

WHEN RECORDED, RETURN TO:

City of Goodyear, Arizona  
Office of the City Clerk  
190 North Litchfield Rd.  
Goodyear, Arizona 85338

## DEVELOPMENT AGREEMENT FOR ELWOOD LOGISTICS CENTER

This Development Agreement for Elwood Logistics Center is entered into by and between Elwood Logistics Center, LLC, a Delaware limited liability company (“Elwood Logistics”) and the City of Goodyear, an Arizona municipal corporation (“City”).

### RECITALS

A. WHEREAS, Elwood Logistics Center, LLC, a Delaware limited liability company owns approximately 84 acres of land generally located at the southeast corner of Sarival Avenue and Elwood Street commonly known as Elwood Logistics Center and as more particularly described in Exhibit A attached hereto and incorporated herein by this reference (the “Property”); and

B. WHEREAS, Owner wants to construct a large industrial building suitable for use as a warehouse and/or distribution facility prior to having a purchaser or lessee for the building; and

C. WHEREAS, the warehouse and/or distribution facility will generate truck traffic into and out of the Property; and

D. WHEREAS, truck traffic on Sarival Avenue is restricted and the City is interested in having full-street improvements for the section of Elwood Street from the northeast corner of the Property to Estrella Parkway fully constructed as a Minor Collector to provide connectivity between Sarival Avenue and Estrella Parkway; and

E. WHEREAS, the completion of Elwood Street from the northeast corner of the Property to Estrella Parkway requires the construction of half-street improvements within the alignment for the north-half of Elwood Street adjacent to property not owned by Owner and the construction of improvements within the alignment of the south-half of Elwood Street adjacent to property not owned by Owner that are needed to complete the full south half-street improvements to Elwood Street between Sarival Avenue and Estrella Parkway; and

F. WHEREAS, under the Development Regulations, Owner would not otherwise be responsible for completing improvements to Elwood Street that are not adjacent to the Property; and

G. WHEREAS, the Owner is seeking reimbursement for the costs of the improvements to Elwood Street that Owner would be constructing that Owner would not otherwise be responsible for completing under that the Development Regulations; and

H. WHEREAS, to further enhance the attractiveness of the building to potential buyers and/or lessees, Owner is seeking a commitment of support from the City that the City will support an application for the activation of a User Driven Foreign Trade Zone Site for a user on the Property; and

I. WHEREAS, the City finds that subject to the terms and conditions of this Agreement, the completion of Elwood Street between Sarival Avenue and Estrella Parkway and the City's future support for an application for a User Driven Foreign Trade Zone Site is in the best interests of the City as these improvements would not only support the development of the Property, but will also support the development of the property to the east of the Property; and

J. WHEREAS, Elwood Logistics Center LLC, a Delaware limited liability company and the City intend this document to be a Development Agreement within the meaning of A.R.S. § 9-500.05.

## AGREEMENT

NOW, THEREFORE, in consideration of the mutual obligations contained herein, and for other good and valuable consideration, the receipt and sufficiency of which is hereby acknowledged, 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 are defined as follows:

2.1. "Agreement" means this Development Agreement for Elwood Logistics Center entered into by and between Elwood Logistics Center, LLC, a Delaware limited liability company and the City of Goodyear, an Arizona municipal corporation as it may be amended, restated and/or supplemented in writing from time to time, and all exhibits and schedules attached thereto.

2.2. "Arizona Galvanizing Elwood Adjacent Improvements" means the improvements that are to be constructed within the south half of the Elwood Street alignment adjacent to the Arizona Galvanizing Property such that half-street improvements required in the applicable Development Regulations for a Minor Collector, except as otherwise approved by the City Engineer, are fully completed for the section of Elwood Street adjacent to the Arizona Galvanizing Property.

2.3. “Arizona Galvanizing Elwood Adjacent Improvements Reimbursement” means an amount equal to the actual costs Owner incurred in constructing the Arizona Galvanizing Elwood Adjacent Improvements or \$458,040 (subject, however, to increase as hereinafter provided in Section 6.7), whichever is less.

2.4. “Arizona Galvanizing Property” means that real property that is immediately east of the Property and adjacent to the south side of Elwood Street identified in the maps of the Maricopa County Assessor as Arizona Parcel Number 500-06-045F as depicted in Exhibit B, attached hereto and incorporated herein by this reference.

2.5. “City Engineer” means the City of Goodyear Director of Engineering or his or her designee.

2.6. “Constructing Owner” means the entity that owns all or part of the Property and that constructed the Elwood Adjacent Improvements.

2.7. “Development Regulations” means all applicable laws, codes, ordinances, rules, regulations, standards, guidelines, conditions of approval, and the like governing the development of property within the City as they may be amended from time to time. This includes, by way of example but not limitation: the Building Codes and Regulations (currently Chapter 9 of the Goodyear City Code), the Subdivision Regulations adopted by the City of Goodyear (currently Chapter 15 of the Goodyear City Code), 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 stipulations; and conditions of approvals of approved preliminary and final plats for the Property.

2.8. “Eligible Construction Activities” means construction activities within the Property, construction of the on-site and off-site infrastructure improvements needed to serve the Property and the construction of the Arizona Galvanizing Elwood Adjacent Improvements and the Sun DS Farms Elwood Adjacent Improvements.

2.9. “Elwood Adjacent Improvements Reimbursement” means the total of the Arizona Galvanizing Elwood Adjacent Improvements Reimbursement and the Sun DS Farms Elwood Adjacent Improvements Reimbursement, the total of which shall not exceed \$1,195,002 (subject, however, to increase as hereinafter provided in Section 6.7), to be reimbursed to Owner and/or credited to plan review and permit fees as contemplated in this Agreement.

2.10. “Elwood Easements” means easements that may be needed for the construction of the Elwood Adjacent Improvements that are located outside of the Elwood Right-of-Way. This includes, but is not limited to, any drainage easements that may be needed on the Arizona Galvanizing Property and the Sun DS Farms Property.

