

**AMENDMENT AND CONSENT TO ASSIGNMENT
OF PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS
AND
DEVELOPMENT AGREEMENT**

THIS AMENDMENT AND CONSENT TO ASSIGNMENT OF PURCHASE AND SALE AGREEMENT AND ESCROW INSTRUCTIONS AND DEVELOPMENT AGREEMENT ("**Consent**") is entered into effective as of February 28, 2022 (the "**Effective Date**"), by and among Elpida, LLC, an Arizona limited liability company ("**Elpida**"), J.E.T. Real Estate Holdings, LLC, an Idaho limited liability company ("**JET**"), West Edison, LLC, a Colorado limited liability company ("**West Edison**"), Estrella Gin Business Park, LLC, an Arizona limited liability company ("**EGBP**") and CITY OF MARICOPA, ARIZONA, an Arizona municipal corporation (the "**City**"). Elpida, JET, West Edison, EGBP and the City are collectively referred to herein as the Parties and individually as Party.

RECITALS

A. City and Elpida are parties to that certain Purchase and Sale and Escrow Instructions and Development Agreement dated October 10, 2019 for the Elpida Property (the "**Original Elpida Agreement**"), as amended by that certain First Amendment to the Development Agreement dated August 27, 2020 (such amendments collectively with the Original Elpida Agreement, the "**Elpida Agreement**"). The Elpida Agreement closed on September 30, 2020.

B. City and JET are parties to that certain Purchase and Sale and Escrow Instructions and Development Agreement dated October 10, 2019 for the JET Property (the "**Original JET Agreement**"), as amended by that certain First Amendment to the Development Agreement dated August 27, 2020 (such amendments collectively with the Original JET Agreement, the "**JET Agreement**"). The JET Agreement closed on September 30, 2020.

C. On November 23, 2020, the City entered into a Purchase and Sale Agreement and Escrow Instructions containing a Reversion Option, which was amended from time to time and was assigned to West Edison on November 15, 2021 (the "**West Edison Agreement**"). The West Edison Agreement closed on November 30, 2021.

D. On September 30, 2020, Elpida conveyed its property and interest in the Elpida Agreement to EGBP.

E. On September 30, 2020, JET conveyed its property and interest in the JET Agreement to EGBP.

F. On or before November 24, 2021, West Edison, LLC conveyed its interest in the West Edison Agreement to EGBP and agreed to convey its interest in its property to EGBP or an assigns in which EGBP is a stakeholder through a 1031 intermediary.

G. Pursuant to Section 17.16 of the Elpida Agreement, Section 17.16 of the JET Agreement and Section 13.16 of the West Edison Agreement, the City must approve any assignment of rights under these separate Agreements.

H. The Parties desire to amend the Elpida Agreement, JET Agreement and West Edison Agreement as set forth herein.

AGREEMENTS

Now, therefore, in consideration of the foregoing recitals and representations and the mutual promises contained in this Consent, the Parties agree as follows:

1. Defined Terms. All capitalized terms used herein, unless otherwise specified, shall have the same meaning ascribed to them in the Elpida Agreement, JET Agreement and West Edison Agreement respectively. For purposes of this consent, the Elpida Property, the Jet Property and the property purchased by West Edison are jointly referred to herein as the “**Property**.”

2. Consent of the City.

(a) The City hereby consents to Elpida’s assignment of all of Elpida’s right, title and interest in, to and under the Elpida Agreement to the fullest extent assignable.

(b) The City hereby consents to JET’s assignment of all of JET’s right, title and interest in, to and under the JET Agreement to the fullest extent assignable.

(c) The City hereby consents to West Edison’s assignment of all of West Edison’s right, title and interest in, to and under the West Edison Agreement to the fullest extent assignable.

3. Consent of EGBP.

(a) EGBP hereby agrees to assume all of the duties and obligations of Elpida under the Elpida Agreement arising from and after the Effective Date including, but not limited to, the Project Development set forth in Section 15 and the Road and Infrastructure Construction set forth in Section 4.04, as may be amended herein.

(b) EGBP hereby agrees to assume all of the duties and obligations of JET under the JET Agreement arising from and after the Effective Date including, but not limited to, the Project Development set forth in Section 15 and the Road and Infrastructure Construction set forth in Section 4.04, as may be amended herein.

(c) EGBP hereby agrees to assume all of the duties and obligations of West Edison under the West Edison Agreement arising from and after the Effective Date including, but not limited to, the requirement to complete the requisite improvements and a multi-unit housing development, as may be amended herein.

4. Amendments. City and EGBP hereby agree to the following amendments:

(a) *Elpida Agreement and JET Agreement.*

- i. The Parties hereby acknowledge and agree that the roadway and infrastructure required by Section 4.04 of the Elpida Agreement and the JET Agreement is substantially complete and is anticipated to be accepted by City on or before April 30, 2022.

