

EXHIBIT F

AMENDED AND RESTATED DEVELOPMENT AGREEMENT

When Recorded Return to:

City of Peoria
City Clerk's Office
8401 W. Monroe Street
Peoria, Arizona 85345

**AMENDED AND RESTATED
DEVELOPMENT AGREEMENT
BETWEEN
THE CITY OF PEORIA AND
CBDG PEORIA LLC**

THIS AMENDED AND RESTATED DEVELOPMENT AGREEMENT (“**Agreement**”) is entered into as of the 16th day of May, 2023, by and between **CBDG Peoria LLC**, an Arizona limited liability company (“**Developer**”), and the **CITY OF PEORIA**, an Arizona municipal corporation (“**City**”). Developer and City are collectively referred to herein as the “**Parties**,” or individually as a “**Party**.”

RECITALS:

- A. The City owns certain real property in Peoria, Arizona, that is located on the south side of W. Paradise Lane, east of 83rd Avenue and west of 79th Avenue (the “**Property**”). The Property consists of approximately 2.67 gross acres, a preliminary legal description of which is attached hereto as Exhibit A (the “**Property**”).
- B. The Property currently is used to provide public surface parking during events held at the nearby spring training stadium and related facilities. Accordingly, the City has adopted, among other things, the Peoria Sports Complex Area Urban Design Plan (the “**Plan**”). The Plan acknowledges that the Property is adjacent to the Spring Training Facilities, but also notes that the public parking needs for the Spring Training Facilities can be better met with other parking arrangements.
- C. Based on the Plan, the City released a Request for Proposals entitled the “Development of P83 Central Business District” (P22-0004) dated October 4, 2021 (the “**RFP**”). The RFP invited proposals for the opportunity to privately fund, design, construct, and operate a mixed-use development or redevelopment project on city-owned or private property within the P83 Central Business District.
- D. Developer specializes in the identification, development and management of retail, and top-tier restaurant properties across the southwest United States with a strategy to enhance the economic profile of communities in which it develops. City selected

Developer as the successful respondent to the RFP to develop top tier restaurants and related amenities on the Property.

- E. The Parties intend that Developer will purchase the portion of the Property defined herein as the “Developer Tract” from the City by way of a separate Real Estate Purchase Agreement, which said purchase would be contingent upon Developer agreeing to develop the Property pursuant to the terms of this Agreement and the Real Estate Purchase Agreement.
- F. As more fully described in this Agreement, the Parties intend that Developer will cause development of the Developer Tract to accommodate three (3) top tier Quality Restaurants and other accompanying features, infrastructure, and improvements, all as generally depicted on the site plan attached hereto as Exhibit B (the “**Project**”). As provided in the Real Estate Purchase Agreement, City will have the right to repurchase the Developer Tract from Developer in the event Developer fails to develop the Project.
- G. As part of the Project, Developer shall cause the construction of the following public improvements: extension of utility stubs to the portion of the Property comprising the Placemaking Amenities (as defined below), and pedestrian/trail connection adjacent to the Property, all as described in Exhibit C attached hereto (collectively, the “**Off-Site Infrastructure**”). City also has determined that the City will be responsible for designing and constructing certain improvements to Paradise Lane and a new driveway access into the Sports Complex Parking Lot. The Parties acknowledge that the Off-Site Infrastructure and the Placemaking Amenities will provide a direct public benefit to the City and its residents. The City has determined that contracting with Developer to provide the Off-Site Infrastructure and the Placemaking Amenities as part of the Project will allow the Off-Site Infrastructure and the Placemaking Amenities to be developed at a lower overall cost to the City and also provide the City with the specific public benefits of the Off-Site Infrastructure and the Placemaking Amenities for use by its residents, visitors, and the general public. Accordingly, in consideration of Developer’s delivery of the Project, the City intends to reimburse Developer for the Reimbursable Costs (as defined below) in accordance with the Reimbursement Provisions (as defined below).
- H. Developer has preliminarily determined to its satisfaction, but subject to Developer’s right to conduct its due diligence investigation pursuant to the Real Estate Purchase Agreement: (i) the suitability of the Property for the Project; and (ii) the Project’s viability (including, but not limited to, market demand, site utilization, anticipated tenant and owner mix, estimated development costs and operating pro formas).
- I. On or about July 5, 2022, Developer and City entered into a Development Agreement for the Project and the Property (the “**Original Agreement**”).
- J. Developer and City desire to amend, restate, replace and supersede in its entirety the Original Agreement in accordance with the terms and conditions of this Agreement.

- K. City and Developer are entering into this Agreement pursuant to Arizona Revised Statutes §9-500.05, which authorizes the City to enter into a development agreement related to real property located inside the incorporated area of the City with a landowner or other person having an interest in the real property. The Parties acknowledge Developer's interest in the Property, which exists by virtue of this Agreement, and accordingly, desire to enter into this Agreement and the Real Estate Purchase Agreement to facilitate development of the Project consistent with the Plan and the City's General Plan as applicable to the Property on the date of this Agreement, the City's Zoning Ordinance. The Parties acknowledge that the activities described in this Agreement and related to the Project, are economic development activities within the meaning of the State of Arizona's laws concerning such matters, including but not limited to Arizona Revised Statutes §9-500.11, and that all "expenditures" (as defined therein) by the City pursuant to this Agreement constitute the appropriation and expenditure of public monies for and in connection with economic development activities as defined therein.
- L. In connection with this Agreement, the Parties intend to enter into a City Tract Lease, as described in Section 10 and Exhibit G, as well as a Parking License Agreement in a form substantially similar to that in Exhibit D hereto.
- M. The City, in the exercise of its legislative functions, and finding in such legislative capacity that the benefits conferred upon Developer are proportionate to the direct benefits being received by the City, has authorized the execution and performance of this Agreement.

In consideration of the mutual promises and representations set forth in this Agreement, the above Recitals, and for other good and valuable consideration, the receipt and sufficiency of which the Parties acknowledge, the City and Developer agree as follows:

AGREEMENT:

1. Incorporation of Recitals. The Parties acknowledge that the Recital Paragraphs A through M inclusive set forth above are true and correct in all material respects and are incorporated into this Agreement by this reference.
2. Definitions. In this Agreement, unless a different meaning clearly appears from the context:

"Agreement" means this Agreement, as amended and restated or supplemented in writing from time to time, and includes all exhibits and schedules hereto. References to Sections or Exhibits are references to this Agreement.