2.11. “Elwood Right-of-Way” means the real property within the Elwood Street alignment that is required under the applicable Development Regulations for the construction of Elwood Street as a Minor Collector.

2.12. “Full-Time Employee” means a permanent employee whose normal work week would result in the employee working a minimum of 1,750 hours per year.

2.13. “Grantee” means the corporate recipient of a grant of authority to operate FTZ No. 277 Western Maricopa County as provided in 15 CFR Part 400 *et seq.*, which currently is Greater Maricopa Foreign Trade Zone, Inc.

2.14. “High Wage Employer” means an employer that meets all of the following: employs a minimum of seventy-five (75) Full-Time Employees; at least 51% of the Full-Time Employees are paid at least 125% of the median annual wage computed annually by the Arizona Department of Commerce; and all Full-Time Employees are offered health insurance for which the employer pays at least 75% of the premium or membership costs of such insurance.

2.15. “Minimum Arizona Internet Sales” means the site to be activated is used for internet fulfillment operations that will generate a minimum of \$25,000,000.00 of end user sales in Arizona.

2.16. “Owner” means Elwood Logistics Center, LLC, a Delaware limited liability company and its Successors and Assigns.

2.17. ”Party” means the City, or Elwood Logistics Center, LLC, individually depending upon the context.

2.18. “Parties” means the City and Owners collectively.

2.19. “Property” means that certain real property described in Exhibit A, attached hereto and incorporated herein by this reference.

2.20. “Sun DS Farms Elwood Adjacent Improvements” means the improvements to be constructed within the north half of the Elwood Street alignment adjacent to the Sun DS Farms Property such that full half-street improvements required in the applicable Development Regulations for a Minor Collector, except as otherwise approved by the City Engineer, are fully completed for the section of Elwood Street adjacent to the Sun DS Farms Property.

2.21. “Sun DS Farms Elwood Adjacent Improvements Reimbursement” means an amount equal to the actual costs Owner incurred in constructing the Sun DS Farms Elwood Adjacent Improvements or \$736,962 (subject, however, to increase as hereinafter provided in Section 6.7), whichever is less.

2.22. “Sun DS Farms Property” means that real property that is generally located at the northwest corner of Elwood Street and Estrella Parkway identified in the maps of the Maricopa County Assessor as Arizona Parcel Numbers 500-06-035A and 500-06-037A as depicted in Exhibit C, attached hereto and incorporated herein by this reference.

2.23. “Successors and Assigns” means any person or entity that succeeds to or is assigned any interest in all or part of the Property.

2.24. “User Driven Site FTZ Application Date” means the later of the following: the date an application or letter is submitted to the Grantee by the user of the site whose operations qualify the site for FTZ status requesting sponsorship to include the property as a User Driven Site within the boundaries of FTZ No. 277 Western Maricopa County; the date the City Council approves a request by the user of the site whose operations qualify the site for FTZ status to include the property as a User Driven Site within the boundaries of FTZ No. 277 Western Maricopa County; or the date Grantee is paid all fees, including application fees, required by Grantee to process any application to include such property as a User Driven Site within the boundaries of FTZ No. 277 Western Maricopa County.

3. EFFECTIVE DATE. The execution of this Agreement by the Parties, the execution and delivery of all required Existing Lender Consents, and the approval of this Agreement by Resolution of the Goodyear City Council are conditions precedent to this Agreement becoming effective. This Agreement shall take effect upon the later of (i) the full execution of this Agreement by the Parties, and (ii) the execution and delivery of all required Existing Lender Consents as provided in section 31 below (iii) the date the Resolution approving this Agreement becomes effective, such later date hereafter defined as the “Effective Date.”

4. EXPIRATION DATE: This Agreement shall expire after the obligations of the Parties have been fully satisfied. Notwithstanding the foregoing, this Agreement may be terminated earlier upon the mutual agreement, in writing, executed by the Parties.

5. OWNER’S OBLIGATION. The Owner’s obligations under this Agreement are set forth below:

5.1. Owner shall design and construct infrastructure improvements within the Elwood Street alignment such that full-street improvements required in the applicable Development Regulations for a Minor Collector, except as otherwise approved by the City Engineer, are fully completed for the section of Elwood Street from Sarival Avenue to Estrella Parkway and which are adjacent to the Arizona Galvanizing Property and the Sun DS Farms Property; the Arizona Galvanizing Elwood Adjacent Improvements and the Sun DS Farms Elwood Adjacent Improvements may hereafter be described as the “Elwood Adjacent Improvements”. Owner shall have no obligation to install half street improvements (required in the Development Regulations for a Minor Collector) on that portion of the south half of Elwood Street adjacent to the north boundary of the Property unless and until Owner seeks to construct improvements upon the Property.

5.1.1. Owner shall, at its sole cost, acquire and dedicate to the City, at no cost to the City, all rights-of-way, easements and other real property interests necessary for the installation and/or construction of the Elwood Adjacent Improvements referred to in section 5.1 above. The Elwood Right-of-Way shall be conveyed to the City lien free and in fee and all Elwood Easements, such as drainage easements, needed that are outside the Elwood Street alignment shall be in a form acceptable to the City Attorney or his/her designee. Notwithstanding the foregoing,

and provided Owner provides the City with a legal description, approved by the City Engineer or his/her designee for such real property, the City will seek and endeavor to obtain the Elwood Right-of-Way, but not any of the Elwood Easements that may be needed. If the City is unable to obtain the Elwood Right-of-Way, Owner shall remain responsible for acquiring dedicating to the City, at no cost to the City, the Elwood Right-of-Way and the Elwood Easements necessary for the installation and/or construction of the improvements referred to in section 5.1 above.

