the Road Improvements, the Phase I Road Improvements, or the Phase II Road Improvements, as applicable, situated within the dedicated right-of-way, except to the extent caused by the negligence or willful acts or omissions of such Constructing Party, any applicable Third Parties, or their respective successors, Affiliates, members, managers, agents and representatives.

5.11. Expedited Review. The City will use its best efforts to expedite its review of any submittals related to the design and construction of the Road Improvements, the Phase I Road Improvements, and the Phase II Road Improvements, as applicable, and the Project within the time normally associated with the City's expedited review processes, provided submittals are complete and comply with Development Regulations.

6. No Guarantee. The City cannot guarantee that a Constructing Party will be reimbursed in full for the Actual Costs. However, the City shall make a good faith effort to collect the Sales Taxes from Taxable Activities and shall reimburse each Constructing Party therefor as provided in this Agreement.

7. General Terms

7.1. Entire Agreement. This Agreement, together with the attached Exhibits (which are incorporated herein by this reference) constitutes the entire Agreement between the Parties pertaining to the construction of the Road Improvements, the Phase I Road Improvements, and the Phase II Road Improvements, as applicable, and all prior and contemporaneous agreements, representations, negotiations, and understandings of the Parties, oral or written pertaining to the subject matter of this Agreement are hereby superseded and merged herein.

7.2. Recording/Amendments. This Agreement shall be recorded in its entirety in the Official Records of Maricopa County not later than ten (10) days after its full execution. In order for an amendment of this Agreement to become effective, the Party seeking the amendment shall submit its proposed amendment in writing to the other Parties for review. To be effective, amendments shall be approved by the City Council, signed by the Parties, and attached to this Agreement as an addendum. Amendments shall also be recorded in the Official Records of Maricopa County within ten (10) days after execution.

7.3. Exhibits. All Exhibits to this Agreement shall be deemed a part of this Agreement and enforceable as if in the body of this Agreement.

7.4. Requirements Not Addressed. The Parties acknowledge and agree that this Agreement addresses only certain issues with respect to the development of the Property and provides only those rights expressly set forth in this Agreement. Except as expressly

provided otherwise in this Agreement, this Agreement does not relieve Owner from constructing additional public or private infrastructure that may be required by Federal, State, County or City laws, ordinances, codes, rules, regulations, standards, guidelines, conditions of approval and the like, including by way of example but not limitation, infrastructure needed for drainage, internal roads, and emergency access roads. Except as expressly provided otherwise in this Agreement, this Agreement does not relieve Owner from complying with the City's requirements concerning the development process, including by way of example but not limitation, complying with procedures and processes governing submission requirements for zoning, preliminary subdivision plats, final subdivision plats and/or site plans, and paying all applicable costs, permit fees, development fees, application fees, and taxes.

7.5. Development Regulations. Except as otherwise expressly provided in this Agreement and subject to the terms and conditions of this Agreement, the Parties agree that the construction of the Road Improvements, the Phase I Road Improvements, and the Phase II Road Improvements, as applicable, shall be governed by the Development Regulations in effect as of the date of this Agreement or in effect when permits are issued therefor, whichever is later.

7.6. Future Conditions and Approvals. The Parties acknowledge and agree that this Agreement addresses only limited issues relative to the construction of the Road Improvements, the Phase I Road Improvements, and the Phase II Road Improvements, as applicable. The Parties agree that nothing in this Agreement shall be deemed to require the City to grant any future administrative or legislative approvals related to the development of the Property that would be in addition to those approvals the City has already provided to the Property as of the Effective Date of this Agreement provided, however, such approvals have not already expired or been terminated, do not expire or terminate pursuant to the terms of this Agreement, or are not revoked or terminated because of a breach of this Agreement. Regardless of whether the action or payment is provided for in this Agreement, the Parties acknowledge and agree that the City is not required to undertake any action or make any payments if any federal, state, or local law requires formal action and approval by the City Council before undertaking such action or payment until the City Council has taken the required formal action and has approved the action or payment. The Parties agree that nothing in this Agreement shall affect the City's legislative authority to approve or deny zoning or other development related applications, including applications for preliminary and/or final plats and/or site plans, or the City's legislative authority to impose conditions on the development of the Property. Finally, the Parties agree that except as otherwise expressly provided herein, nothing in this Agreement shall restrict the Owner's rights to object to and pursue all legal remedies to obtain relief from any future conditions, stipulations, policies, procedures, resolutions or ordinances imposed by the City that Owner deems are illegal and/or beyond the scope of the City's statutory authority as applied to the Property.

