
THE CITY OF ROCHELLE
Ogle County, Illinois

ORDINANCE
NO. _____

**AN ORDINANCE APPROVING A TIF REDEVELOPMENT AGREEMENT WITH
NEXTGEN VENTURES ROCHELLE LLC, A DELAWARE LIMITED LIABILITY
COMPANY**

JOHN BEARROWS, Mayor
ROSE HUERAMO, City Clerk

TOM McDERMOTT
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DAN McDERMOTT
JOHN GRUBEN
ROSAELIA ARTEAGA
City Council

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200 W. Adams, Ste. 2125, Chicago, IL 60606

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NEXTGEN VENTURES ROCHELLE, LLC, A DELAWARE LIMITED LIABILITY
COMPANY**

WHEREAS, Section 7 of Article VII of the 1970 Constitution of the State of Illinois provides that a municipality that is not a home rule unit shall only have the powers granted to them by law and as such the City of Rochelle, Ogle County, Illinois being a non-home rule unit pursuant to the provisions of said Section 7 of Article VII, and may exercise only the powers expressly granted by law; and

WHEREAS, the Illinois General Assembly granted non-home rule municipalities broad authority to “pass all ordinances and make all rules and regulations proper or necessary, to carry into effect the powers granted to municipalities.” 65 ILCS 5/1-2-1; and

WHEREAS, while “non-home rule municipalities have the authority to enact ordinances, such ordinances may in no event conflict with state law or prohibit what a state statute expressly permits . . . A local ordinance may impose more rigorous or definite regulations in addition to those enacted by the state legislature so long as they do not conflict with the statute.” (Village of Wauconda v. Hutton, 291 Ill. App. 3d 1058, 1060 (1997)); and

WHEREAS, the City of Rochelle (“City”), pursuant to the Tax Increment Allocation Redevelopment Act, 65 ILCS 5/11-74.4-1 *et seq.*, (“TIF Act”) has adopted a series of ordinances pertaining to the creation of a Redevelopment Project Area (“TIF Area(s)”) and established a special tax allocation fund (“TIF Fund”) to promote the redevelopment of certain geographic areas within the City’s municipal boundaries; and

WHEREAS, previously the City has formed the Northern Gateway Tax Increment Financing (“TIF”) area for the redevelopment of the northern portion of the City corporate limits; and

WHEREAS, Nextgen Ventures Rochelle, LLC, a Delaware limited liability company, (“Developer”) has purchased of certain real property located at 1380 N. 7th Street, Rochelle, Ogle County, Illinois, (“Subject Property”); and

WHEREAS, the Subject Property is identified on the TIF report as PIN 24-13-326-00 and part of 24-13-326-008 but now has been reclassified as 24-13-326-013; and

WHEREAS, in furtherance of the redevelopment of the aforementioned Subject Property, Developer proposes to complete a redevelopment of the same; and

WHEREAS, the cost of the project is anticipated to be approximately \$3,000,000.00; and

WHEREAS, Developer has advised City that, but for the financial assistance of City, Developer is unable to complete the redevelopment of the Subject Property; and

WHEREAS, the project is consistent with the Redevelopment Plan and is located within the Redevelopment Project Area; and

WHEREAS, City is authorized under the TIF Act to enter into redevelopment agreements and to reimburse developers who incur redevelopment project costs authorized by a redevelopment agreement; and

WHEREAS, in order to induce Developer to undertake the redevelopment of the Subject Property, the Corporate Authorities have determined that it is in the best interests of City and the health, safety, morals and welfare of the residents and taxpayers of City to reimburse Nextgen Ventures Rochelle, LLC for a portion of the redevelopment project costs incurred in furtherance of the project as permitted by the TIF Act; and, in order to induce Nextgen Ventures Rochelle, LLC to undertake the redevelopment of the Subject Property, the Corporate Authorities have determined that it is in the best interests of City and the health, safety, morals and welfare of the residents and taxpayers of City to reimburse Developer for a portion of the redevelopment project costs incurred in furtherance of the Project as permitted by the TIF Act.