5.1.2. Owner shall complete the construction of the Elwood Adjacent Improvements within one year of the Effective Date of this Agreement, which deadline may be extended, without benefit of a formal amendment to this Agreement, for up to six (6) months upon the written approval of the City Engineer based on his/her determination that Owner has made substantial progress on the completion of the Elwood Adjacent Improvements. In no event shall the deadline be extended longer than eighteen (18) months. The Elwood Adjacent Improvements shall be considered complete when the City Engineer or his/her designee has accepted the Elwood Adjacent Improvements subject to the completion of the two-year warranty period.

5.2. Owner shall pay all applicable development impact fees in accordance with applicable Development Regulations and other applicable City ordinances and codes.

6. ELWOOD ADJACENT IMPROVEMENTS REIMBURSEMENT. The terms and conditions applicable to the City's obligation to reimburse the Constructing Owner for the Elwood Adjacent Improvements are set forth herein.

6.1. To be eligible for reimbursement for the Elwood Adjacent Improvements, all of the following shall have occurred:

6.1.1. The Elwood Adjacent Improvements shall have been completed before the deadline set forth in section 5.1.2; and

6.1.2. Elwood Logistics shall have complied with all applicable state laws governing the procurement of services related to the design, installation, and/or construction of the public infrastructure for which reimbursement is sought, including the requirements of Title 34 of the Arizona Revised Statutes; and

6.1.3. The Elwood Adjacent Improvements, all required Elwood Right-of-Way, and all necessary Elwood Easements have been conveyed to the City lien free and at no cost to the City; and

6.1.4. The City has accepted the completed Elwood Adjacent Improvements, subject to completion of the two-year warranty period, the infrastructure improvements; and

6.1.5. The City Engineer has been provided all documentation reasonably requested by the City Engineer to establish the right to reimbursement, such as documentation establishing compliance with Title 34, lien releases, documents establishing the cost of the infrastructure, etc.

6.2. Subject to satisfaction of the requirements set forth in section 6.1 above and all subsections therein, the City shall reimburse the Constructing Owner for the Elwood Adjacent Improvements Reimbursement as follows:

6.2.1. Within thirty (30) days of the date all of the conditions set forth in Section 6.1 and the subsections therein have been satisfied, the City shall reimburse the Constructing Owner a sum equal to all plan review and permit fees paid with respect to Eligible Construction Activities from the Effective Date of this Agreement to the date of such reimbursement, which shall be applied toward the fulfillment of the City's obligation to reimburse the Constructing Owner for the Elwood Adjacent Improvements Reimbursement. After the date the reimbursement referred to in the first sentence of 6.2.1 above is made, the City shall waive all plan review and permit fees owed for Eligible Construction Activities until the Elwood Adjacent Improvements Reimbursement has been fully satisfied or until seven (7) years after the Effective Date, whichever is earlier. Regardless of the name on the application, all applications for Eligible Construction Activities within the Property shall be treated as applications of the Constructing Owner and all plan review fees and construction permit fees waived pursuant to such applications shall be applied toward the fulfillment of the City's obligation to reimburse the Constructing Owner for the Elwood Adjacent Improvements Reimbursement.

6.2.2. The City shall endeavor, but is not obligated, to collect from the owner of the Sun DS Farms Property the Sun DS Farms Elwood Adjacent Improvements Reimbursement. If, within fifteen years of the Effective Date, the City collects any money from the owner of Sun DS Farms Property for the Sun DS Farms Elwood Adjacent Improvements and the Constructing Owner has not been fully reimbursed in the form of reimbursements and/or waiver of plan review and permit fees, the City shall remit such funds to the Constructing Owner in an amount not to exceed the difference between the Elwood Adjacent Improvements Reimbursement amount and the total of the amount of plan review and permit fees that the City has waived and any other reimbursements made to Constructing Owner for the Elwood Adjacent Improvements Reimbursement. The balance of the reimbursement the City collects shall be retained by the City to reimburse the general fund for the amount of the plan review and permit fees that were waived.

6.3. If the owner of all or part of the Arizona Galvanizing Property seeks a change in the use of the Arizona Galvanizing Property that may allow the City to do so, the City shall endeavor, but is not obligated, to collect from the owner of the Arizona Galvanizing Property the Arizona Galvanizing Elwood Adjacent Improvements Reimbursement. If, within fifteen years of the Effective Date, the City collects any money from the owner of Arizona Galvanizing Property for the Arizona Galvanizing Elwood Adjacent Improvements and the Constructing Owner has not been fully reimbursed in the form of reimbursements and/or waiver of plan review and permit fees, the City shall remit such funds to the Constructing Owner in an amount not to exceed the difference between the Elwood Adjacent Improvements Reimbursement amount and the total of the amount of plan review and permit fees that the City has waived and any other reimbursements made to Constructing Owner for the Elwood Adjacent Improvements Reimbursement. The balance of the reimbursement the City collects shall be retained by the City to reimburse the general fund for the amount of the plan review and permit fees that were waived

6.4. If the Elwood Adjacent Improvements are not completed before the deadline set forth in section 5.1.2, the Constructing Owner shall not be entitled to any reimbursements of plan review and permit fees or to any waiver of plan review and permit fees. In such case, the sole source of reimbursement for the Elwood Adjacent Improvements will be the money the City may collect from the owner of Sun DS Farms Property for the Sun DS Farms Elwood Adjacent Improvements and from the owner of the Arizona Galvanizing Property for the Arizona Galvanizing Elwood Adjacent Improvements, and if the City collects any money from the owner of Sun DS Farms Property for the Sun DS Farms Elwood Adjacent Improvements and/or collects any money from the owner of the Arizona Galvanizing Property for the Arizona Galvanizing Elwood Adjacent Improvements, and provided all of the requirements for reimbursement set forth in section 6.1 and all subsections therein have been satisfied, except for the requirement in 6.1.1, the City will remit to the Constructing Owner, the funds collected from the owner of Sun DS Farms Property and/or from the owner of the Arizona Galvanizing Property to Elwood Logistics within fifteen (15) years following the Effective Date.