- ii. Upon acceptance of the requisite roadway and infrastructure, the City agrees to pay EGBP a lump sum of Eight Hundred Twenty-Seven Thousand Sixty-Four and 00/100 Dollars (\$827,064.00) on or before July 31, 2022 as required by Section 4.05 of the Elpida Agreement and the JET Agreement. The Parties acknowledge and agree that upon making this payment to EGBP, the City shall have no further obligations related to the roadway and infrastructure necessary for the development of the Entire Property or the Property.
- iii. Section 15.03 of the Elpida Agreement and Section 15.03 of the JET Agreement shall be deleted in their entirety and replaced with the following:

EGBP shall, at its sole cost and expense, shall construct or cause to be constructed a 5,800 square foot office building on the Entire Property. Such building shall be available to the City for use on or before May 31, 2022. EGBP acknowledges and agrees that its development and construction of the building and any improvements related thereto are subject to the City's or other appropriate governmental entity's normal plan submittal, review and approval processes, fees and day-to-day inspection services unless otherwise specifically provided herein.
- iv. Section 15.04 of the Elpida Agreement and Section 15.04 of the JET Agreement shall be amended to reflect that the City's option of taking back title to the Elpida Property and the JET Property shall terminate upon the 5,800 square foot office building being constructed and available to the City for use. The City hereby agrees to execute any and all necessary documents releasing the Reversion Option upon such termination.

(b) West Edison Agreement.

- i. Section 14 of Exhibit B, as amended, shall be deleted in its entirety.

(c) Additional Provision. The Parties hereby acknowledge and agree that the following provisions will apply:

- i. Schedule of Performance and Reversion Option. In addition to the 5,800 square foot office building required by Section 15.03 of the Elpida Agreement and JET agreement, EGBP hereby agrees to commence construction on one of the following on or before March 31, 2023:
 - 1. An office building of at least 4,200 square feet;
 - 2. A flex building of at least 10,000 square feet;
 - 3. A building for retail use of at least 1,000 square feet; or
 - 4. At least 50 units of single family or multi-family units.

For purposes of this section, commence construction shall mean having City approval of all completed offsite infrastructure improvements necessary for such construction.

- ii. Profit from Sale of Property. In the event EGBP sells the Property or any portion thereof to an unrelated third-party, EGBP shall notify the City of such sale and provide all sales documentation and an accounting related thereto

which specifically provides the purchase price of the Property, excluding any improvements made thereon by Buyer after the Effective Date, along with an explanation of who purchased the Property and any contractual agreements regarding the development, operation and maintenance related to the Property. City, in its sole and absolute discretion, shall have the right to demand and EGBP shall pay to City \$1.00 per square foot of the Property sold plus Twenty Five Percent (25%) of any gross purchase price exceeding Three Million Two Hundred Thousand and 00/100 Dollars (\$3,200,000.00).

In the event EGBP sells the Property or any portion thereof after completing all requisite improvements and being issued a Certificate of Occupancy for all buildings shown on a City approved site plan, no additional monies shall be owed to the City.

5. Notices. After the date of this Consent, all notices to EGBP shall be delivered to Assignee at the following address:

Estrella Gin Business Park, LLC
Attn: Joe Cook
3463 South Rim Road
Gilbert, AZ 85297

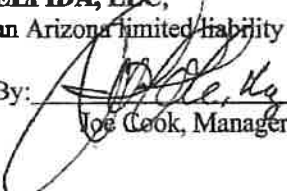
6. Modification of Agreement. No modification of this Consent shall be binding on the parties unless in writing and signed by all parties and acknowledged in writing by EGBP.

7. Binding. This Consent, and all of its terms, shall inure to the benefit of and bind the heir, personal representatives, successors and assigns of each of the parties.

8. Venue and Jurisdiction. This Consent shall be construed in accordance with the laws of the State of Arizona, and the Pinal County Superior Court shall be the proper and exclusive venue for any litigation arising out of this Consent.

IN WITNESS WHEREOF, Developer, and the City have executed this Consent or have caused the same to be executed by their respective duly authorized representatives as of the date first set forth above.

ELPIDA, LLC,
an Arizona limited liability company

By:  2/20/2022
Joe Cook, Manager

JET REAL ESTATE HOLDINGS, LLC,
an Idaho limited liability company

By: 
Eric Wall, Manager

WEST EDISON, LLC,
an Colorado limited liability company

By: Accruit Exchange Accommodation Services, LLC

By: [Signature]
Max Hansen, Vice President

ESTRELLA GIN BUSINESS PARK, LLC,
an Idaho limited liability company

By: [Signature] 2/29/2022
Joe L. Cook, Co-Manager

CITY OF MARICOPA,
an Arizona municipal corporation

By: [Signature]
Name: City Manager
Its: Ricky A. Horst

ATTEST:

By: [Signature]
Vanessa Bueras, MMC
City Clerk



APPROVED AS TO FORM:

By: [Signature]
Denis M. Fitzgibbons
City Attorney