

INFRASTRUCTURE AGREEMENT BETWEEN THE OKLAHOMA CITY ECONOMIC DEVELOPMENT TRUST AND VILLA TERESA OPPORTUNITY ZONE INVESTMENTS, LP FOR THE PAYMENT OF ANCILLARY INFRASTRUCTURE PROGRAM FUNDS IN AN AMOUNT NOT TO EXCEED \$160,000 FOR COSTS ASSOCIATED WITH INSTALLING UPSIZED WATERLINES TO SUPPORT NEW DEVELOPMENTS NEAR CLASSEN DRIVE IN THE AREA BOUNDED BY NW 13TH STREET, DEWEY AVENUE, NW 11TH STREET, AND SHARTEL AVENUE.

This Infrastructure Agreement (“Agreement”) is made by and between the Oklahoma City Economic Development Trust (“OCEDT”) and Villa Teresa Opportunity Zone Investments LP (“Developer”). This Agreement sets forth the terms and conditions under which OCEDT may provide an amount not to exceed \$160,000 for infrastructure supporting new development near Classen Drive in the area bounded by NW 13th Street, Dewey Avenue, NW 11th Street and Shartel Avenue.

WITNESS:

WHEREAS, on March 7, 2000, the City Council of The City of Oklahoma City adopted Ordinance No. 21,431, approving the Downtown/MAPS Economic Development Project Plan which was amended most recently on September 14, 2021 (“Project Plan”) and establishing ad valorem tax Increment District Number Two, City of Oklahoma City (“TIF 2”); and

WHEREAS, the Local Development Act, 62 O.S. § 850 et seq., provides that tax increment generated by an approved tax increment financing district may be used to fund public improvements; and

WHEREAS, the City and OCEDT have determined that TIF 2 funds should be utilized to upgrade and/or enhance infrastructure within blighted and underutilized areas or areas of arrested economic development; and

WHEREAS, on December 13, 2005 (Item No. VIII.K.), the City Council adopted a resolution setting forth the TIF allocation policy statement which provided that a priority for the use of TIF funds for allowable project costs would be to construct public improvements, which includes the expansion or rehabilitation of existing infrastructure; and

WHEREAS, on August 17, 2021, OCEDT and the City Council adopted a joint resolution authorizing the allocation of \$500,000 from TIF 2 funds from the “Other Public Development Cost (City Only)” budget category for the Ancillary Infrastructure Program to encourage and support private investment in the Downtown/MAPS Economic Development Project Plan Area, and establishing a source of funds to make improvements to public infrastructure near or around private development or redevelopment; and

WHEREAS, the City Council and the Trustees of OCEDT have determined that the Ancillary Infrastructure Program to fund public improvements and infrastructure is beneficial to the public because it supports private investment in blighted or underutilized property or in areas of arrested development in the Downtown/MAPS Project Area without impacting such properties’

designation as “Indirect” increment; and

WHEREAS, the Spaniard Residential Project and Villa Teresa Hotel and Residential Project are currently being developed along Classen Drive in downtown Oklahoma City, and have requested that The City and/or OCEDT consider providing financial assistance for upsized waterlines (“Classen Drive Waterline Project”) to support the developments and others in the area to be served by the new waterlines; and

WHEREAS, the Spaniard Residential Project, which is scheduled to be completed by 3rd quarter 2023, represents an approximately \$10,000,000 investment of private funds in an underdeveloped and underutilized area of downtown Oklahoma City; and

WHEREAS, the Villa Teresa Hotel and Residential Project, which is partially complete and scheduled to be fully completed by 3rd quarter 2024, represents an approximately \$39,000,000 investment of private funds in an underdeveloped and underutilized area of downtown Oklahoma City; and

WHEREAS, OCEDT finds that the use of funds from the Ancillary Infrastructure Program in an amount not to exceed \$160,000 to support costs associated with the Classen Drive Waterline Project is necessary to support private development in a blighted and underutilized area near downtown Oklahoma City and that said improvements will be in the public interest.

NOW, THEREFORE, in consideration of the foregoing recitals and the mutual obligations of the parties hereto, each of them does hereby covenant and agree with the other as follows:

ARTICLE I. PROJECT.

- A. Developer agrees to use all TIF 2 funds received under this Agreement for the purpose of installing upsized waterline improvements as generally described in “Exhibit A” attached hereto and incorporated herein (Spaniard / Villa Coordinated Design).
- B. In consideration of Developer’s installation of upsized waterlines to support development near Classen Drive in the area bounded by NW 13th Street, Dewey Avenue, NW 11th Street and Shartel Avenue, including the Spaniard Residential Project and the Villa Teresa Hotel and Residential Project, OCEDT, subject to advisory concurrence by the City Council of The City of Oklahoma City, will provide an economic development incentive to Developer in an amount not to exceed \$160,000 from Increment District No. 2’s Other Public Development Costs (City only) budget category, subject to the following terms and conditions:
 - 1. The parties agree that the total incentive to be provided by OCEDT for the Classen Drive Waterline Project shall not exceed \$160,000. The parties agree that the incentive shall be paid to Developer on a reimbursement basis, for Eligible Infrastructure Costs only. In addition, before any TIF 2 funds will be reimbursed for Eligible Infrastructure Costs, Developer shall provide documentation to the

Economic Development Project Manager to demonstrate that at least \$480,000 in private capital investment has been made on properties being served by the Classen Drive Waterline Project after the effective date of this Agreement.