6.5. Owner, including Constructing Owner, acknowledges and agrees that the City shall not be a liable as a guarantor of payment of reimbursements for the Sun DS Farms Elwood Adjacent Improvements by the owner of the Sun DS Farms Property nor liable as a guarantor of payment of reimbursement for the Arizona Galvanizing Elwood Adjacent Improvements by the owner of the Arizona Galvanizing Property and Elwood Logistics, on behalf of itself and all Successors and Assigns, hereby expressly waives any and all claims against the City for any and all losses, damages, costs, expenses, fees, penalties, liabilities and the like for the failure to collect any reimbursements from the owner of the Sun DS Farms Property for the costs of the Sun DS Farms Elwood Adjacent Improvements and/or from the owner of the Arizona Galvanizing Property for the costs of the Arizona Galvanizing Elwood Adjacent Improvements.

6.6. The Parties agree that the right to the waiver of plan review and permit fees to satisfy the City's obligation under this Agreement for the Elwood Adjacent Improvements Reimbursement is not limited solely to Constructing Owner for its benefit and the right to such waivers shall inure to the benefit of all owners of all or part of the Property and their Successors and Assigns until such obligation is fully satisfied. Unless specifically assigned in a writing executed by the City Manager and the Constructing Owner, all reimbursements that are to be made under this Agreement shall be paid to the Constructing Owner.

The following illustrates the application of the reimbursement and waiver provisions in this Agreement assuming the following facts: (i) Elwood Adjacent Improvements have been completed within eighteen (18) months of the Effective Date of the Agreement; (ii) all other conditions required for the City to provide reimbursements for the costs of the Elwood Adjacent Improvements have been satisfied; the actual cost of the Arizona Galvanizing Elwood Adjacent Improvements was \$500,000 and the City Engineer approved the increase as provided in Section 6.7, the actual cost of the Sun DS Farms Elwood Adjacent Improvements was \$800,000 and the City Engineer approved the increase as provided in Section 6.7 so the amount of the Elwood Adjacent Improvements Reimbursement is (\$1,300,000).



6.6.1. Assume Owner only initially constructs a building(s) containing approximately 650,000 square feet on the Property and has received reimbursements and/or fee waivers in the amount of \$500,000 and within seven years of the Effective Date of the Agreement, a Tenant, obtains a permit for tenant improvements within the 650,000 square foot building and the plan review fees and permit fees for the tenant improvements is \$250,000. The plan review and permit fees for the tenant improvements will be waived in an amount not to exceed the difference between the amount of the Elwood Adjacent Improvements Reimbursement and the total of the reimbursements and fee waivers already provided ( $\$1,300,000 - \$500,000 = \$800,000$ ). In this case, because there is sufficient remaining balance of the Elwood Adjacent Improvements Reimbursement is \$800,000 the entire amount of the plan review and permit fees for the tenant improvements (\$250,000) would be waived and would reduce the balance of the City's Elwood Adjacent Improvements Reimbursement obligation.

6.6.2. Assume that within seven years of the Effective Date and after Owner constructs building(s) totaling 650,000 square feet referred to above and the tenant has constructed the tenant improvements referred to above, Owner obtains a permit to construct another building on the Property that is 650,000 square feet including tenant improvements and the amount of the plan review and permit fees for the structure and tenant improvement is \$750,000. The plan review and permit fees for the building and tenant improvements will be waived in an amount not to exceed the difference between the amount of the Elwood Adjacent Improvements Reimbursement and the total of the reimbursements and fee waivers already provided ( $\$1,300,000 - \$750,000$  (\$500,000 reimbursement and/or waivers for the first building + the \$250,000 waiver for the tenant improvements) = \$550,000). In this case, only \$550,000 of the \$750,000 plan review and permit fees would be waived.

6.6.3. Assume that before the completion of the Elwood Adjacent Improvements, the Owner constructs the entire approximately 1,300,000 square feet of building(s) on the Property, and Owner has paid to the City the plan design and permit fees in connection therewith. Within 30 days of the date the City has accepted the Elwood Adjacent Improvements and all of the conditions set forth in Section 6.1 and the subsections therein have been satisfied, the City shall reimburse the Constructing Owner a sum equal to all plan review and permit fees paid by the Owner to the City in an amount not to exceed the amount of the Elwood Adjacent Improvements Reimbursement.

6.6.4. Assuming the facts in Section 6.6.3, assuming the reimbursement made pursuant to situation under Section 6.6.3 was less than the amount of the Elwood Adjacent Improvements Reimbursement, then for a period of seven (7) years after the Effective Date of the Agreement, the City shall waive plan review and permit fees or reimburse such fees previously paid, if paid before acceptance by the City of the Elwood Adjacent Improvements and satisfaction of all other conditions required for reimbursement, for the owner and/or the tenant, as applicable. Regarding plan review and permit fees incurred after City's acceptance of the Elwood Adjacent Improvements and satisfaction of all other conditions required for reimbursement, and assuming there is a remaining balance of the Elwood Adjacent Improvements Reimbursement the City shall: (a) if any such fees have been paid to City, reimburse the Constructing Owner for the plan review and permit fees such fees paid within thirty (30) days after demand, and (b) any plan review and permit fees not yet paid shall be waived by the City. The amount of plan review and permit fees

refunded and/or waived shall not exceed the remaining balance of the Elwood Adjacent Improvements Reimbursement and shall reduce the remaining balance of the Elwood Adjacent Improvements Reimbursement. In addition, in the event the City receives monies from Sun DS Farms with respect to the Sun DS Farms Elwood Adjacent Improvements Reimbursement and/or receives monies from Arizona Galvanizing with respect to the Arizona Galvanizing Elwood Adjacent Improvements Reimbursement at a time when the remaining balance of the Elwood Adjacent Improvements Reimbursement is greater than zero (0), then such monies received by the City shall be paid to Owner within thirty (30) days to the extent of the remaining balance. If the remaining balance is extinguished from monies from Sun DS Farms and/or Arizona Galvanizing then any remaining plan review or permit fee credits will be eliminated