"Applicable Laws" means the federal, state, county, and local laws (statutory and common law), ordinances, rules, regulations, permit requirements, and other requirements and official policies of the City, as they may be adopted,

implemented or amended from time to time, which apply to the development of the Project as of the date of any application or submission.

“City” means the Party designated as the City on the first page of this Agreement.

“City Approvals” means approval by the appropriate City department, administrator, or body for each project related activity.

“City Tract” means that portion of the Property that is public infrastructure and identified as “City Tract” on Exhibit B.

“City Tract Lease” means as defined in Section 10.

“Closing” means the consummation of the purchase of the Property in accordance with the Real Estate Purchase Agreement.

“Default” means as defined in Sections 15.1 and 15.2.

“Developer” means the party designated as Developer on the first page of this Agreement.

“Developer Tract” means the entirety of the Property exclusive of the City Tract.

“Drainage Facilities” means as defined in Section 6.

“Due Diligence Indemnity Obligations” means as defined in Section 12.

“Effective Date” means as defined in Section 11.

“Enforceability Challenge” means as defined in Section 21.18.

“Force Majeure” means as defined in Section 13.

“Indemnity” means as defined in Section 16.

“Maximum Reimbursement” means, with respect to the Placemaking Amenities only, an amount equal to \$1,000,000.

“Notice” means as defined in Section 21.4.

“Off-Site Infrastructure” means as defined in Recital G.

“Parking License” means the Parking License Agreement to be executed by City and Developer upon Closing under the Real Estate Purchase Agreement in the form set forth in Exhibit D attached hereto.

“Placemaking Amenities” means public infrastructure as defined in Section 3.3.

“Plan” means as defined in Recital B.

“Plat” means the final Plat of the Property to be processed by the City prior to Closing under the Real Estate Purchase Agreement. The Plat will confirm designation of the Developer Tract and the City Tract as separate legal lots.

“Project” means as defined in Recital F.

“Property” means as defined in Recital A.

“Public Infrastructure” means the Off-Site Infrastructure and the Placemaking Amenities.

“Quality Restaurants” means as defined in Section 3.4.

“Real Estate Purchase Agreement” means that certain Real Estate Purchase Agreement between City and Developer, which shall be substantially in the form of Exhibit E attached hereto. Upon execution by City and Developer, the provisions of the Real Estate Purchase Agreement shall be incorporated as part of this Agreement by this reference.

“Reimbursable Costs” means all costs incurred by Developer to design and construct the Public Infrastructure, including design costs, “hard” costs of construction, cost of compliance with Arizona Revised Statutes Title 34 and Peoria City Code Chapter 26, bonding fees, permit fees, construction management fees, and similar fees and costs.

“Reimbursement Provisions” means the provisions of Section 9 of this Agreement.

“RFP” means as defined in Recital C.

“Term” means as defined in Section 11 of this Agreement.

“Transfer” means as defined in Section 20 of this Agreement.

3. Developer Undertakings. Developer agrees to undertake the following:

- 3.1 Land Acquisition. Developer agrees to purchase the Developer Tract pursuant to and subject to the terms and conditions of the Real Estate Purchase Agreement. The Parties acknowledge and agree that the legal description of the Developer Tract shall conform to the Plat prior to Developer’s acquisition.

3.2 Public Infrastructure.

3.2.1 Developer agrees to build the Public Infrastructure. In doing so, Developer shall comply with the following:

3.2.1.1 Developer shall design, construct and install the Public Infrastructure on the City Tract and within the City right-of-way or public easement.

3.2.1.2 Developer shall obtain City approval for the design plans for the Public Infrastructure prior to beginning the public bidding process for the construction contracts.

3.2.1.3 Developer shall publicly bid the contracts for construction and installation of the Public Infrastructure. All contractors and subcontractors must be selected in accordance with all applicable federal, state and municipal requirements, including without limitation the requirements of Arizona Revised Statutes Title 34 and Peoria City Code Chapter 26.

3.2.1.4 Developer or its affiliate will manage the construction and installation of the Public Infrastructure.

3.2.1.5 Upon completion and official acceptance of the Off-Site Infrastructure, City shall assume responsibility for operation and maintenance of the Off-Site Infrastructure.

3.3 Placemaking Amenities. Developer shall include as part of the Project certain upscale public infrastructure improvements as conceptually depicted on Exhibit F attached hereto (“**Placemaking Amenities**”). The Placemaking Amenities will be constructed and installed by Developer on the City Tract at Developer’s initial cost, and Developer shall maintain, repair and replace the Placemaking Amenities at the same level of quality as initially installed. Developer agrees that the design and development of the Placemaking Amenities shall be consistent with certain common architectural, aesthetic and thematic features approved by the City in the Plan. City shall reimburse to Developer all costs incurred by Developer to design and construct the Placemaking Amenities as part of Reimbursable Costs in accordance with the Reimbursement Provisions.

3.4 Project Tenants. Developer will ensure that the Project is initially developed and leased to include three (3) “**Quality Restaurants**” as more fully described below, one (1) of which is anticipated to be Postinos and the remaining two (2) must be full service Quality Restaurants.

4. “**Quality Restaurants**” means dining establishments that offer a unique/boutique culinary destination experience and contribute toward establishing the City as a dining destination that will draw customers from within Peoria as well as visitors from the Phoenix Metropolitan area and beyond. The Parties agree to work in good faith to

evaluate restaurants proposed for the Project believed by Developer and City to be Quality Restaurants. Proof that Developer has provided a Quality Restaurant shall be demonstrated by a certificate of occupancy issued by the City for the space to be operated by such Quality Restaurant and a proof of lease with the Quality Restaurant as demonstrated by either a recorded memorandum of lease reflecting a base lease term of at least ten (10) years or other proof of an executed lease, as approved by the City Attorney's office.

5. City Undertakings:

5.1 Review and approve the design plans and construction permits for the Project and the Public Infrastructure based on the following priority review schedule:

- a. First review by the City – 20 working days (M-Th) (5 weeks).
- b. Subsequent reviews by the City – 12 working days (M-Th) (3 weeks).
- c. Maximum time for Developer to respond to City comments and make corrections to the site plans(s), permits or construction documents submittals - 30 working days (M-F) (6 weeks).
- d. Timeframes may be adjusted accordingly pursuant to Section 11 of this Agreement pertaining to performance extensions. Such schedule shall be subject to the City's review and approval, which approval shall not be unreasonably withheld, and shall include allowances for periods of time required for City's review and approval of submissions, and for approvals of authorities having jurisdiction over Project approval and funding. The schedule shall not be exceeded by Developer without the prior written approval of City or extension pursuant to Section 11 herein.