NOW, THEREFORE, BE IT ORDAINED BY THE MAYOR AND CITY COUNCIL OF THE CITY OF ROCHELLE, ILLINOIS:

SECTION ONE: That City hereby incorporates all of the recitals above into this Resolution as if fully set forth herein.

SECTION TWO: The City hereby authorizes the City Manager to execute a Redevelopment Agreement with Nextgen Ventures Rochelle, LLC, a Delaware Limited Liability Company, attached hereto as Exhibit 1, subject to final review and revision by the City Attorney.

SECTION THREE: If any provision of this Ordinance or application thereof to any person or circumstance is ruled unconstitutional or otherwise invalid, such invalidity shall not affect other provisions or applications of this ordinance that can be given effect without the invalid application or provision, and each invalid provision or invalid application of this Ordinance is severable.

SECTION FOUR: Where the conditions imposed by any provisions of this Ordinance are more restrictive than comparable provisions imposed elsewhere in any other local law, ordinance, resolution, rule or regulation, the regulations of this Ordinance will govern.

SECTION FIVE: The City Clerk shall publish this Ordinance in pamphlet form.

SECTION SIX: This Ordinance shall be in full force and effect from and after its passage, approval and publication in pamphlet form as provided by law.

PASSED THIS _____ day of April, 2023.

AYES:

NAYS:

ABSENT:

APPROVED THIS _____ day of April, 2023.

MAYOR

ATTEST:

CITY CLERK

Exhibit 1

REDEVELOPMENT AGREEMENT

THIS REDEVELOPMENT AGREEMENT is entered into this ____ day of April 2023, by and between CITY OF ROCHELLE, an Illinois municipal corporation (“City”), Nextgen Ventures Rochelle, LLC a Delaware limited liability company (“Developer”).

PREAMBLES

WHEREAS, in the Redevelopment Project Area (as defined below), City has identified a need for the location and redevelopment of industrial property; and

WHEREAS, pursuant to the Tax Increment Allocation Redevelopment Act of the State of Illinois, 65 ILCS 5/11-74.4-1 et seq., as from time to time amended (the “TIF Act”), the Mayor and City Council of City (collectively, the “Corporate Authorities”) are empowered to undertake the redevelopment of a designated area within its municipal limits in which existing conditions permit such area to be classified as a “conservation area” as defined in the TIF Act; and

WHEREAS, pursuant to its powers and in accordance with the requirements of the TIF Act, the Corporate Authorities, pursuant to Ordinance 18-4884, adopted by the Corporate Authorities on August 13, 2018, approved a redevelopment plan and project, entitled “Redevelopment Plan and Program,” as prepared by Moran Economic Development (the “Redevelopment Plan”), for the City of Rochelle District Northern Gateway Tax Increment Financing (the “Redevelopment Project Area”), which Redevelopment Plan sets forth a plan for the development, redevelopment and revitalization of the Redevelopment Project Area; and

WHEREAS, also pursuant to its powers and in accordance with the requirements of the TIF Act, the Corporate Authorities, pursuant to Ordinances 18-1885 and 18-1886, respectively, adopted by the Corporate Authorities on August 13, 2018, designated the Redevelopment Project Area as a “redevelopment project area” (as that term is defined under the TIF Act) and approved tax increment allocation financing for the purpose of implementing the Redevelopment Plan for the Redevelopment Project Area; and

WHEREAS, the Corporate Authorities have determined that the blighting factors described in the Redevelopment Plan are detrimental to the public and impair development and growth in the Redevelopment Project Area, with the result that it is necessary to incur extraordinary costs in order to develop the Redevelopment Project Area; and

WHEREAS, the blighting factors in the Redevelopment Project Area will continue to impair growth and development but for the use of tax increment allocation financing to pay Redevelopment Project Costs (as defined in Section 4(a) of this Agreement) which necessarily must be incurred to implement the aforesaid program of redevelopment; and

WHEREAS, the existence of the blighting factors in the Redevelopment Project Area and the extraordinary costs necessary for redevelopment have prevented private developers from developing, redeveloping and revitalizing the Redevelopment Project Area; and