6.7. The Arizona Galvanizing Elwood Improvements Reimbursement amount \$458,040 and the Sun DS Farms Elwood Improvements Reimbursement amount of amount of \$736,962 are estimates based on current information regarding material and labor costs and related costs to construct the Arizona Galvanizing Elwood Improvements and the Sun DS Farms Elwood Improvements. Therefore, and subject to the limitations herein, the amount of the Arizona Galvanizing Elwood Improvements Reimbursement and the Sun DS Farms Elwood Improvements Reimbursement is subject to increase based upon Owner's substantiated increases in non-controllable construction costs such as labor and material and/or due to normal and customary requirements from the City Engineering Department with respect to work to connect the improvements to existing improvements with the Elwood Street alignment. In no event, however, shall the amount of the Arizona Galvanizing Elwood Improvements Reimbursement exceed \$503,844, and in no event shall the amount of the Sun DS Farms Elwood Reimbursement exceed \$810,658.20, which amounts represents a 10% increase over the amounts reflected in Sections 2.3 and 2.21 respectively and the amount of the Elwood Adjacent Improvements Reimbursement shall not exceed the amount of \$1,314,502.20, which amount is 10% greater than \$1,195,002 reflected in Section 2.8. Furthermore, any increase in the Arizona Galvanizing Elwood Improvements Reimbursement, the Sun DS Farms Elwood Improvements Reimbursement and/or the Elwood Adjacent Improvements Reimbursement as may be reasonably agreed to by City and Owner shall be confirmed in writing by Owner and City pursuant to a duly executed and recorded amendment to this Agreement.

USER DRIVEN FOREIGN TRADE ZONE. For a period of seven (7) years from the Effective Date of this Agreement, the City shall support the application for the activation of one User Driven Foreign Trade Zone site on the Property provided all of the following conditions have been satisfied:

6.8. Owner has completed the Elwood Adjacent Improvements before the deadline set forth in section 5.1.2; and

6.9. Owner has completed the construction of a building of at least Six Hundred Fifty Thousand (650,000) square feet on the Property and received a Certificate of Completion for such building within three (3) years from the Effective Date of this Agreement; and

6.10. The City is provided documentation from Avondale Elementary School District and Agua Fria Union High School District supporting the activation of the User Driven Foreign Trade Zone site on the Property; and

6.11. If the improvement Property (building) is fully assessed on the Maricopa County tax rolls before the User Driven Site FTZ Application Date, then prior to the City providing written support for the activation of the User Driven Foreign Trade Zone site, the proposed operator must enter into a FTZ PILOT Agreement providing for the payment of a PILOT Fee in accordance with the City of Goodyear FTZ Tax Policy.

6.12. The proposed operator of the User Driven Site must either: generate a minimum of \$25,000,000 of end user sales within Arizona from the site on an annual basis (between January 1<sup>st</sup> and December 31<sup>st</sup>); or be a High Wage Employer; or operate a data center on the Property that employs a minimum of thirty-five (35) Full-Time Employees at least 51% of whom are paid at least 125% of the median annual wage computed annually by the Arizona Department of Commerce and all of whom are offered health insurance for which the employer pays at least 75% of the premium or membership costs of such insurance. The proposed operator shall either:

- (i) enter into a Minimum Arizona Internet Sales Agreement with the City, in a form to be provide by the City Attorney, pursuant to which the proposed operator of the User Driven Site agrees: a minimum of \$25,000,000.00 of end user sales in Arizona from the site will be generated annually (between January 1<sup>st</sup> and December 31<sup>st</sup>); to provide the City whatever documentation and records the City requests to verify compliance with this requirement; and in the event the user fails to meet the Minimum Arizona Internet Sales requirement, the operator shall pay a PILOT Fee equal to the entire property tax that would be owned in the absence of its foreign trade status during the period of non-compliance; or
- (ii) enter into a High Wage Employment Criteria Agreement with the City, in a form to be provide by the City Attorney, pursuant to which the proposed operator of the User Driven Site agrees: to operate a data center on the Property; to employ a minimum of seventy-five (75) Full Time Employees; to pay at least 51% of the operator's Full-Time Employees at least 125% of the median annual wage computed annually by the Arizona Department of Commerce; to offer all full time employees health insurance for which the employer pays at least 75% of the premium or membership costs of such insurance; to provide the City whatever documentation and records the City requests to verify compliance with the foregoing requirements; and in the event the user fails to meet the foregoing requirements, to pay a PILOT Fee equal to the entire property tax that would be owned in the absence of its foreign trade status during the period of non-compliance; or
- (iii) enter into a Data Center Criteria Agreement with the City, in a form to be provide by the City Attorney, pursuant to which the proposed operator of the User Driven Site agrees: to operate a data center on the Property; to employ a minimum of thirty-five (35) Full Time Employees; to pay at

least 51% of the operator's Full-Time Employees at least 125% of the median annual wage computed annually by the Arizona Department of Commerce; to offer all full time employees health insurance for which the employer pays at least 75% of the premium or membership costs of such insurance; to provide the City whatever documentation and records the City requests to verify compliance with the foregoing requirements; and in the event the user fails to meet the foregoing requirements, to pay a PILOT Fee equal to the entire property tax that would be owned in the absence of its foreign trade status during the period of non-compliance.

7. POTABLE WATER LIMITATION. The City's obligation to serve potable water to the Property is limited to the unit demand for the applicable usage class as reflected in the City of Goodyear Integrated Water Master Plan in effect at the time of development (the "IWMP Usage"). In the current City of Goodyear Integrated Water Master Plan, the unit demand for light industrial uses is 1,568 gallons per acre per day. Owner shall, at Owner's sole cost, provide the City with a physically and legally available water supply sufficient to provide the water service needed to serve the Property in excess of the IWMP Usage that satisfies the Arizona Department of Water Resources' ("ADWR") standards for modifications of Designations of Assured Water Supply, to increase the Designation water portfolio by an amount equivalent to the amount of the additional water needed to serve the Property and that provides for sufficient extinguishment credits or renewable supplies to offset the additional water demands.