5.2 In consideration of and in exchange for Developer's obligation to design and construct the Project, City agrees to reimburse Developer the actual design and construction costs incurred by Developer for the Public Infrastructure in accordance with the Reimbursement Provisions.

5.3 Upon completion and official acceptance of the Public Infrastructure, City will accept ownership of the Public Infrastructure and reimburse Developer the Reimbursable Costs.

5.4 The Parties intend that development of the Project will include three (3) buildings to be operated as Quality Restaurants. To accommodate the Quality Restaurants, the City intends to replat the Property to achieve the configuration depicted on Exhibit B. The Parties acknowledge that the final Project, including the Developer Tract and the City Tract, will be reflected on the new Plat.

- 5.5 Developer has proposed a preliminary site plan attached as Exhibit B (the “**Preliminary Site Plan**”). The Preliminary Site Plan establishes the basic components of the Project. Development of the Project will be in accordance with the City Approvals and Applicable Laws. Any amendment to the City Approval will be undertaken by the City in accordance with its regular and customary procedures. Developer may request amendments to the City Approvals from time to time, and any such amendments will be reviewed and processed by the City in its discretion, pursuant to this Agreement and in accordance with Applicable Laws.
- 5.6 City will be responsible for designing and constructing, at its sole cost, Paradise Lane roadway and landscape improvements and a new driveway access into the Sports Complex Parking Lot.
6. Project Schedule.
- 6.1 Developer, shall at its sole cost and expense, submit final construction plans to the City within one hundred eighty (180) days after the Opening of Escrow under the Real Estate Purchase Agreement. City and Developer will execute the Real Estate Purchase Agreement within thirty (30) days following the Effective Date of this Agreement.
- 6.2 Upon City’s approval of final construction plans, and issuance of all permits necessary to construct the Project, Developer shall undertake and complete construction of the Project, including tenant improvements and all Public Infrastructure, in each event, in accordance with the City Approvals, Applicable Laws, and this Agreement, within fifteen (15) months following Closing of the Real Estate Purchase Contract.
- 6.3 These deadlines may be revised by mutual written agreement of the Parties.
- 6.4 City will use best efforts to make land in the vicinity of the Project available to Developer for construction staging upon request of the Developer in accordance with separate staging licenses and/or temporary construction easements. Developer acknowledges use of the land made available by the City for construction staging shall be limited in duration and subject to terms, conditions and of limited duration as determined by the City. Developer acknowledges that the availability of the land to be utilized for construction staging, subject to this section, and the related staging licenses and/or easements, will be contingent upon, and subordinate to, the need for public parking due to spring training events at the Peoria Sports Complex.
7. Drainage. Certain public drainage improvements exist on the Property to convey storm water drainage to public off-site drainage facilities (collectively, the “**Drainage Facilities**”). The City makes no representations or warranties to Developer regarding the Drainage Facilities, but Developer is entitled to incorporate utilization of the Drainage Facilities in its drainage analysis for the Project. If Developer’s drainage analysis is approved by the City, Developer may utilize the Drainage Facilities as part of the

drainage for the Project. Issuance of building permits for the Project shall constitute City's approval of Developer's use of the Drainage Facilities.

8. Parking. In connection with the Closing under the Real Estate Purchase Agreement, City shall grant to Developer the Parking License in accordance with the form attached hereto as Exhibit D, which, subject to the mutual approval of the Parties, may be modified, approved, and executed in the discretion of the City Manager or designee and the Developer.
9. Public Infrastructure. Developer agrees that, in connection with the development of the Project, Developer shall provide the Public Infrastructure when and as required in Section 6.2 of this Agreement. Unless the City otherwise agrees to a later deadline for completion, Developer shall cause the Public Infrastructure to be completed in accordance with the City Approvals, Applicable Laws, and this Agreement prior to City's issuance of a certificate of occupancy for the Project or any component thereof.

9.1 Reimbursement Provisions.

9.1.1 Costs. Upon completion and City acceptance of the Public Infrastructure, the City shall reimburse Developer for all Reimbursable Costs (but, as to the Placemaking Amenities only, up to the Maximum Reimbursement) (the "**Reimbursement Amount**"). The Reimbursement Amount does not include impact fee credits, if any, which shall be considered separately. Notwithstanding anything herein to the contrary, Developer shall not be eligible for reimbursement of the Reimbursable Costs unless Developer complies with the provisions of Title 34, Chapter 2, Article 1, Arizona Revised Statutes and the requirements for construction projects and plans and specifications, respectively, of the City as specified in Chapter 26 *et seq.* of the Peoria Code and any procurement guidelines promulgated in connection therewith for design and construction of Public Infrastructure. The City shall provide reasonable cooperation and assistance to Developer in its compliance with applicable public building requirements.

9.1.2 Prior to the Closing under the Real Estate Purchase Agreement, City and Developer will agree on a preliminary budget of the anticipated Reimbursable Costs. At Closing under the Real Estate Purchase Agreement, the agreed upon budgeted Reimbursable Costs shall be retained in escrow. Following completion of the Public Infrastructure and acceptance of same by City, Developer shall submit to City its final amount of actual Reimbursable Costs together with applications for payment and other documentation supporting Developer's determination of Reimbursable Costs. If the actual amount of Reimbursable Costs exceeds the escrowed amount, then the escrowed funds shall be released to Developer and City will pay the difference directly to Developer. If the actual amount of Reimbursable Costs is less than the escrowed funds, then escrowed funds shall be released to Developer equal to the actual Reimbursable Costs and the balance of the escrowed funds shall be released

to City. City and Developer shall confirm the provisions of this Section 9.1.2 in a separate escrow agreement among City, Developer and the escrow agent identified in the Real Estate Purchase Agreement.

9.1.3 Dispute. If Developer is entitled to reimbursement, the source of such funds shall be at sole discretion of the City. If the City agrees with the amounts reflected in Developer's documentation, the City will pay Developer said reimbursement upon final completion of the Public Infrastructure and City's official acceptance thereof as provided in Section 9.1.2 above. If the City disputes the amounts, then the Parties shall submit the dispute to arbitration, and the City shall pay the amount awarded by the arbitrator within thirty (30) days of such award.