2. “Eligible Infrastructure Costs” consist of only those costs directly associated with installation and construction of the Classen Drive Waterline Project including engineering, labor and material fees, so long as all infrastructure is installed and constructed in accordance with applicable City codes and standards. Eligible Infrastructure Costs do not include Developer’s private borrowing costs/interest, administrative costs or professional legal or consultant’s fees. Developer shall provide the Project Manager with documentation of construction-related expenditures in a form reasonably acceptable to the Economic Development Project Manager. Any costs not covered by the incentive shall be the sole obligation of Developer.
3. Developer agrees to construct the Classen Drive Waterline Project in accordance with the plans and specifications approved by The City. Based on the combined private investment of approximately \$49,000,000, the parties agree that including the construction of the public improvements as part of the private investment project is in compliance with 61 O.S. § 127.
4. The parties recognize and agree that the incentive provided is being made by OCEDT, on behalf of The City, based on Developer’s commitment to develop an underdeveloped and underutilized area in downtown Oklahoma City, and to expand the City’s infrastructure in the urban core.
5. The parties hereby agree and acknowledge that Ms. Joanna McSpadden is designated as the Economic Development Project Manager of OCEDT. The General Manager for OCEDT has reserved the right to name or designate a different Project Manager upon notice to Developer, in his or her sole discretion.

ARTICLE II. NOTICES.

All notices and other communications required, permitted, or contemplated by this Agreement must be in writing, signed by the Party giving the Notice, and sent using the contact information below. Notices must be sent by: (1) hand-delivery in return for a receipt; (2) United States mail with postage prepaid; (3) nationally recognized overnight courier service; or (4) email, so long as the intended recipient acknowledges by email or other writing as having received the Notice (with an automatic "read receipt" not constituting acknowledgment). A Notice is effective on the earlier of: (1) the date of actual delivery; or (2) for mailed Notices (without a return receipt), three Business Days after the date of mailing. However, if the receipt of Notice is refused, the Notice is effective upon attempted delivery. Either Party may change its contact information by notifying the other Party as required by this Section. Notwithstanding the foregoing, Notices advising the other Party of a breach of this Agreement must be sent by: (1) hand-delivery in return for a receipt; (2) certified United States mail, return receipt requested with postage prepaid; or (3) nationally recognized overnight courier service. Such Notices are effective on the date of actual

delivery. However, if receipt of the Notice is refused, the Notice is effective upon attempted delivery.:

Villa Teresa Opportunity Zone Investments, LP
c/o: Jarrod Rogers
1629 N Marion Ave
Oklahoma City, OK 73106

OCEDT:
Oklahoma City Economic Development Trust
Economic Development Project Manager
Attention: Joanna McSpadden
100 N. Walker Avenue, 4th Floor
Oklahoma City, OK 73102

with copy to: City Clerk
200 N. Walker Avenue, 2nd Floor
Oklahoma City, OK 73102

ARTICLE III. TERMINATION BY OCEDT.

OCEDT may terminate this Agreement in the event that Developer, in violation of this Agreement:

- (i) assigns or attempts to assign this Agreement or any rights therein; or
- (ii) after having been provided a reasonable amount of time to provide requested documentation required under this Agreement, fails to provide such documentation;
- (iii) abandons, transfers, or terminates the Classen Drive Waterline Project; or
- (iv) fails to complete the Classen Drive Waterline Project by July 31, 2024;

and, if any default or failure referred to in this Agreement shall not be cured within thirty (30) days after the date of written demand by the other party; then this Agreement, and any rights or claims of Developer in this Agreement to any incentive payment, shall be considered terminated and OCEDT's obligation to reimburse Developer for the Classen Drive Waterline Project shall automatically terminate upon notice to Developer with no further action on the part of the Trust necessary.

ARTICLE IV. OTHER TERMS AND CONDITIONS.

- A. Public Entity Representatives Not Individually Liable. No member, official, or employee of OCEDT or The City shall be personally liable to any party or beneficiary of the terms of this Agreement, or any successor in interest, in the event of any default or breach by the involved public entity or entities or for any amount which may become due to Developer or any authorized successor on any obligation or commitment under the terms of this Agreement.