8. EQUIPMENT LIMITATION. Trane 500 tons RTAC and RTAF air cooled chillers (or air cooled chillers with substantially similar size and technology that cause a high pitch noise) shall not be allowed for use on the Property and the decibel levels at the property line shall not exceed 65dB, as measured by the Zoning Administrator.

9. NO GUARANTEES. Owner acknowledges and agrees that the City is not making any guarantees as to the ultimate activation of a User Driven Foreign Trade Zone site on the Property and that the City is not obligated or required to expend or allocate any City funds towards the activation of a User Driven Foreign Trade Zone on the Property.

10. ENTIRE AGREEMENT. This Agreement and the exhibits referred to herein and attached hereto, constitute the sole and entire agreement between the Parties with respect to the matters covered herein and supersede any prior or contemporaneous agreements, understandings or undertakings, written or oral, by or between Parties and/or by or between any of the Parties and any third parties regarding the matters covered herein.

11. AMENDMENTS. 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.

12. 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 development of the Property shall be governed by the Development Regulations in effect as of the date of this Agreement or in effect when the specific development application is approved, whichever is later. For example, future applications for rezoning, future site plans, future plats, construction permits, and/or building permits shall be subject to the Development Regulations in effect when the application is approved.

13. 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.

14. FUTURE CONDITIONS and APPROVALS. The Parties acknowledge and agree that this Agreement addresses only limited issues relative to the development of the Property and that the Agreement does not limit or preclude the City from imposing additional restrictions, requirements, contributions, conditions or the like for the development of the Property that may be allowed by law, unless expressly addressed herein. 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.

15. Notices and Filings. Any and all notices, filings, approvals, consents or other communications required or permitted by this Agreement shall be given in writing and personally

delivered or sent by registered or certified mail, return receipt requested, postage prepaid, addressed as follows:

<b>The City:</b> City of Goodyear Attn: City Manager 190 North Litchfield Road Goodyear, Arizona 85338	<b>The Owner::</b> Elwood Logistics Center LLC Attn: Jonathan Tratt, Administrative Member 5050 North 40 <sup>th</sup> St., Suite 360 Phoenix, Arizona 85018
<b>copy to:</b> City of Goodyear Attn: Director of Engineering 190 North Litchfield Road Goodyear, Arizona 85338	<b>copy to:</b> Law Offices of Roger K. Spencer, PLLC Attn: Roger K. Spencer, Esq. 777 E. Thomas Rd., Suite 120 Phoenix, Arizona 85014
<b>copy to:</b> City of Goodyear Attn: City Attorney 190 North Litchfield Road Goodyear, Arizona 85338	

or to any other addresses as any of the Parties hereto may from time to time designate in writing and deliver in a like manner. Notices, filings, consents, approvals and communications shall be deemed to have been given as of the date of delivery if hand delivered, or as of twenty-four (24) hours following deposit in the U.S. Mail, postage prepaid and addressed as set forth above.

16. 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.

17. 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.

18. 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.

19. 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.

20. 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.

21. 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.

22. 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.

23. MEDIATION. If a dispute arises out of or related to this Agreement, or breach thereof, the Parties agree first to try to settle the dispute through mediation before resorting to arbitration, litigation, or some other 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. If a dispute arises out of or relates to this Agreement, or the breach thereof, and if the dispute cannot be settled through negotiation, the Parties agree first to try to settle the dispute through mediation before resorting to arbitration, litigation or some other dispute resolution procedure. The terms of this section 22 shall survive the expiration or earlier termination of this Agreement.

24. WAIVER OF JURY TRIAL. UNLESS EXPRESSLY PROHIBITED BY LAW, EACH OF THE CITY AND OWNER KNOWINGLY, VOLUNTARILY, AND INTENTIONALLY WAIVES ITS RIGHT TO A TRIAL BY JURY IN ANY AND ALL ACTIONS OR OTHER LEGAL PROCEEDINGS AGAINST THE OTHER PARTY, ARISING OUT OF OR RELATING TO THIS AGREEMENT AND/OR THE TRANSACTIONS IT CONTEMPLATES, AND AGREES THAT ANY AND ALL ACTIONS OR OTHER LEGAL PROCEEDINGS ARISING OUT OF OR RELATING TO THIS AGREEMENT, THE TRANSACTIONS IT CONTEMPLATES, AND/OR THE WORK PERFORMED PURSUANT TO THIS AGREEMENT SHALL BE TRIED BEFORE A COURT AND NOT BEFORE A JURY. THIS WAIVER APPLIES TO ANY ACTION OR OTHER LEGAL PROCEEDING, WHETHER SOUNDING IN CONTRACT, TORT OR OTHERWISE. EACH PARTY ACKNOWLEDGES THAT IT HAS RECEIVED THE ADVICE OF COMPETENT COUNSEL. The terms of this section 23 waiving the right to a jury trial shall survive the expiration or earlier termination of this Agreement

25. LIMITATION ON CLAIMS. IN NO EVENT SHALL CONSEQUENTIAL DAMAGES, EXPECTATION DAMAGES, AND/OR INCIDENTAL DAMAGES, WHICH INCLUDES, BUT IS NOT LIMITED, CLAIMS FOR LOST PROFITS, BE AWARDED AS DAMAGES FOR A BREACH OF THIS AGREEMENT, AND THE PARTIES

**EXPRESSLY WAIVE ANY RIGHT TO CONSEQUENTIAL DAMAGES, EXPECTATION DAMAGES, AND/OR INCIDENTAL DAMAGES IN THE EVENT OF A BREACH OF THIS AGREEMENT.** The terms of this Section 24 limiting the remedies available to the Parties in the event of a breach of the Agreement shall survive the expiration or earlier termination of this Agreement.

26. 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.

27. 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 26 shall survive the expiration or earlier termination of this Agreement.

28. 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 27 shall survive the expiration or earlier termination of this Agreement.