10. Lease of City Tract. In consideration of Developer's agreement to design, construct and maintain the Project, including the Placemaking Amenities, City agrees to lease the public infrastructure known as the City Tract to Developer (the "**City Tract Lease**") in accordance with the form of lease attached hereto as Exhibit G, the final version of which, subject to the mutual agreement of the Parties, may be modified, approved, and executed in the discretion of the City Manager or designee and the Developer, City and Developer shall enter into the City Tract Lease upon Closing under the Real Estate Purchase Agreement.
11. Term. The term of this Agreement is that period of time: (1) commencing on the date this Agreement is approved by the City's City Council, has been signed by both Parties and has been recorded in the office of the Maricopa County Recorder following expiration of all applicable appeal and referendum periods (the "**Effective Date**"), and (2) terminating on the earlier of (a) the date on which Developer has completed construction of the Project in accordance with the City Approvals, Applicable Laws, and this Agreement and provided evidence that it has entered into leases with three (3) Quality Restaurants that are open for business to the public, (b) the date this Agreement has been terminated earlier pursuant to any section of this Agreement and (c) the date that is ten (10) years from the Effective Date (the "**Term**"), as it may be extended by the application of extensions otherwise set forth in this Agreement. Notwithstanding the foregoing, all reimbursement obligations and indemnity provisions of the Parties will survive any such expiration or termination in accordance with the terms of this Agreement.
12. Performance Extensions. From time to time following the Effective Date, Developer and City may, by mutual written agreement, refine and revise any date, milestone, or deadline herein as may be necessary to accommodate any factors, events or occurrences that the City and Developer determine may necessitate such refinement or revision.
13. Force Majeure Event. Neither City nor Developer, as the case may be, will be considered not to have performed its obligations under this Agreement or to be in Default in the event of force majeure ("**Force Majeure**") due to causes beyond its control and without its fault, negligence, or failure to comply with Applicable Laws, including, but not restricted to, acts of God, acts of public enemy, litigation concerning the validity and

enforceability of this Agreement or relating to transactions contemplated hereby (including the effect of petitions for initiative or referendum), fires, floods, strikes, embargoes, labor disputes, and unusually severe weather or the delays of subcontractors or materialmen due to such causes, act of a public enemy, war, terrorism or act of terror (including but not limited to bio-terrorism or eco-terrorism), nuclear radiation, pandemic, declaration of national or state emergency or national or state alert, blockade, insurrection, riot, labor strike or interruption, extortion, sabotage, or similar occurrence or any exercise of the power of eminent domain, condemnation, or other taking by the action of any governmental body on behalf of any public, quasi-public, or private entity, or declaration of moratorium or similar hiatus directly affecting the Project (whether permanent or temporary) by any public, quasi-public, or private entity. In no event will Force Majeure include any delay resulting from general economic or market conditions, unavailability for any reason of particular tenants, it being agreed that Developer will bear all risks of delay that are not Force Majeure. In the event of the occurrence of any such Force Majeure, the time or times for performance of the obligations of the Party claiming delay will be extended for a period of the Force Majeure; provided that, as a condition to availing itself to the extensions described above, based on an event of Force Majeure, the Party shall give written Notice promptly to the other Party. If, however, notice by a Party claiming such extension is sent to the other Party more than thirty (30) calendar days after the commencement of the event of Force Majeure, the period shall commence to run only thirty (30) calendar days prior to the giving of such notice. Under no circumstances shall Force Majeure include any event that commenced or occurred prior to the Effective Date, even if such event continues to occur after the Effective Date.

14. Insurance Requirement. Developer shall maintain in full force and effect policies of commercial general liability and workers' compensation insurance in amounts reasonably acceptable to the City and approved by City's Risk Manager prior to being granted access to the Property. All such commercial general liability policies shall name the City of Peoria, its employees, agents and officers as additional insured and shall state that they may not be cancelled prior to expiration without thirty (30) days prior written Notice to City. Developer shall indemnify, protect, defend and hold City harmless from all claims, costs, fees or liability of any kind to the extent arising out of the acts of Developer or Developer's agents pursuant to this Section, except that Developer shall have no liability related to the discovery or release of pre-existing conditions (unless Developer's, or Developer's agents', acts exacerbate a pre-existing condition) or for any claims or liabilities resulting or arising from the acts or negligence of City or its agents (the "**Due Diligence Indemnity Obligations**").

15. Representations of the Parties.

- 15.1 Representations and Warranties of City. City acknowledges, represents, warrants, and covenants to Developer that the following are true as of the Effective Date, and will be true as of Closing:

- 15.1.1 To City's actual knowledge, there are no pending, threatened or contemplated actions, suits, proceedings or investigations, at law or in equity, or otherwise in, for or by any court or governmental board,

commission, agency, department or office arising from or relating to this Agreement or the Property.

- 15.1.2 Except as contemplated by the Real Estate Purchase Agreement, City has not granted any options or rights of first refusal to purchase all or any part of the Property.
- 15.1.3 All consents and approvals necessary to the execution, delivery, and performance of this Agreement, the Parking License Agreement, the City Tract Lease and the Real Estate Purchase Agreement have been obtained, and no further City Council action needs to be taken in connection with such execution, delivery, and performance.
- 15.1.4 To the City's actual knowledge, City has received no written notice of any noncompliance with any federal, state or local laws, regulations and orders relating to environmental matters with respect to the Property or to the Parking Lot (as defined in the Parking License).
- 15.1.5 Following the Effective Date of this Agreement, City shall not materially alter or change the physical condition of the Property or the Parking Lot, and, except as expressly contemplated by this Agreement, the Parking License, the City Tract Lease and the Real Estate Purchase Agreement, shall not record any easement, encumbrance, instrument or other agreement against the Property or the Parking Lot that would survive the Closing without first obtaining Developer's prior written consent thereto.
- 15.1.6 This Agreement, the Parking License, the City Tract Lease and the Real Estate Purchase Agreement (and each undertaking of the City contained in this Agreement, the Parking License, the City Tract and the Real Estate Purchase Agreement) constitute valid, binding and enforceable obligations of the City, enforceable according to their terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity.
- 15.1.7 If a matter represented by City under this Agreement was true as of the date of this Agreement, but subsequently is rendered inaccurate because of the occurrence of events or circumstances arising other than due to City's intentional action or violation of Applicable Laws, then such inaccuracy shall not constitute a Default by City under this Agreement, but will constitute a failure of a condition to Closing if such inaccuracy materially increases Developer's good faith estimate of the cost or time to develop the Property or the ability of Developer to obtain financing. Failure of such a condition to Closing shall entitle Developer to terminate this Agreement and all of Developer's obligations, whereupon both Parties shall be released

from further liability under this Agreement, except as expressly provided in this Agreement to survive. If Developer does not elect to so terminate, Developer timely shall proceed to Closing and the failure of such condition to Closing shall be deemed waived.