7.7. Notices. Any and all notices, filings, approvals, consents, or other communications required or permitted by this Agreement shall be given in writing and (i) personally delivered, (ii) sent by first-class mail, postage prepaid, (iii) sent by Federal Express, Airborne, U.P.S. or other similar nationally recognized overnight courier, addressed as follows:

To City:	City of Goodyear Attn: Development Services Director 1900 North Civic Square Goodyear, Arizona 85395
With a copy to:	City of Goodyear Attn: City Attorney 1900 North Civic Square Goodyear Arizona 85395
To Owner:	c/o EJM Development Co. 7419 East Helm Drive, Suite G Scottsdale, AZ 85260 Attention: Mr. Fred Stiles E-Mail: fstyles@EJMDevelopment.com
With a copy to:	c/o EJM Development Co. 9061 Santa Monica Boulevard Los Angeles, California 90069-5520 Attention: Rick Obel E-Mail: robel@EJMDevelopment.com

or to any other addresses as either Party may from time to time designate in writing and deliver in a like manner. Notices, filings, consents, approvals, and communication shall be deemed to have been given as of the date of the date of delivery if hand delivered or sent by overnight courier, or as of three (3) days following deposit in the U. S. Mail.

7.8. Covenants Running with the Land. Except as otherwise provided in this Agreement, rights and duties under this Agreement shall be for the benefit of, and a burden upon, the Property, and they shall be covenants running with the land.

7.9. Successors and Assigns. The provisions of this Agreement are binding upon and shall inure to the benefit of the Parties, and all of their successors and assigns.

7.10. No Agency or Partnership. Neither City nor Owner is acting as the agent of the other with respect to this Agreement, and this Agreement shall not be deemed to create a partnership, joint venture, or other business relationship between the City and Owner.

7.11. Conflicts of Interest. This Agreement is subject to the provisions of A.R.S. § 38-511 and may be terminated by the City in accordance with such provisions.

7.12. Business Days. If the last day of any time period stated in this Agreement or the date on which any obligation to be performed under this Agreement shall fall on Saturday, Sunday or legal holiday, then the duration of such time period or the date of performance, as applicable, shall be extended so that it shall end on the next succeeding day which is not a Saturday, Sunday or legal holiday.

7.13. Defaults and Remedies. Any Party shall be in default under this Agreement ("**Default**") if it fails to satisfy any term or condition as required under this Agreement within thirty (30) business days following written notice from the other Party ("**Notice**"); provided, however, that the Notice shall set forth the specific reasons for the determination that the Party has failed to satisfy any term of condition hereof. A Party shall not be in Default if the Party commences to cure any deficiencies within thirty (30) business days of receipt of Notice and cures such deficiencies within a reasonable time thereafter.

7.14. No Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the City or Owner of the breach of any covenant or condition of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

7.15. Mediation. If a dispute arises out of or related to this Agreement, or breach thereof, the Parties agree that there shall be a ninety (90) day moratorium on litigation to first to try to settle the dispute through non-binding mediation before resorting to arbitration, litigation, or some other binding dispute resolution. In the event that the Parties cannot agree upon the selection of a mediator within seven (7) days, either Party may request a presiding judge of the Superior Court to assign a mediator from a list of mediators maintained by the Arizona Municipal Risk Retention Pool. The mediator selected shall have a minimum of ten (10) years' experience mediating or arbitrating disputes involving commercial property development. The mediation shall be completed in one (1) day or less and shall be confidential and private. The terms of this section shall survive the expiration or earlier termination of this Agreement.