29. 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 28 to other provisions in the Agreement.

30. REPRESENTATIONS AND WARRANTIES OF OWNER. As of the date of the execution of this Agreement, Elwood Logistics represents and warrants the following:



30.1. Ownership. Elwood Logistics Center, LLC, a Delaware limited liability company is the owner of the Property and has the full right and authority to submit its interest in the Property to the obligations hereunder. Elwood Logistics Center, LLC holds title free and clear of all liens other than liens for taxes not yet due and payable and other than the liens of the lender described in the Existing Lender Consent attached hereto as Exhibit D.

30.2. Authorization. Elwood Logistics Center, LLC is a Delaware limited liability company, qualified to do business in Arizona and in good standing; Elwood Logistics Center, LLC (including the person signing for Elwood Logistics Center, LLC) has the authority and the right to enter into this Agreement as authorized by the manager of Elwood Logistics Center, LLC, and Elwood Logistics Center, LLC is not prohibited from executing this Agreement by any law, rule, regulation, instrument, agreement, order or judgment.

30.3. Due Diligence. Elwood Logistics Center, LLC reviewed this Agreement and reached its own conclusions as to the binding and enforceable nature thereof and all of the provisions contained therein, and has not relied on any representations or warranties of City other than those expressly provided in this Agreement.

31. REPRESENTATIONS AND WARRANTIES OF CITY. As of the Effective Date of this Agreement, the City represents and warrants the following:

31.1. Approval. 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.

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

32. LENDERS CONSENT. An Existing Lender Consent(s), generally in the form attached hereto as Exhibit D as approved by the City Attorney in his sole discretion, shall be completed and executed by each entity that has a security interest in the Property as of the effective date of Resolution 2019-1946, in which the Goodyear City Council approves this Agreement.

33. 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.

34. PAGE NUMBERING. The page numbering of this document is exclusive of the Exhibits attached hereto.

IN WITNESS WHEREOF, 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.

OWNER:

ELWOOD LOGISTICS CENTER, LLC, a  
Delaware limited liability company

By: \_\_\_\_\_  
Jonathan Tratt,  
Administrative Member

State of Arizona                    )  
  )ss  
County of Maricopa                )

On \_\_\_\_\_, before me personally appeared Jonathan Tratt, whose identity was proven to me on the basis of satisfactory evidence to be the person whose name is subscribed to the Development Agreement for Elwood Logistics Center by and between Elwood Logistics Center, LLC, a Delaware limited liability company and the City of Goodyear, an Arizona municipal corporation and acknowledged to me that he executed the same in his authorized capacity and that by his signature on the instrument the entity upon behalf of which the person acted, executed the instrument.

WITNESS my hand and official seal.

Signature:\_\_\_\_\_

CITY:

CITY OF GOODYEAR, an Arizona municipal corporation

By: \_\_\_\_\_

Julie Arendall

Its:     City Manager

STATE OF ARIZONA                )  
  ) ss.  
County of Maricopa                )

The Development Agreement for Elwood Logistics Center by and between Elwood Logistics Center, LLC, a Delaware limited liability company and the City of Goodyear, an Arizona municipal corporation was acknowledged before me this \_\_\_\_ day of \_\_\_\_\_, 2018, by Julie Arendall, the City Manager of the City of Goodyear, an Arizona municipal corporation, for and on behalf thereof.

\_\_\_\_\_  
Notary Public

Attest:

\_\_\_\_\_  
Darcie McCracken, City Clerk

Approved as to Form:

\_\_\_\_\_  
Roric Massey, City Attorney

## **EXHIBIT A**

### **LEGAL DESCRIPTION**

**ELWOOD LOGISTICS CENTER  
SEC SARIVAL AVE AND ELWOOD STREET  
GOODYEAR, ARIZONA**

#### **LEGAL DESCRIPTION:**

BEING A PORTION OF THE SOUTH HALF OF SECTION 19, TOWNSHIP 1 NORTH, RANGE 1 WEST OF THE GILA AND SALT RIVER BASE AND MERIDIAN, MARICOPA COUNTY, ARIZONA, MORE PARTICULARLY DESCRIBED AS FOLLOWS:

COMMENCING AT THE WEST QUARTER CORNER OF SAID SECTION 19, FROM WHICH THE SOUTHWEST CORNER OF SAID SECTION 19, BEARS SOUTH 00°00'11" EAST, FOR A MEASURED DISTANCE OF 2623.36 FEET;

THENCE SOUTH 89°34'52" EAST, ALONG THE EAST-WEST MID-SECTION LINE OF SAID SECTION 19, FOR A MEASURED DISTANCE OF 2855.81 FEET, TO A 1/2" REBAR & CAP STAMPED "GEOTZ 31020";

THENCE SOUTH 00°25'08" WEST, FOR A DISTANCE OF 55.00 FEET, TO A POINT ON A LINE 55 FEET SOUTH OF AND PARALLEL WITH THE EAST-WEST MID-SECTION LINE OF SAID SECTION 19 AND THE POINT OF BEGINNING;

THENCE CONTINUING SOUTH 00°25'08" WEST, FOR A DISTANCE OF 415.00 FEET, TO A 1/2" REBAR & CAP STAMPED "GEOTZ 31020";

THENCE NORTH 89°34'49" WEST, FOR A MEASURED DISTANCE OF 185.55 FEET TO A 1/2" REBAR & CAP STAMPED "GEOTZ 31020";

THENCE SOUTH 00°25'08" WEST, FOR A MEASURED DISTANCE OF 876.03 FEET TO A 1/2" REBAR & CAP STAMPED "GEOTZ 31020";

THENCE SOUTH 89°59'56" WEST, FOR A MEASURED DISTANCE OF 65.46 FEET TO A 1/2" REBAR & CAP STAMPED "RLS NO. 10846";