- B. Equal Employment Opportunity. Developer agrees that, during this Agreement, it will not unlawfully discriminate against any employee or applicant for employment because of age, race, color, religion, sex, disability, or national origin. Developer further agrees that, to the extent required by law, it will take affirmative action to ensure that applicants are employed, and that employees are treated during employment, without regard to their age, race, color, religion, sex, disability, or national origin. Such action shall include, but not be limited to, the following: employment, upgrading, demotion, or transfer; recruitment or recruitment advertising; layoff or termination; rates of pay or other forms of compensation; and selection for training, including apprenticeship. Developer agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause as required to be posted by federal laws or regulations of the Equal Employment Opportunity Commission. Said notices can be obtained from OCEDT upon request.
- C. No Partnership Created. The parties expressly agree that the relationship hereby created is that of independent contractors and no other relationship is created or deemed to be created between the parties. This Agreement specifically does not create any partnership or joint venture between the parties hereto or render any party liable for any of the debts or obligations of any other party.
- D. Compliance with Laws, Ordinances and Regulations. The parties shall comply with all applicable existing federal, state and local laws, standards, codes, ordinances, administrative regulations and all amendments and additions thereto, pertaining in any manner to the work and/or services provided by this Agreement.
- F. Severability. If any provisions contained in this Agreement or any document executed in connection herewith shall be invalid, illegal or unenforceable in any respect, under any applicable law, the validity, legality and enforceability of the remaining provisions contained herein shall not, in any way, be affected or impaired, and such illegal, invalid or unenforceable provisions shall, at the reasonable request of OCEDT, be replaced by other provisions in accordance with the purpose and meaning of this Agreement.
- G. Captions. The table of contents and captions, articles and section headings appearing herein are included solely for convenience of reference and are not intended to affect the interpretation of any provision of this Agreement.
- H. Counterparts. This Agreement may be executed in any number of counterparts, all of which, when taken together, shall constitute one and the same instrument, and any party hereto may execute this Agreement by signing any such counterpart.
- I. Applicable Law. This Agreement shall be governed by, and shall be construed in accordance with, the laws of the state of Oklahoma without regard to any state choice-of-law statutes, and any applicable federal law. All disputes arising out of this Agreement will be resolved in a court of competent jurisdiction located in Oklahoma County, Oklahoma.

- J. Entire Agreement. This Agreement, including all Exhibits and Addenda, represents the entire agreement and understandings of the parties hereto and all prior agreements, understandings, representations and warranties, whether written or oral, in regard to the subject matter hereof are and have been merged herein.

- K. Force Majeure. No party shall be liable for any failure to timely perform its obligations under this Agreement if prevented from doing so by a cause or causes beyond its commercially reasonable control including, but not limited to, acts of God or nature, fires, floods, storms, earthquakes, riots, strikes, wars or restraints of government.

- L. Effective Date. The Effective Date of this Agreement is the date upon which the Agreement is last executed by a party to the Agreement.

[Signature Pages follow.]

[Signature Page for Developer]

Villa Teresa Opportunity Zone Investments, LP:

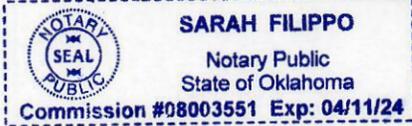
By: [Signature]

ACKNOWLEDGEMENT

STATE OF Oklahoma)
) ss.
COUNTY OF Oklahoma)

Before me, the undersigned, a Notary Public in and for said County and State, on the 14th day of November, 2022, personally appeared _____, the _____ of Villa Teresa Opportunity Zone Investments, LP, to me known to be the identical person who executed the foregoing instrument and acknowledged to me that he or she executed the same as his or her free and voluntary act and deed, and as the free and voluntary act and deed of said corporation or entity for the uses and purposes therein set forth.

Given under my hand and seal the day and year above written.



[Signature]
Notary Public

Notary Public # 08003551

My Commission Expires: 04/11/24

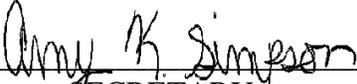
[Signature Page for the Oklahoma City Economic Development Trust]

OKLAHOMA CITY ECONOMIC DEVELOPMENT TRUST

APPROVED by the Chairman and Trustees of the Oklahoma City Economic Development

Trust this 22nd day of November, 2022.

ATTEST:



SECRETARY


OFFICIAL
SEAL
OKLAHOMA CITY ECONOMIC DEVELOPMENT TRUST
OKLAHOMA



VICE-CHAIRMAN

REVIEWED for form and legality.



ASSISTANT MUNICIPAL COUNSELOR

[Signature Page for The City of Oklahoma City]

THE CITY OF OKLAHOMA CITY

ADVISORY CONCURRENCE by the Mayor and City Council of The City of Oklahoma

City this 6th day of December, 2022.

ATTEST:

Amy K Simpson
CITY CLERK



David Holt
MAYOR

REVIEWED for form and legality.

Amy Douglas
ASSISTANT MUNICIPAL COUNSELOR

EXHIBIT A Spaniard / Villa Coordinated Design