15.2 Actual Knowledge of City. When used in this Agreement, the term “**actual knowledge of City**” (or words of similar import) shall mean and be limited to the actual (and not imparted, implied or constructive) current knowledge of the City’s Director of Economic Development, the City’s City Attorney, and the City’s Manager, without any duty or obligation of inquiry or investigation. Notwithstanding anything herein to the contrary, no such person is a party to this Agreement and shall not have any personal liability or liability whatsoever with respect to any matters set forth in this Agreement or City’s representations and/or warranties herein being or becoming untrue, inaccurate or incomplete in any respect.

15.3 Representations and Warranties of Developer. Developer acknowledges, represents, warrants and covenants to City that the following are true as of the Effective Date and will be true as of Closing:

15.3.1 The person or persons executing this Agreement, the Parking License, the City Tract Lease, and the Real Estate Purchase Agreement on behalf of Developer are duly authorized to do so and thereby bind Developer hereto without the signature of any other person.

15.3.2 Developer has all requisite power and authority to enter into and perform this Agreement, the Parking License, the City Tract Lease, and the Real Estate Purchase Agreement and to incur the obligations provided for herein and in the Parking License and the Real Estate Purchase Agreement has taken all action necessary to authorize the execution, delivery and performance of this Agreement, subject to the express terms and limitations in this Agreement.

15.3.3 The execution, delivery and performance of this Agreement, the Parking License, the City Tract Lease, and the Real Estate Purchase Agreement by Developer does not result in any violation of, and does not conflict with or constitute a default under, any present agreement, mortgage, deed of trust, indenture, credit extension agreement, license, security agreement or other instrument to which Developer is a party, or any judgment, decree, order, statute, rule or governmental regulation.

15.3.4 No approvals or consents by third parties or governmental authorities are required for Developer to consummate the transactions contemplated hereby.

- 15.3.5 Developer covenants and agrees that it, except as expressly allowed in this Agreement, has not, and shall not, encumber any portion of the Property prior to the Closing.
- 15.3.6 There are no attachments, levies, executions, assignments for the benefit of creditors, receiverships, conservatorships or voluntary or involuntary proceedings in bankruptcy or any other debtor relief actions contemplated by Developer or filed by Developer, or to Developer's knowledge, pending in any current judicial or administrative proceeding against Developer.
- 15.3.7 This Agreement (and each undertaking of Developer contained in this Agreement) constitutes a valid, binding and enforceable obligation of Developer, enforceable according to its terms, except to the extent limited by bankruptcy, insolvency and other laws of general application affecting creditors' rights and by equitable principles, whether considered at law or in equity.
16. Indemnity. Developer will pay, defend, indemnify and hold harmless City and its City Council members, officers and employees from and against all claims, demands, fines, penalties, costs, expenses, damages, losses, obligations, judgments, liabilities, and suits (including attorneys' fees, experts' fees and court costs associated with such matters; all of the foregoing, collectively, "**Claims**") that arise in whole or in part from, or relating to, Developer's design, construction, and structural engineering acts or omissions related in any way to, of, or in connection with, any element of the Project (including, but not limited to, land used for construction staging pursuant to temporary construction easements), and all subsequent design, construction, engineering, and other work by or on behalf of Developer in connection with Project (collectively, "**Indemnity**"). Such Indemnity shall survive the expiration or earlier termination of this Agreement. The indemnification set forth in this Section shall not apply to the extent such claims arise from or relate solely to the grossly negligent or intentional acts of the City and its City Council members, officers and employees. If the City and its City Council members, officers and employees are made defendant(s) in any action, suit or proceeding brought by a third party by reason of any of the occurrences described in this Section, Developer shall at its own expense: (i) resist and defend such action suit or proceeding or cause the same to be resisted and defended by counsel designated by Developer and reasonably approved by the City; and (ii) if any such action, suit or proceeding results in a final judgment against the indemnified party, Developer promptly shall satisfy and discharge such judgment or shall cause such judgment to be promptly satisfied and discharged.
17. Risk of Loss.
- 17.1 Risk of Loss. Developer assumes the risk of any and all loss, damage or claims to any portion of the Public Infrastructure.
- 17.2 Insurance. During any period of construction on the Property and with respect to any construction activities related to the same, Developer will obtain and provide

City with proof of payment of premiums and certificates of insurance showing that Developer is carrying, or causing its contractor(s) to carry, policies of insurance in amounts reasonably required by City. Such policies of insurance will be placed with financially sound and reputable insurers, require the insurer to give at least thirty (30) days advance written Notice of cancellation to City, and will name City as an additional insured on such policies.

18. Breach & Remedies.

18.1 Default by Developer. “**Default**” by Developer under this Agreement will mean the breach, default or failure by Developer to satisfy any obligation or agreement herein, including without limitation, one or more of the following:

18.1.1 Any representation or warranty made in this Agreement by Developer materially was inaccurate when made or will prove to be materially inaccurate during the Term;

18.1.2 Developer fails to comply with any performance deadline in this Agreement;

18.1.3 Foreclosure (or deed in lieu of foreclosure) upon any mechanics’, materialmen’s or other lien on the Property prior to completion of construction or upon any Improvements on the Property, but such lien will not constitute a Default if Developer deposits in escrow sufficient funds to discharge the lien or otherwise bonds over such lien in a customary fashion;

18.1.4 Developer transfers or attempts to transfer or assign this Agreement in violation of Agreement;

18.1.5 Following any applicable required Notice and opportunity to cure a default granted by the applicable document, a breach or default by Developer of a lease or license; or

18.1.6 Developer fails to observe or perform any other covenant, obligation or agreement required of it under this Agreement.

