

Attachment 1

DEPOSIT AND REIMBURSEMENT AGREEMENT

THIS DEPOSIT AND REIMBURSEMENT AGREEMENT (this "Agreement") is made and entered into as of November ___, 2025, by and between CITY OF HESPERIA (the "City") on the one hand, and SEEFRIED DEVELOPMENT MANAGEMENT, INC. (the "Developer") on the other hand.

RECITALS

A. The Project is the subject of that certain Development Agreement dated May 17, 2022, and recorded in the Official Records of San Bernardino County on November 30, 2023, as Document No. 2023-0295381 (the "Development Agreement") regarding the development of real property in the City of Hesperia, which includes (among others), the development and construction of the Amazon Middle Mile / Hesperia Commerce Center II (HCC II) industrial facility (the "Project").

B. The Project requires City review of various approvals for the Project, including applications, plan checks, engineering, inspection, contract inspection, and related services (collectively, "Services").

C. Pursuant to Section 3.5 of the Development Agreement, all costs for the Services shall be borne by Developer, and the parties shall enter into a separate deposit agreement to provide for the payment of City's costs and the process and timeline for performing the Services.

D. City and Developer desire to enter into this Agreement to ensure full repayment to City for costs related to the Services as provided herein.

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing and the mutual covenants set forth herein, and for other consideration, the receipt and sufficiency of which is hereby acknowledged, the parties hereto agree as follows:

Section 1. Purpose of Agreement. The purpose of this Agreement is to provide for payment by the Developer of all costs directly or indirectly incurred by City in connection with the Services. The foregoing recitals are true and correct and are incorporated herein by reference as if set forth in full.

Section 2. Developer Reimbursement Obligation. City shall review, process, and oversee the completion of the Services. City, in its sole discretion, reserves the right to select the consultants or City staff to be utilized in connection with the Services, provided that the City may, at its discretion, receive Developer input on proposed contract inspection resources. However, final selection and oversight shall remain solely with the City to maintain independence and alignment with the City's professional services agreement with its contractors or consultants regarding Services, and the Developer shall reimburse City for the resulting costs incurred (collectively, the "Eligible Costs"), including but not limited to:

- (a) City staff time, processing costs, consultant costs and legal fees associated with all the Services. City shall maintain records of time and materials expended by City staff for work related to the Services. The parties agree that the rates for the reimbursement of staff time will be the current City salary and benefit rates in effect at the time the work is performed;
- (b) Legal fees and costs payable to City's counsel in connection with the Services;
- (c) Fees and costs payable to consultants retained by City in connection with the Services, including contract inspectors and related technical consultants retained by the City to perform or support inspection and plan review services in accordance with Section 3.5 of the Development Agreement; and
- (d) Any other actual costs and expenses incurred by City associated with the Services.

Section 3. Developer Deposit. Upon execution of this Agreement, Developer shall provide to City the amount of Two Hundred Thirty-Seven Thousand Six Hundred Dollars (\$237,600.00) as security for Developer's obligation to pay all Eligible Costs as provided herein (the "Developer Deposit"). The Developer Deposit will be maintained within City's pooled cash for the purposes of investment and safekeeping, but City shall at all times maintain records as to the balance and expenditure of the Developer Deposit. If the Eligible Costs exceed the remaining balance of the Developer Deposit, the amount of the Developer Deposit shall be increased to cover the difference of the Eligible Costs for Services and the remaining balance.

City shall send the Developer invoices to be paid within thirty (30) days of receipt. If the Developer does not pay invoices within thirty (30) days, City is authorized to use the Developer Deposit to pay such invoices. If the Developer Deposit is reduced to zero dollars, City may suspend the Services until any outstanding invoices are paid and another deposit is received. In that event, City shall have no obligation to continue the Services or to incur any additional Eligible Costs. The Developer further covenants and agrees that, if, as a result of reduction of the Developer Deposit to zero dollars or failure to pay outstanding invoices, the Developer shall not directly or indirectly initiate any litigation against City or its employees, agents, or volunteers for the failure to provide or delay in providing the Services following such reduction and/or lack of payment.

Should the Developer dispute any portion(s) of an invoice for Eligible Costs, Developer shall notify City's Director of Development Services, or his or her designee, of such disputed portion(s) within fifteen (15) days of receipt. City's Director of Development Services or designee shall act promptly to resolve the disputed portion(s) and, if determined to be appropriate, the Developer shall be credited the related sum that the Director of Development Services, or designee, determines to have been improperly or incorrectly charged to the Developer. In the event that the Developer is dissatisfied by the determination of the Director of Development Services, the Developer may appeal said determination to City's City Manager, or designee, and the decision of the City Manager shall be final.

Section 4. No Commitment as to Future Approvals. Nothing in this Agreement shall be construed as a commitment to grant, take any action, or issue any other preliminary or final approvals in connection with the Project or the Services. Nor shall this Agreement be construed to provide approval, consent, or entitlement by City to the Developer for any project, construction, submittal, or in any way provide extraneous benefit to Developer during the review or approval process. The Developer acknowledges and agrees that nothing in this Agreement limits City's discretion, in any manner, with respect to any aspect of the Project or the Services. The Developer agrees that it shall remain obligated to pay all Eligible Costs, regardless of whether any aspect of the Project is approved. City shall have no liability to the Developer in any manner whatsoever therefore other than to return the unexpended/uncommitted portions of the Developer Deposit as outlined in Section 5. Notwithstanding the aforementioned, City shall in good faith expeditiously process the applications for the Services.