7.16. Section Headings. The section headings contained in this Agreement are for convenience in reference only and are not intended to define or limit the scope of any provision of this Agreement.

7.17. Fair Interpretation. The terms and provisions of this Agreement represent the result of negotiations between the Parties, each of which has had the opportunity to consult with counsel of their own choosing and/or has been represented by counsel of their own choosing, and none of whom has acted under any duress or compulsion, whether economic or otherwise. Consequently, the Parties agree the terms and provisions of this Agreement shall be construed according to their usual and customary meanings, and the Parties each hereby waive the application of any rule of law (common law or otherwise) that ambiguous or conflicting terms be resolved against the Party who prepared, or whose attorney prepared, the executed Agreement or any earlier draft of same. The terms of this section shall survive the expiration or earlier termination of this Agreement.

7.18. Choice of Law, Venue and Attorney's Fees. In any dispute under this Agreement, the successful Party shall be entitled to collect from the other Party its reasonable attorneys' fees, and other costs as determined by a Court of competent jurisdiction. The Parties agree that any dispute, controversy, claim or cause of action arising out of or related to this Agreement shall be governed by the laws of the State of Arizona. The Parties further agree that the venue for any dispute, controversy, claim or cause of action arising out of or related to this Agreement shall be Maricopa County and that any action filed shall be heard in a court of competent jurisdiction located in Maricopa County. The Parties expressly waive the right to object, for any reason, to the venue of Maricopa County. The terms of this section shall survive the expiration or earlier termination of this Agreement.

7.19. Survival Clause. All provisions in this Agreement that logically ought to survive the expiration or earlier termination of this Agreement shall survive the expiration or earlier termination of this Agreement. This includes by way of example: all provisions imposing obligations that will not be triggered until the Agreement is terminated, all indemnification provisions; all limitation of remedies and damages provisions; all provisions waiving claims; and all provisions relieving any Party of liability for actions taken. The fact that certain provisions in this Agreement expressly state that such provisions shall survive the expiration or earlier termination of this Agreement shall not be construed as limiting the application of the Survival Clause set forth in this section to other provisions in the Agreement.

7.20. Representations and Warranties of Owner. As of the date of the execution of this Agreement, Owner represents and warrants the following:

7.20.1. Ownership. Owner is the owner of the Property and has the full right and authority to submit its interest in the Property to the obligations hereunder.

7.20.2. Authorization. Owner is qualified to do business in Arizona and in good standing; Owner (including the person signing for Owner) has the authority and the right to enter into this Agreement as authorized by the manager of Owner, and Owner is not prohibited from executing this Agreement by any law, rule, regulation, instrument, agreement, order or judgment.

7.20.3. Due Diligence. Owner reviewed this Agreement and reached its own conclusions as to the binding and enforceable nature thereof and all of the provisions contained herein and has not relied on any representations or warranties of City other than those expressly provided in this Agreement.

7.21. Representations and Warranties of the City. As of the Effective Date of this Agreement, the City represents and warrants the following:

7.21.1. Approval. The City has approved this Agreement at a duly held and noticed public meeting by its Mayor and City Council, at which a quorum was duly present, and has authorized the execution hereof.

7.21.2. Authorization. City agrees that the persons executing this Agreement on behalf of City have been duly authorized to do so.

7.22. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original and all of which, taken together, shall constitute one agreement, binding on the Parties. Further, this Agreement may be executed and delivered by electronic transmission. A manually signed copy of this Agreement delivered by facsimile, email, or other means of electronic transmission shall be deemed to have the same legal effect as delivery of an original signed copy of this Agreement; provided, however, Owner shall deliver an original to the City for recordation in the Official Records of Maricopa County.

