

DEVELOPMENT AGREEMENT

This Development Agreement (the “Agreement”) is made and entered into as of this _____ day of _____, 2021, by and between **Glenwood Equities, LLC**, a Missouri limited liability company (“Glenwood”), and the **City of Rochelle, Ogle County, Illinois**, an Illinois municipal corporation (the “City”), and is based on the following recitals:

RECITALS

- A. The City is duly organized and existing under the laws of the State of Illinois as a non-home rule municipality.
- B. Glenwood is a(n) corporation in good standing with the Illinois Secretary of State and authorized to transact business in the State of Illinois.
- C. Glenwood is the record owner of the commercial real estate or has an option to purchase commercial real estate on East Flagg Road, west of Highway 251, in Rochelle, Ogle County, Illinois (the “Subject Property”), which is currently unimproved.
- D. Glenwood intends to develop the Subject Property by constructing a building (“the Building”) and developing within the Building a retail store.
- E. The City operates various public utilities through the Rochelle Municipal Utilities (“RMU”), which will provide utilities, including, but not limited to, water, wastewater and electric utility services.
- F. The development of the Subject Property will require or involve:
 - 1. An extension and upgrade of the electrical service to Glenwood’s parcel. Glenwood will be responsible for any costs for the cost of extending and upgrading the electrical service to the Subject Property.
 - 2. Extending the water service to the West lot line of the Subject Property. The City agrees to pay for a portion of the extended water service to the Subject Property, as set forth herein. Glenwood will be responsible for any costs related to extending the water service to the West property line of Subject Property.
 - 3. Extending and upsizing the sanitary sewer/wastewater service to the West lot line of the Subject Property. The City agrees to pay for a portion of the extended and upsized sanitary sewer/wastewater service Subject Property, as set forth herein. Glenwood will be responsible for any costs for the cost of extending and upsizing sanitary sewer/wastewater service to the West lot line of Subject Property.

- G. Glenwood and the City wish to cooperate to foster the development of the Subject Property by granting the permits specified pursuant to this Agreement or reasonably required by Glenwood.
- H. The City is entering into this Agreement pursuant to its non-home rule powers and its determination that the permits contemplated by this Agreement will enhance the City's businesses and development within its corporate limits.
- I. The City has determined that it is essential to the economic and social welfare of the City that the permits contemplated by this Agreement are necessary to foster economic development.
- J. The City finds that the powers to be exercised hereunder are in furtherance of a public use and essential to the public interest.
- K. The Mayor and City Council of the City have determined that entering into this Agreement is the best interests of the City.
- L. Glenwood has full right, power and authority to enter into this Agreement and acknowledges and consents to its terms and conditions.

NOW, THEREFORE, in consideration of TEN DOLLARS (\$10.00) and the promises, covenants and agreements contained herein, and for other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and Glenwood agree as follows:

**SECTION ONE.
RECITALS**

The foregoing Recitals are hereby incorporated herein as if fully set forth below as representations by Glenwood and the City.

**SECTION TWO.
UTILITY SERVICE**

A. Electrical Service. The City, which owns and operates its electrical service utility through the RMU. Glenwood will be responsible for any costs related to electrical services on the Subject Property and to the Building.

B. Water. The City, which owns and operates its water service utility through the RMU, agrees that it will, reimburse Glenwood up to Thirty Thousand (\$30,000.00) Dollars, to extend water service to the West property line of Subject Property and to the Building. The City's Reimbursement for water service may also be used for water infrastructure in the Building, including, but not limited to, fire suppression systems or infrastructure necessary to have a sufficient water supply and pressure.

C. Sanitary Sewer/Wastewater. The City, which owns and operates its sanitary sewer/wastewater service utility through the RMU, agrees that it will reimburse Glenwood up to One Hundred and Fifty Thousand (\$150,000.00) Dollars of the cost to extend and upsize the sanitary sewer/wastewater service to the West property line of the Subject Property and to the Building. The City's Reimbursement for sanitary sewer/wastewater service may also be used to increase the size of the sanitary sewer/wastewater main from the two (2) inch pressurized proposed main to the required eight (8) inch gravity fed main, but cannot be used for any other purposes.

D. Timing of Reimbursements. The reimbursements set for in Section 2(B-C) will be made over three (3) payments, with the first reimbursement occurring 180 days after the completion of the Project. The two payments will occur annually thereafter on the anniversary of the first payment. For the purposes of the Agreement, the completion date will be upon completion of all improvements and the building and final inspection by the City. The portion of the City's Reimbursement may not be applied to any other development expense

SECTION THREE. APPROVALS, PERMITS AND CONSENTS

The City agrees to provide approvals, permits and consents to Glenwood as reasonably required for Glenwood's development of the Subject Property, upon appropriate petitions and requests by Glenwood. Glenwood will grant all necessary utility easements as required for the service to the West property line of the Subject Property and to the Building.