18.2 Default by City. “**Default**” by City under this Agreement will mean one or more of the following:

18.2.1 Any representation or warranty made in this Agreement by City was materially inaccurate when made or will prove to be materially inaccurate during the Term;

18.2.2 City fails to comply with any deadline in this Agreement; or

18.2.3 City fails to observe or perform any other covenant, obligation or agreement required of it under this Agreement.

18.3 Grace Periods; Notice; Cure. Upon the occurrence of an event of Default by any Party, such Party will, upon written Notice from the other Party, proceed immediately to cure or remedy such Default and, in any event, (1) such Default will be cured within thirty (30) days after receipt of such Notice; or (2) if such Default is of a nature not capable of being cured within thirty (30) days, such cure or remedy will be commenced within such period and diligently pursued to completion, but in no event exceeding ninety (90) days in total.

18.4 Remedies for Default. Whenever any event of Default occurs and is not cured (or cure undertaken) by the defaulting Party in accordance with this Agreement, the other Party may take any of one or more of the following actions:

18.4.1 Remedies of City. City's remedies for an uncured event of Default by Developer shall be all remedies available at law or in equity, including, without limitation, any of the following:

18.4.1.1 If an uncured event of Default by Developer occurs prior to completion of construction as required by the terms of this Agreement, City may terminate this Agreement

18.4.1.2 In the event Developer fails to develop the Project and all Public Infrastructure prior to the deadline for doing so as provided in Section 6.2 of this Agreement (as such deadline may be extended by mutual agreement or due to Force Majeure pursuant to Section 13 herein) and such default is not cured within any applicable cure period, then, upon written demand from the City, Developer shall re-convey the Property to the City, free and clear of all liens and other encumbrances not acceptable to the City. The City shall pay to Developer the Purchase Price for the Property set forth in the Real Estate Purchase Agreement. Close of escrow for the Property so re-conveyed shall occur no later than sixty (60) days from end of the cure period set forth in Section 18.3 herein. Any liens created against the Property by Developer shall be the responsibility of Developer and shall be paid by Developer out of the proceeds of the sale to the City or out of other funds of Developer at close of escrow of the sale to the City. Nothing herein shall prevent the City at its option from seeking declaratory, injunctive, special action or other similar relief, requiring Developer to undertake and to fully and timely perform its obligations under this Agreement, including, but not limited to, injunctive relief to address a public safety concern or to enjoin any construction or activity undertaken by Developer which is not in accordance with the terms of this Agreement.

18.4.1.3 Notwithstanding the foregoing, at any time City may seek special action or other similar relief (whether characterized as mandamus, injunction or otherwise), requiring Developer to undertake and fully and timely to address or to enjoin any construction or activity undertaken by Developer that is not in accordance with the terms of this Agreement.

18.4.1.4 Notwithstanding the foregoing, Developer shall be liable, and City may recover from Developer, its actual damages for any unrepaired damage to the City's facilities or real property caused by Developer's actions taken pursuant to this Agreement.

18.4.1.5 Notwithstanding the foregoing, City at any time may seek indemnity (including but not limited to an action for damages) arising under Developer's obligations of Indemnity.

18.4.1.6 Notwithstanding the foregoing, City at any time may enforce its rights given under any bond or similar financial assurance given or provided by or for the benefit of Developer pursuant to this Agreement.

18.4.2 Remedies of Developer. Developer's exclusive remedies for an uncured event of Default by City will consist of and will be limited to a special action or other similar relief (whether characterized as mandamus, injunction or otherwise) requiring City to undertake and fully and timely to perform its obligations under this Agreement and the right to seek and recover actual damages as provided in Section 18.5.

18.5 Waiver of Certain Damages. Notwithstanding anything in this Agreement to the contrary, each of City and Developer waives its right to seek and recover consequential, exemplary, special, beneficial, numerical, punitive or similar damages from the other, the only permitted claim for damages being actual damages reasonably incurred by the aggrieved Party.

18.6 Delays; Waivers. Except as otherwise expressly provided in this Agreement, any delay by any Party in asserting any right or remedy under this Agreement will not operate as a waiver of any such rights or limit such rights in any way; and any waiver in fact made by such Party with respect to any Default by the other Party will not be considered as a waiver by the performing Party of rights with respect to any other Default or with respect to the particular Default except to the extent specifically waived in writing. It is the intent of the Parties that this provision will enable each Party to avoid the risk of being limited in the exercise of any right or remedy provided in this Agreement by waiver, laches or otherwise at a time when it may still hope to resolve the problems created by the Default involved.

19. Compliance with Law. Developer and City shall comply with all Applicable Laws that affect the Property as are now in effect or as may hereafter be adopted or amended.
20. Assignability, Restriction on Transfers. The rights established under this Agreement and the Development Plan are not personal rights but attach to and run with the Property. All the provisions hereof shall inure to the benefit of and be binding upon the successors and assigns of the parties hereto pursuant to A.R.S. 9-500.05(D). Notwithstanding the foregoing, no assignment or similar transfer of Developer's interest in the Property or this Agreement, or in the current management, ownership or control of Developer (each, a "**Transfer**") may occur without the City's written consent, which may be withheld in City's sole discretion. Developer shall provide to City a true and correct copy of any such assignment, together with a copy of the document or instrument pursuant to which such assignee fully assumes all of Developer's covenants and obligations under this Agreement and agrees to be bound by the terms and conditions of this Agreement. Except as otherwise expressly provided in this Agreement, the assignment by Developer of its rights under this Agreement shall not relieve Developer personally of any obligations, unless City expressly agrees to such relief in writing, and any assignment that does not comply in all respects with this Section shall be void, and not voidable. Developer shall have the right collaterally to assign its rights under this Agreement as security for one or more lenders in conjunction with Project financing, which will be contingent upon obtaining the City's prior consent thereto. No voluntary or involuntary successor in interest to Developer may acquire any rights or powers under this Agreement except as expressly set forth in this Agreement, and any Transfer in violation of this Agreement will be void, and not voidable.
21. Miscellaneous. The following additional provisions apply to this Agreement:
 - 21.1 Amendments and Interpretation. This Agreement may not be amended except by a formal writing executed by both Parties. The City's City Manager may exercise his or her administrative authority to correct scrivener's errors in this Agreement, interpret and administer this Agreement, and to approve amendments to this Agreement.
 - 21.2 Severability. Upon mutual agreement of the Parties, if any term, condition, covenant, stipulation, agreement or provision in this Agreement is held to be invalid or unenforceable for any reason, the invalidity of any such term, condition, covenant, stipulation, agreement or provision shall in no way affect any other term, condition, covenant, stipulation, agreement or provision of this Agreement.
 - 21.3 No Partnership. This Agreement and the transactions and performances contemplated hereby shall not create any sort of partnership, joint venture, or similar relationship between the Parties.
 - 21.4 Notices. Notices hereunder (each, a "**Notice**") shall be given in writing delivered to the other Party or other applicable person or entity, or mailed by registered or certified mail, return receipt requested, postage prepaid, or by FedEx

or other reliable overnight courier service that confirms delivery. With respect to the Parties, a Notice shall be addressed to a Party as follows:

If to City:	City of Peoria Attn: City Manager 8401 West Monroe Street Peoria, AZ 85345
Copy to:	City of Peoria Attn: City Attorney 8401 West Monroe Street Peoria, AZ 85345
Copy to:	City of Peoria Attn: Economic Development Services Director 9875 North 85 th Avenue Peoria, Arizona 85345
Copy to:	Fennemore Craig, P.C. 2394 East Camelback Road, Suite 600 Phoenix, Arizona 85016 Attn: Jay Kramer and Sabrina Bigelow
If to Developer:	CBDG Peoria LLC c/o Common Bond Development LLC 4455 East Camelback Road, Suite D-255 Phoenix, Arizona 85018 Attn: Brian Frakes
Copy to:	Ballard Spahr LLP One East Washington Street, Suite 2300 Phoenix, Arizona 85004-2555 Attn: Derek Sorenson

Service of any Notice by mail in accordance with the foregoing shall be deemed to be complete three (3) days (excluding Saturday, Sunday, and legal holidays) after the Notice is deposited in the United States mail. Service of any Notice by overnight courier in accordance with the foregoing shall be deemed to be complete upon receipt or refusal to receive.

21.5 Payments. Payments shall be made and delivered in the same manner as Notices and shall be effective at the same time that a Notice would be deemed effective under Section 21.4.

21.6 Integration. This Agreement, together with the Parking License, the City Tract Lease, and the Real Estate Purchase Agreement, constitutes the entire agreement

between the Parties with respect to the subject matter hereof, and supersedes all other written or verbal agreements between the Parties with respect to the Property.

- 21.7 Construction. Whenever the context of this Agreement requires, the singular shall include the plural, and the masculine shall include the feminine. This Agreement was negotiated on the basis that it shall be construed according to its plain meaning and neither for nor against either Party, regardless of their respective roles in preparing this Agreement. The terms of this Agreement were established in light of the plain meaning of this Agreement and this Agreement shall therefore be interpreted according to its plain meaning and without regard to rules of interpretation, if any, that might otherwise favor Developer or City.
- 21.8 Section Headings. The Section headings contained herein are for convenience in reference and not intended to define or limit the scope of any provision of this Agreement.
- 21.9 No Third-Party Beneficiaries. No person or entity shall be a third-party beneficiary to this Agreement or shall have any right or cause of action hereunder. City shall have no liability to third parties for any approval of plans, Developer's construction of improvements, Developer's negligence, Developer's failure to comply with the provisions of this Agreement, or otherwise as a result of the existence of this Agreement.
- 21.10 Exhibits. All exhibits attached hereto as specified herein are hereby incorporated into and made an integral part of this Agreement for all purposes.
- 21.11 Days. If the last day of any time period stated in this Agreement or the date on which any obligations to be performed under this Agreement falls on a 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.
- 21.12 Attorneys' Fees. If legal action is brought by a Party because of a breach of this Agreement or to enforce a provision of this Agreement, the prevailing Party is entitled to reasonable attorney fees and costs as determined by the court or other decision maker.
- 21.13 Choice of Law. This Agreement shall be governed by the internal laws of the State of Arizona without regard to choice of law rules.
- 21.14 Venue & Jurisdiction. Except where Arbitration is required under this Agreement, legal actions regarding this Agreement shall be instituted in the Superior Court of the County of Maricopa, State of Arizona, or in the Federal District Court in the District of Arizona sitting in Maricopa County. City and Developer agree to the exclusive jurisdiction of such courts. Claims by Developer

shall comply with time periods and other requirements of City's claims procedures from time to time.

- 21.15 No Liability of City Officials. No City Council Member, official, representative, agent, attorney or employee of the City shall be personally liable to Developer, or to any successor in interest to Developer, in the event of Default by the City or for any amount that may be come due to Developer or its successors, or with respect to any obligation of the City under the terms of this Agreement.
- 21.16 Binding Effect. The benefits and burdens of this Agreement shall run with the Property and be binding upon and shall inure to the benefit of the Parties hereto and their respective permitted successors in interest and assigns.
- 21.17 Counterparts. This Agreement may be executed in counterparts, each of which shall be deemed an original and all of which together shall be deemed to be one and the same instrument.
- 21.18 Enforceability of this Agreement. The City will defend the validity and enforceability of this Agreement in the event of any proceeding or litigation by a third party arising from its terms that names the City or Developer as a party or that challenges the authority of the City to enter into or perform any of its obligations hereunder (an “**Enforceability Challenge**”). In the event of an Enforceability Challenge, if named as a party Developer shall, and if not named as a party Developer may elect to intervene and/or join such action to, but in all cases at its sole cost and expense, defend itself against any such Enforceability Challenge. If such a defense of this Agreement is undertaken under this Section, the City and Developer shall cooperate in defending the Enforceability Challenge and may, by mutual agreement, select joint legal counsel and enter into a joint defense agreement with respect to the Enforceability Challenge. Further, Developer will cooperate with City and comply with any court order affecting the enforceability of this Agreement and hereby acknowledges that Developer shall not have any claim against the City if one or more provisions of this Agreement are deemed, as a result of an Enforceability Challenge and pursuant to such court order, to be void and legally unenforceable. In the event of an Enforceability Challenge, the Closing under the Real Estate Purchase Agreement shall be extended until the 10th day following final resolution of such Enforceability Challenge,
- 21.19 Amended and Restated Agreement. Upon execution of this Agreement by Developer and City, this Agreement shall amend, restate, replace and supersede the Original Agreement in its entirety.
- 21.20 Arizona Law Provisions.

21.20.1 No member, official or employee of City shall have any direct or indirect interest in this Agreement, nor participate in any decision relating to the Agreement, that is prohibited by law. This Agreement shall be subject to

cancellation pursuant to the provisions of A.R.S. § 38-511 relating to conflicts of interest.

