

RESOLUTION NO. 2020-2119

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, CONDITIONALLY APPROVING THE FIRST AMENDMENT TO THE DEVELOPMENT AGREEMENT FOR ELWOOD LOGISTICS CENTER (THE “FIRST AMENDMENT”); PROVIDING FOR AN EFFECTIVE DATE OF THE FIRST AMENDMENT; PROVIDING AUTHORIZATION AND DIRECTION; PROVIDING A DEADLINE FOR EXECUTION OF THE FIRST AMENDMENT; AND PROVIDING AN EFFECTIVE DATE OF THE RESOLUTION.

WHEREAS, Elwood Logistics Center, LLC, a Delaware limited liability company owns approximately 79 acres of land generally located at the southeast corner of Sarival Avenue and Elwood Street commonly known as Elwood Logistics Center (the “Property”); and

WHEREAS, Owner is developing the Property for industrial uses suitable for use as a warehouse and/or distribution facility; and

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

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

WHEREAS, Elwood Logistics and the City entered into that certain Development Agreement for Elwood Logistics Center recorded in the Official Records of Maricopa County on June 6, 2019 at Instrument 2019-0427161 (the “Elwood Logistics Development Agreement”); and

WHEREAS, under the terms of the Elwood Logistics Development Agreement, Owner was required to construct half-street improvements within the Elwood Street alignment along the frontage of properties located between Sarival Avenue and Estrella Parkway not owned by Owner, including the Arizona Galvanizing Elwood Adjacent Improvements and the Sun DS Farms Elwood Adjacent Improvements (collectively the “Elwood Adjacent Improvements”); and

WHEREAS, the Elwood Adjacent Improvements were to be completed within one year of the effective date of the Elwood Logistics Development Agreement, which date could be extended for an additional six months by the City Engineer upon certain determinations; and

WHEREAS, pursuant to the terms of the Elwood Logistics Development Agreement, the City Engineer approved an extension of the deadline for completing the Elwood Adjacent Improvements, and a letter was issued extending the completion deadline until November 22, 2020; and

WHEREAS, the Elwood Logistics Development Agreement included terms for reimbursements for the costs of the Elwood Adjacent Improvements, subject to certain maximum amounts; and

WHEREAS, the reimbursement terms for the Elwood Adjacent Improvements were more favorable if the Elwood Adjacent Improvements were completed within the deadline included in the Elwood Logistics Development Agreement; and

WHEREAS the Elwood Adjacent Improvements were not completed within the deadline included in the Elwood Logistics Development Agreement for a variety of reasons; and

WHEREAS, the Owner is seeking an amendment to extend the deadline included in the Elwood Logistics Development Agreement for completing the Elwood Adjacent Improvements in exchange for Owner providing the City, at no cost to the City, an easement to allow for stormwater run-off from the section of Elwood Street along the frontage of the Arizona Galvanizing Property to be retained on the Property and Owner's agreement to maintain the drainage improvements that are installed pursuant to approved grading and drainage plans for the Property; and

WHEREAS, the Mayor and Council of the City of Goodyear, Arizona find it to be in the City of Goodyear's best interest to amend the Elwood Logistics Development Agreement to extend the completion deadline to complete the Elwood Adjacent Improvements in exchange for the drainage easement referred to herein.

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

SECTION 1. CONDITIONAL APPROVAL

The Mayor and Council of the City of Goodyear conditionally approve the First Amendment of the Development Agreement for Elwood Logistics Center attached hereto as Exhibit A ("the First Amendment") and the acceptance of the Drainage and Retention Easement referred to therein. The approval provided herein is conditioned upon the City's receipt of all of the following:

- (i) the original First Amendment in the form attached hereto as Exhibit A executed by the Property owner;
- (ii) the executed original Beneficiary Consent and Subordination to the First Amendment of the Development Agreement for Elwood Logistics Center in the form attached hereto as Exhibit B;
- (iii) the executed original or the Leaseholder Consent and Subordination to the First Amendment of the Development Agreement for Elwood Logistics Center in the form attached hereto as Exhibit C;
- (iv) the executed original of the Drainage and Retention Easement in the form attached as Exhibit B to the First Amendment;
- (v) the executed original of the Beneficiary Consent and Subordination to Drainage and Retention Easement in the form attached as Exhibit C to the First Amendment; and
- (vi) the executed original of the Lessee/Tenant Consent and Subordination to Drainage and Retention Easement in the form attached as Exhibit D to the First Amendment

SECTION 2. EFFECTIVE DATE OF THE DEVELOPMENT AGREEMENT

The First Amendment of the Development Agreement for Elwood Logistics Center shall not become effective until it has been executed by the City Manager or her designee.

SECTION 3. EXECUTION OF DEVELOPMENT AGREEMENT

After all of the documents identified in Section 1 above have been received by the City, the City Manager or her designee is authorized and directed to execute the First Amendment of the Development Agreement for Elwood Logistics Center (the "First Amendment") and the Drainage and Retention Easement to take all actions, including execution and recordation of all documents, consistent with the First Amendment and this Resolution.

SECTION 4. EXPIRATION OF APPROVAL

If all of the documents identified in Section 1 above have not been received by the City by December 30, 2020, the approval of the First Amendment of the Development Agreement for Elwood Logistics Center is revoked and the First Amendment of the Development Agreement for Elwood Logistics Center shall not be executed.

SECTION 5. EFFECTIVE DATE

This Resolution shall become effective as provided by law.

PASSED AND ADOPTED by the Mayor and Council of the city of Goodyear, Maricopa County, Arizona, this _____ day of _____, 20____.

Georgia Lord, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Darcie McCracken, City Clerk

Roric Massey, City Attorney

STATE OF ARIZONA)
) ss.
County of Maricopa)

I, the undersigned Darcie McCracken, being the duly appointed, qualified City Clerk of the city of Goodyear, Maricopa County, Arizona, certify that the foregoing Resolution No. 2020-2119 is a true, correct and accurate copy of Resolution No. 2020-2119, passed and adopted at a regular meeting of the Council of the city of Goodyear, Maricopa County, Arizona, held on the _____ day of _____, 20____, at which a quorum was present and, by a _____ vote, _____ voted in favor of said resolution.

Given under my hand and sealed this _____ day of _____, 20____.

seal

City Clerk