7.23. Force Majeure. A Party shall not be held liable for failure of or delay in performing its obligations under this Agreement if such failure or delay is the result of an act of God, such as earthquake, hurricane, tornado, flooding, or other natural disaster, or in the case of war, action of foreign enemies, terrorist activities, labor dispute or strike, government sanction, blockage, embargo, or failure of electrical service. The nonperforming Party must make every reasonable attempt to minimize delay of performance.

7.24. Page Numbering. The page numbering of this document is exclusive of the Exhibits attached hereto.

7.25. No Third-Party Beneficiaries. This Agreement shall not confer any rights or remedies upon anyone other than the Parties and their respective successors and permitted assigns.

IN WITNESS HEREOF and agreeing to be bound by the terms of this Agreement the Parties have caused this Agreement to be executed by their duly appointed representatives.

[signatures appear on the following pages]

CITY:

CITY OF GOODYEAR, an Arizona
municipal corporation

By: _____
Wynette Reed
City Manager

Date: _____

ATTEST:

Darcie McCracken, City Clerk

APPROVED AS TO FORM:

City Attorney

STATE OF ARIZONA
County of Maricopa

On this _____ day of _____, 2024, before me personally appeared Wynette Reed, the City Manager for the CITY OF GOODYEAR, an Arizona municipal corporation, for and on behalf thereof, whose identity was proven to me on the basis of satisfactory evidence to be the person who he or she claims to be, and acknowledged that he or she signed the above/attached document.

[Affix notary seal here]

Notary Public

IN WITNESS WHEREOF, the Parties have executed this Development Agreement for Reimbursement of Road Improvements as of the date first set forth above.

CHEYENNE:

CHEYENNE VALLEY, LLC, a Nevada limited liability company,

By: EJM Tri-State Properties II LLC, a Delaware limited liability company, its Member

By: EJM Development Co., A California Limited Partnership, a California limited partnership, its Member

By: EJM Operating Co., a Delaware limited liability company, its Managing General Partner

By: _____

Name: _____

Authorized Representative

By: _____

Name: _____

Authorized Representative

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
)ss
County of Los Angeles)

On _____, 2024 before me, _____, Notary Public, personally appeared _____ and _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

IN WITNESS WHEREOF, the Parties have executed this Development Agreement for Reimbursement of Road Improvements as of the date first set forth above.

OXNARD: **OXNARD COMMERCEPLEX LLC**, a Delaware limited liability company

By: EJM Tri-State Properties LLC, a Delaware limited liability company, its Member

By: EJM Development Co., A California Limited Partnership, a California limited partnership, its Member

By: EJM Operating Co., a Delaware limited liability company, its Managing General Partner

By: _____

Name: _____

Authorized Representative

By: _____

Name: _____

Authorized Representative

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
)ss
County of Los Angeles)

On _____, 2024 before me, _____, Notary Public, personally appeared _____ and _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

IN WITNESS WHEREOF, the Parties have executed this Development Agreement for Reimbursement of Road Improvements as of the date first set forth above.

19TH AVENUE:

19TH AVENUE LLC, a Delaware limited liability company

By: EJM Tri-State Properties II LLC, a Delaware limited liability company, its Member

By: EJM Development Co., A California Limited Partnership, a California limited partnership, its Member

By: EJM Operating Co., a Delaware limited liability company, its Managing General Partner

By: _____
Name: _____
Authorized Representative

By: _____
Name: _____
Authorized Representative

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
)ss
County of Los Angeles)

On _____, 2024 before me, _____, Notary Public, personally appeared _____ and _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

IN WITNESS WHEREOF, the Parties have executed this Development Agreement for Reimbursement of Road Improvements as of the date first set forth above.