21.20.2 To the extent applicable, Developer certifies that it is not currently engaged in, and agrees for the duration of this Agreement that it will not engage in a “boycott,” as that term is defined in § 35-393, Arizona Revised Statutes, of Israel.

21.20.3 To the extent applicable under A.R.S. § 41-4401, Developer warrants compliance with all federal immigration laws and regulations that relate to their employees and contractors and their compliance with the e-verify requirements under A.R.S. § 23-214(A). The failure by Developer to comply with such warranty shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the City.

21.20.4 To the extent applicable under A.R.S. § 35-394, Developer hereby certifies it does not currently, and for the duration of this Agreement shall not use: (a) the forced labor of ethnic Uyghurs in the People’s Republic of China, (b) any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China, and (c) any contractors, subcontractors or suppliers that use the forced labor or any goods or services produced by the forced labor of ethnic Uyghurs in the People’s Republic of China. If Developer becomes aware during the duration of this Agreement that it is not in compliance with such certification, Developer shall take such actions as provided by law, including providing the required notice to the City. If the City determines that the Developer is not in compliance with the foregoing certification, such failure to comply with the certifications in this Section shall be deemed a material breach of this Agreement and may result in the termination of this Agreement by the City.

**[REMAINDER OF PAGE INTENTIONALLY BLANK;
SIGNATURES FOLLOW ON NEXT PAGES]**

IN WITNESS WHEREOF, the Parties have executed this Agreement on the date(s) written below.

CITY:

CITY OF PEORIA, an Arizona municipal corporation

By: _____
Jason Beck, Mayor

ATTEST:

Lori Dyckman, City Clerk

APPROVED AS TO FORM:

Emily Jurmu, City Attorney

STATE OF ARIZONA
County of Maricopa

On this _____ day of _____, 2023, before me personally appeared, Jason Beck, the Mayor of the City of Peoria, 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 claims to be, and acknowledged that she signed the above/attached document.

[Affix notary seal here]

Notary Public

DEVELOPER:

CBDG PEORIA LLC, an Arizona limited liability company

By: Common Bond Development LLC, an Arizona limited liability company, its Manager

By: _____
Name: Brian Frakes
Title: Manager

STATE OF ARIZONA
County of Maricopa

On this _____ day of _____, 2023, before me personally appeared Brian Frakes, Manager of Common Bond Development LLC, an Arizona limited liability company, the Manager of CBDG Peoria LLC, an Arizona limited liability company, for and on behalf thereof, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be and acknowledged that he signed the above/attached document.

[Affix notary seal here]

Notary Public

EXHIBIT A

Legal Description for the Property

THAT PORTION OF LOT 4 AND LOT 5, PEORIA SPORTS COMPLEX, RECORDED IN BOOK 1625, PAGE 10, ACCORDING TO MARICOPA COUNTY RECORDS, DESCRIBED AS FOLLOWS:

BEGINNING AT THE NORTHWEST CORNER OF SAID LOT 5;

THENCE NORTH 87 DEGREES 24 MINUTES 28 SECONDS EAST, ON THE NORTH LINE OF SAID LOT 5, A DISTANCE OF 337.00 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE RIGHT, OF WHICH THE RADIUS POINT LIES SOUTH 56 DEGREES 9 MINUTES 33 SECONDS WEST, A RADIAL DISTANCE OF 20.00 FEET;

THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 91 DEGREES 38 MINUTES 39 SECONDS, A DISTANCE OF 31.99 FEET;

THENCE SOUTH 57 DEGREES 48 MINUTES 12 SECONDS WEST, A DISTANCE OF 20.00 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 46.00 FEET;

THENCE SOUTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 86 DEGREES 33 MINUTES 42 SECONDS, A DISTANCE OF 69.50 FEET;

THENCE SOUTH 49 DEGREES 55 MINUTES 54 SECONDS WEST, A DISTANCE OF 429.14 FEET TO THE POINT OF CURVE OF A NON TANGENT CURVE TO THE LEFT, OF WHICH THE RADIUS POINT LIES SOUTH 44 DEGREES 8 MINUTES 41 SECOND WEST, A RADIAL DISTANCE OF 448.60 FEET AND THE WESTERLY LINE OF LOT 5;

THENCE NORTHWESTERLY ALONG THE ARC OF SAID CURVE, ON THE WESTERLY LINE OF SAID LOT 5, THROUGH A CENTRAL ANGLE OF 12 DEGREES 35 MINUTES 00 SECOND, A DISTANCE OF 98.52 FEET TO THE CORNER BETWEEN SAID LOT 4 AND LOT 5.

THENCE CONTINUING NORTHWESTERLY ALONG SAID CURVE, ON THE SOUTHERLY LINE OF SAID LOT 4, THROUGH A CENTRAL ANGLE OF 12 DEGREES 14 MINUTES 11 SECONDS, A DISTANCE OF 95.81 FEET;

THENCE NORTH 16 DEGREES 0 MINUTES 31 SECONDS EAST, A DISTANCE OF 179.64 FEET TO A POINT OF CURVE TO THE LEFT HAVING A RADIUS OF 198.80 FEET;

THENCE NORTHERLY ALONG THE ARC OF SAID CURVE, THROUGH A CENTRAL ANGLE OF 18 DEGREES 23 MINUTES 33 SECONDS, A DISTANCE OF 63.82 FEET;

THENCE NORTH 44 DEGREES 8 MINUTES 27 SECONDS EAST, A DISTANCE OF 25.32 FEET TO THE NORTHERLY LINE OF SAID LOT 4;

THENCE NORTH 87 DEGREES 24 MINUTES 28 SECONDS EAST, ON THE NORTHERLY LINE OF SAID LOT 4, A DISTANCE OF 119.85 FEET TO THE POINT OF BEGINNING.

SAID PARCEL CONTAINS 116,239 SQUARE FEET OR 2.668 ACRES, MORE OR LESS.

EXHIBIT B

Site Plan for the Project



EXHIBIT C

Off-Site Infrastructure

The following off-site public improvements have been referred to herein collectively as the **“Off-Site Infrastructure.”**

1. Extension of Utilities within the City Right of Way to the Placemaking Amenities.
2. Trail/pedestrian connection adjacent to site.

EXHIBIT D

Form of Parking License Agreement

(see attached)

EXHIBIT E

Form of Real Estate Purchase Agreement

(see attached)

EXHIBIT F

Placemaking Amenities



EXHIBIT G

Form of City Tract Lease

(see attached)