THENCE SOUTH 07°01'31" EAST, FOR A MEASURED DISTANCE OF 221.88 FEET, TO A 1/2" REBAR & CAP STAMPED "GEOTZ 31020", SAID POINT BEING ON THE NORTH RIGHT OF WAY LINE OF EDDIE ALBERT WAY SAID POINT ALSO BEING THE BEGINNING OF A NON-TANGENT CURVE TO THE RIGHT, WHOSE CENTER BEARS NORTH 06°37'08" WEST, FOR A RADIAL DISTANCE OF 2970.00 FEET;

THENCE WESTERLY ALONG SAID NORTH RIGHT OF WAY AND SAID NON-TANGENT CURVE, THROUGH A CENTRAL ANGLE OF 6°37'04", FOR AN ARC LENGTH OF 343.04 FEET, TO A POINT OF TANGENCY MARKED BY A 1/2" REBAR & CAP STAMPED "GEOTZ 31020";

THENCE SOUTH 89°59'56" WEST, CONTINUING ALONG SAID NORTH RIGHT OF WAY LINE, FOR A MEASURED DISTANCE OF 284.67 FEET TO A 1/2" REBAR & CAP STAMPED "GEOTZ 31020"; TO THE SOUTHEAST CORNER OF LOT 6, GOODYEAR INDUSTRIAL PARK PHASE ONE AMENDED, AS RECORDED IN BOOK 231 OF MAPS, PAGE 05, RECORDS OF MARICOPA COUNTY, ARIZONA;

THENCE NORTH 00°00'11" WEST, ALONG THE EAST LINE OF SAID LOT 6, FOR A MEASURED DISTANCE OF 240.00 FEET, TO A 1/2" REBAR & CAP STAMPED "GEOTZ 31020"; SAID POINT BEING ON THE NORTH LINE OF SAID GOODYEAR INDUSTRIAL PARK PHASE ONE AMENDED;

THENCE SOUTH 89°59'56" WEST, ALONG SAID NORTH LINE, FOR A DISTANCE OF 1590.35 FEET;

THENCE NORTH 00°00'11" WEST, FOR A DISTANCE OF 460.14 FEET;

THENCE SOUTH 89°59'49" WEST, FOR A DISTANCE OF 349.65 FEET, TO A POINT ON A LINE 55 FEET EAST OF AND PARALLEL WITH THE WEST LINE OF THE NORTHWEST QUARTER OF SAID SECTION 19;

THENCE NORTH 00°00'11" WEST, ALONG SAID PARALLEL LINE, FOR A DISTANCE OF 830.04 FEET TO A POINT ON A LINE 75 FEET SOUTH OF AND PARALLEL WITH THE EAST-WEST MID-SECTION LINE OF SAID SECTION 19;

THENCE SOUTH 89°34'52" EAST, ALONG SAID PARALLEL LINE, FOR A DISTANCE OF 189.92 FEET;

THENCE NORTH 89°10'57" EAST, FOR A DISTANCE OF 926.95 FEET TO A POINT ON A LINE 55 FEET SOUTH OF AND PARALLEL WITH THE EAST-WEST MID-SECTION LINE OF SAID SECTION 19;

THENCE SOUTH 89°34'52" EAST, ALONG SAID PARALLEL LINE, FOR A DISTANCE OF 1683.60 FEET TO THE POINT OF BEGINNING.

**EXHIBIT B**

**ARIZONA GALVANIZING PROPERTY**

**EXHIBIT C**

**SUN DS FARMS PROPERTY**

**EXHIBIT D**  
**EXISTING LENDER CONSENT**

*(Following Page)*



## EXISTING LENDER CONSENT

The undersigned, Arizona Bank & Trust, as Beneficiary and Trustee under those certain DEEDS OF TRUST by and between Elwood Logistics Center, LLC, a Delaware limited liability company, as Trustor, and Arizona Bank and Trust, as Trustee, dated December 13, 2017 and recorded in the official records of Maricopa County, Arizona on December 13, 2017 at Document No. 2017-0922699 and at Document No. 2017-0922700 with respect to the real property that is the subject of that certain Development Agreement for Elwood Logistics Center by and between the City of Goodyear, an Arizona municipal corporation and Elwood Logistics Center, LLC, a Delaware limited liability company (the "Agreement"), a copy of which is attached hereto as Exhibit 1 and which was approved by the Mayor and Council of the City of Goodyear by Resolution 2019-1946, hereby: (i) consents to the execution of the Agreement; (ii) acknowledges that the Agreement shall bind that portion of the real property that is subject to the Deeds of Trust and subject to the Agreement; (iii) approves the recordation of the Agreement; (iv) agrees to execute, acknowledge and deliver such additional documents and instruments reasonably required to consummate, evidence, or carry out the matters contemplated by the Agreement and this Existing Lender Consent; (vii) agrees that the Agreement shall continue in full force and effect in the event of foreclosure or trustee's sale pursuant to such Deeds of Trust or any other acquisition of title by the undersigned, its successors, or assigns, or all or any portion of the real property covered by such Deeds of Trust(s); (viii) represents and warrants that the undersigned has the requisite right, power and authorization to enter into, execute, and deliver this Existing Lender Consent on behalf of Arizona Bank & Trust as Beneficiary and Trustee under the Deed of Trusts referred to herein, and (ix) the execution and delivery of this Existing Lender Consent by Arizona Bank & Trust is not prohibited by, and does not conflict with any other agreements or instruments to which Arizona Bank & Trust is part.

DATED this \_\_\_\_\_ day of \_\_\_\_\_, 2019

BENEFICIARY AND TRUSTEE  
ARIZONA BANK AND TRUST

BY: \_\_\_\_\_

NAME: \_\_\_\_\_

TITLE: \_\_\_\_\_

STATE OF ARIZONA            )  
  ) ss.  
County of Maricopa         )

This Existing Lender Consent was acknowledged before me this \_\_\_\_\_ day of \_\_\_\_\_, 2019, by \_\_\_\_\_, the \_\_\_\_\_ of Arizona Bank and Trust, for and on behalf thereof.

\_\_\_\_\_  
Notary Public