BULLARD:

BULLARD II PROPERTIES I LLC, a Delaware limited liability company

By: EJM Tri-State Properties LLC, a Delaware limited liability company, its Member

By: EJM Development Co., A California Limited Partnership, a California limited partnership, its Member

By: EJM Operating Co., a Delaware limited liability company, its Managing General Partner

By: _____
Name: _____
Authorized Representative

By: _____
Name: _____
Authorized Representative

A notary public or other officer completing this certificate verifies only the identity of the individual who signed the document to which this certificate is attached, and not the truthfulness, accuracy, or validity of that document.

State of California)
)ss
County of Los Angeles)

On _____, 2024 before me, _____, Notary Public, personally appeared _____ and _____, who proved to me on the basis of satisfactory evidence to be the person(s) whose name(s) is/are subscribed to the within instrument and acknowledged to me that he/she/they executed the same in his/her/their authorized capacity(ies), and that by his/her/their signature(s) on the instrument the person(s), or the entity upon behalf of which the person(s) acted, executed the instrument.

I certify under PENALTY OF PERJURY under the laws of the State of California that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Signature _____

EXHIBIT 1
Description of the Property

EXHIBIT 2

General Description of Road Improvements

East-West Road

The Road Improvements include full street improvements (north and south half of the street) for a public street between the Property and the Adjacent Property to the south. This street shall be located between Bullard Avenue and 143rd Avenue as depicted in Exhibit 2-A attached hereto and incorporated herein by this reference. (The street described herein is referred to as the “**East-West Road**”).

The East-West Road shall be designed and constructed with the improvements and dedications required for a Commercial/Industrial Local Street as set forth in Standard Detail G-3124-3 of the Goodyear Engineering Design Standards and Policies Manual except with the modifications as reflected in Exhibit 2-A. The Road Improvements for the East-West Road shall be designed and constructed with all other items ancillary to the water main, sewer main, and storm drain systems.

North-South Road

The Road Improvements include full street improvements (east and west half of the street) for a public street between the East Parcel and the West Parcel. This street shall start at the East-West Road and shall continue north as needed to support the development of the adjacent parcels, as generally depicted in Exhibit 2-B attached hereto and incorporated herein by this reference. (The street described herein is referred to as the “**North-South Road**”).

The North-South Road shall be designed and constructed with the improvements and dedications required for a Commercial/Industrial Local Street as set forth in Standard Detail G-3124-3 of the Goodyear Engineering Design Standards and Policies Manual. The Road Improvements for the North-South Road shall be designed and constructed with all other items ancillary to the water main, sewer main, and storm drain systems.

EXHIBIT 2-A

General Depiction of Road Improvements

EXHIBIT 2-B

Phase I and Phase II Road Improvements

EXHIBIT 3

Consent to Release of Tax Information

CONSENT TO RELEASE OF TAX INFORMATION

Whereas, pursuant to a Development Agreement for Reimbursement of Road Improvements dated _____, 202__ (the “**Development Agreement**”) between the CITY OF GOODYEAR, an Arizona municipal corporation (the “**City**”) and CHEYENNE VALLEY, LLC, a Nevada limited liability company, OXNARD COMMERCEPLEX LLC, a Delaware limited liability company, 19TH AVENUE LLC, a Delaware limited liability company, and BULLARD II PROPERTIES I LLC, a Delaware limited liability company (collectively “**Owner**”), the City has agreed to assist Owner in the development of certain roadway and other public infrastructure improvements (the “**Road Improvements**”); and

Whereas, the City's assistance includes reimbursement to Owner for the Actual Costs (as defined in the Development Agreement) of the Road Improvement based on certain transaction privilege taxes generated from the construction and operation of the Project; and

Whereas, information concerning the payment of transaction privilege taxes is generally required to be kept confidential by the City's Tax and License Division unless a taxpayer consents to the release of such information;

Therefore, the undersigned taxpayer hereby consents to the release of all of its tax information necessary for the City to calculate and verify Owner's right to reimbursements from the City for the period from and after the date of this Consent until expiration or earlier termination of the Development Agreement.