Section 5. Return of Unexpended Deposits Upon Completion/Termination. Once all the Services are completed, or upon termination of Agreement as outlined in Section 7, City will, within sixty (60) days, return the unexpended portion of the Developer Deposit to the Developer, along with an accounting of each transaction that was recorded on the account.

Section 6. Termination; Remedies. The Developer may terminate this Agreement by providing ten (10) days' written notice to City. The Developer shall be responsible for the payment of Eligible Costs incurred by City up to and including the date of termination. City may terminate this Agreement if the Developer is in default of any of its obligations under this Agreement and fails to cure such default within ten (10) days following written notice from City. If either party is in default of any provisions of this Agreement, the other party shall be entitled to any legal or equitable remedy available at law.

Section 7. Cessation of Processing. The Developer acknowledges and agrees that City may cease the Services if the Developer is in default of this Agreement beyond applicable notice and cure periods.

Section 8. Accounting. Monthly, City shall deliver to the Developer, via email and/or first class mail, a written accounting of the transactions of the Developer Deposit within thirty (30) days of the end of the previous month.

Section 9. Attorney Fees. If any legal action is brought by either party to interpret or enforce any terms or provisions of this Agreement, the prevailing party shall be entitled to its reasonable attorneys' fees and costs.

Section 10. Entire Agreement. This Agreement constitutes the entire agreement of the parties with respect to the matters set forth herein. Any amendments, modifications, or changes to this Agreement shall be in writing and signed by both parties.

Section 11. Waivers. Waiver of a breach or default under this Agreement shall not constitute a continuing waiver or a waiver of a subsequent breach of the same or any other provision of this Agreement.

Section 12. Severability. If any provision of this Agreement or the application of any such provision shall be held by a court of competent jurisdiction to be invalid, void, or unenforceable to any extent, the remaining provisions of this Agreement and the application thereof shall remain in full force and effect and shall not be affected, impaired, or invalidated.

Section 13. Successors and Assigns. This Agreement shall be binding upon the parties hereto and their respective heirs, legal representatives, successors, and assigns.

Section 14. Jurisdiction. This Agreement shall be administered and interpreted under the laws of the State of California, without regard to its choice of law rules. Jurisdiction and venue of litigation arising from this Agreement shall be in the County of San Bernardino, State of California.

Section 15. Notices. Notices required by this Agreement shall be personally delivered, mailed, postage prepaid, mailed via nationally recognized overnight courier or emailed as follows:

If to City:

City of Hesperia
9700 Seventh Avenue
Hesperia, CA 92345-3493
Attn: Rachel Molina, City Manager
Email: rmolina@hesperiaca.gov

If to Developer:

Seefried Development Management, Inc
3333 Riverwood Parkway E, Suite 200
Atlanta, GA 30339
Attn: Jim Condon
Email: jimc@seefriedproperties.com

with a copy to:

Aleshire & Wynder, LLP
1 Park Plaza, Suite 1000
Irvine, CA 92614
Attn: Pam K. Lee
Email: plee@awattorneys.com

with a copy to:

Hartman Simons & Wood LLP
400 Interstate North Parkway SE, Suite 600
Atlanta, GA 30339
Attn: Summey Orr
Email: summey.orr@hartmansimons.com

Notices given by personal delivery shall be effective immediately. Notices given by overnight courier shall be effective upon the date of delivery. Notices given by mail shall be deemed to have been delivered five days after having been deposited in the United States mail. **Any notice** delivered by email shall request a receipt thereof confirmed by email or in writing by the recipient, and the effective date of such notice shall be the date of receipt, provided such receipt has been confirmed by the recipient. Any party may change its address for notice by written notice to the other party in the manner provided in this paragraph.

Section 16. Interpretation. The titles to the sections of this Agreement are not a part of this Agreement and shall have no effect upon the construction or interpretation of any part of this Agreement. As used in this Agreement, masculine, feminine or neuter gender and the singular or plural number shall each be deemed to include the others where and

when the context so dictates. The word "including" shall be construed as if followed by the words "without limitation." This Agreement is the product of negotiations between the parties, and it shall not be construed as if it had been prepared by one of the parties, but rather as if all of the parties have prepared the same. Any rule of construction to the effect that ambiguities are to be resolved against the drafting party shall not apply interpreting this Agreement.

Section 17. Authority. Each person executing this Agreement covenants and warrants that

(i) the party on whose behalf he or she is signing is duly incorporated or otherwise established or formed and validly existing under the laws of its state of incorporation, establishment or formation,

(ii) the party has and is duly qualified to do business in California, (III) the party has full corporate, partnership, trust, association, or other power and authority to enter into this Agreement and to perform all of its obligations hereunder, and (IV) each person (and all of the persons if more than one signs) signing this Agreement is duly and validly authorized to do so.

Section 18. Counterparts. This Agreement may be executed in counterparts.

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IN WITNESS WHEREOF, the parties hereto have executed this Agreement as of the date first above written.

“CITY”
City of Hesperia
a municipal corporation

Rachel Molina, City Manager

ATTEST:

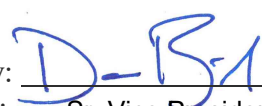
Melinda Sayre, City Clerk

APPROVED AS TO FORM
ALESHIRE & WYNDER, LLP

Pam K. Lee, City Attorney

“DEVELOPER”
Seefried Development Management, Inc.,
a Georgia corporation

By: 
Its: Sr. Vice President
Name: Jason Quintel

By: 
Its: Sr. Vice President
Name: Dan Bick