SECTION FOUR. INSURANCE

Glenwood agrees to maintain public liability and property damage insurance with an insurance company qualified and licensed to do business in Illinois with limits of not less than two million dollars (\$2,000,000.00) for bodily injury or death to any one person, five million dollars (\$5,000,000.00) for bodily injury or death to more than one person, and five hundred thousand dollars (\$500,000.00) for damage to the Subject Property. The City will be named as an additional insured on Glenwood's policies and shall be provided thirty (30) days' advance notice prior to the cancellation of any such policy. Certificates of such insurance shall be filed with the City clerk within 30 days of the approval of this Agreement by the City Counsel.

SECTION FIVE. COMPLIANCE WITH LAW

Glenwood will at its own expense comply with all federal, state and local laws, ordinances of the City and the State of Illinois, and rules and regulations now or later in force which may be applicable to its operations in the City. Glenwood will obtain and pay for all permits, licenses, variations, and other authorizations which may be required for the improvements and its activities contemplated by this Agreement.

**SECTION SIX.
WAIVER**

No waiver by either the City or Glenwood of any default on the part of the other party in the performance of any of the terms, covenants, or conditions of this Agreement to be performed, kept, or observed by the defaulting party shall be or be construed to be a waiver by the non-defaulting party of any other or subsequent default in the performance of any terms, covenants, or conditions of this Agreement to be performed, kept or observed by the defaulting party.

**SECTION SEVEN.
AMENDMENT**

This Agreement may be modified or amended in whole or in part only by a written instrument executed by the City and Glenwood.

**SECTION EIGHT.
ATTORNEYS' FEES AND COSTS**

In the event of any litigation arising out of or with respect to this Agreement, the prevailing party will have the right to be paid all costs and expenses including, but not limited to, reasonable attorneys' fees, expert witness fees and all other costs, including all such costs with respect to any appellate proceedings.

**SECTION NINE.
INDEMNIFICATION**

To the fullest extent permitted by law, Glenwood shall defend, indemnify and hold the City harmless from and against any and all claims, causes of action, liability, loss, damage, costs and expenses (including reasonable attorneys' fees) for injury to person or death or property damage arising out of or resulting from (i) Glenwood's development of the Subject Property; (ii) any failure by Glenwood to perform any obligation required herein; or (iii) arising out of or resulting from of Glenwood's breach of any provision of this Agreement.

**SECTION TEN.
NOTICE**

All notices and other communications shall be in writing and shall be deemed properly served if delivered in person to the party to whom it is addressed two (2) days after deposit in the U. S. mail if sent postage prepaid by United States registered or certified mail, return receipt requested, addressed as follows:

All notices to the City of Rochelle shall be sent to:

City Manager
City of Rochelle
420 North 6th Street

Rochelle, Illinois 61068

Legal Counsel:

Peterson, Johnson & Murray-Chicago LLC
Attn: Dominick Lanzito
200 West Adams – Ste. 2125
Chicago, Illinois 60606

All notices to Glenwood shall be sent to:

Daniel Elkan
Glenwood Equities, LLC
1415 Elbridge Payne Rd Suite 285
Chesterfield MO. 63017

Legal Counsel:

Goldenberg Heller & Antognoli, P.C.
Attn: Chad W. Brigham
2227 S. State Rte. 157
Edwardsville, Il 62025

or to such other address as a Party may designate for itself by notice given from time to time to the other Party in the manner provided herein.

**SECTION ELEVEN.
PERFORMANCE BOND AND MAINTENANCE**

Glenwood shall provide a performance bond equal to 125% of the cost of the infrastructure improvements identified in this Agreement, prior to the issuance of building permits for the improvements to the Subject Property.

**SECTION TWELVE.
BINDING EFFECT**

This Agreement shall be binding upon and inure to the benefit of the City and Glenwood and their respective successors and assigns.

**SECTION THIRTEEN.
REIMBURSEMENT OF CITY COSTS**

Glenwood shall reimburse the City for all staff costs, legal fees, and all other professional fees incurred by the City with respect to the development of the Subject Property. Glenwood will be invoiced at the time the building permit applications are submitted and shall be due

before permits are issued. Glenwood shall receive credit for all deposits provided to the City for this development.

**SECTION FOURTEEN
ENTIRE AGREEMENT**

This Agreement and the exhibits to this Agreement contain all the representations and the entire agreement between the parties with respect to the subject matter of this agreement. Any prior correspondence, memoranda or agreements are superseded in total by this Agreement and the exhibits to this Agreement. No party has relied on any representations, written or verbal, of any other party other than those express written representations made within this Agreement.

**SECTION FOURTEEN.
EXHIBITS**

All exhibits attached hereto are incorporated by reference and made a part of this Agreement.

The parties have executed this agreement as of the day and year first above written.

THE CITY OF ROCHELLE, an Illinois
municipality

By: _____

Its: _____

GLENWOOD EQUITIES, LLC, a Missouri limited
liability company

By: _____

Its: _____