WHEREAS, Developer is the owner of certain real property located within the corporate limits of City, which real property generally located at 1380 N. 7th Street, Rochelle, Illinois, and identified on the TIF report as PIN 24-13-326-00 and part of 24-13-326-008 but now has been reclassified as 24-13-326-013 (a map illustrating the location of the property is attached hereto as Exhibit A) (the “Subject Property”) which has a base EAV of \$ \$110,418 in 2018; and

WHEREAS, in furtherance of the redevelopment of the Subject Property, Developer proposes to redevelop the existing building to construct a beverage warehouse, to be used by its tenant (“Tenant”) for the Tenant’s beer and liquor distributorship (the “Project”), all in accordance with the Legal Requirements (as hereafter defined); and

WHEREAS, the cost of the Project is anticipated to be approximately \$3,000,000.00 with total reimbursable costs of approximately \$1,700,000.00; and

WHEREAS, Developer has advised the City that it is unable to complete the Project as contemplated to meet the needs of Tenant without financial assistance; (See Exhibit B); and

WHEREAS, the Project is consistent with the Redevelopment Plan and is located within the Redevelopment Project Area; and

WHEREAS, City is authorized under the TIF Act to enter into redevelopment agreements and to reimburse developers who incur redevelopment project costs authorized by a redevelopment agreement; and

WHEREAS, in order to induce Developer to undertake the Project, the Corporate Authorities have determined that it is in the best interests of City and the health, safety, morals and welfare of the residents and taxpayers of City to reimburse Developer for a portion of the Development Project Costs incurred in furtherance of the Project as permitted by the TIF Act; and

WHEREAS, the Corporate Authorities have determined that City’s provision of economic development incentives to Developer and Developer’s undertaking of the Project pursuant to this Agreement are in the best interests of City and the health, safety, morals and welfare of its residents and taxpayers, and will be in furtherance of the Redevelopment Plan.

NOW, THEREFORE, the parties, for good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, agree as follows:

Section 1. Incorporation of Recitals. The recitals contained in the preambles to this Agreement are true and correct and are hereby incorporated into this Agreement as though they were fully set forth in this Section 1.

Section 2. Term. Unless earlier terminated pursuant to Section 14, the term of this Agreement shall commence on the date of its execution and end on the latter of (i) December 31, 2040, and (ii) the date upon which the Redevelopment Plan terminates pursuant to the TIF Act, except to the extent that Developer has a right to another year of increment for the year 2040 payable in 2041 .

Section 3. The Project.

(a) The Project consists of Developer's redevelopment of the Subject Property as described in the recitals contained in the preambles to this Agreement.

(b) Developer shall undertake the Project in conformance with all applicable federal, state and local laws, regulations, codes and ordinances (collectively referred to as "the Legal Requirements"). Developer shall substantially complete the Project on or before December 31, 2024. Substantial Completion of the Project shall be evidenced by City's inspection of the Subject Property and confirmation that all activities described in the building permit for the Project and other required City approvals, if any, have been substantially completed in a good and workmanlike manner in accordance with the Legal Requirements which may be evidenced by the issuance of a temporary certificate of occupancy. City may inspect the Project at all reasonable times to ensure compliance with this Agreement. If Developer does not substantially complete the Project on or before December 31, 2024, or complete the Project in its entirety by December 31, 2025, then Developer shall not be entitled to any reimbursement for any work performed on the Project pursuant to this Agreement.

(c) City and Developer shall use reasonable efforts to cooperate with each other in connection with all permits and other approvals required for the Project. City agrees to expeditiously process, consider and act on all applications for City approvals as may be necessary, provided such applications are consistent with the Project and in compliance with all Legal Requirements.

Section 4. Payments.

(a) As long as no event described in Section 13 of this Agreement shall have occurred and be continuing, and Developer has completed the Project as described in Section 3(b) hereof, City shall reimburse Developer for all Redevelopment Project Costs incurred by Developer in connection with the Project which have been approved by City pursuant to Section 4(d). Notwithstanding the foregoing, the total amount reimbursed to Developer shall not exceed \$700,000.00 but also shall not be less than \$700,000.00 even though the City has determined that eligible costs are approximately \$1,700,000.00. For purposes of this Agreement, "Redevelopment Project Costs" shall mean and include all costs defined as "redevelopment project costs" in Section 11-74.4-3(q) of the TIF Act.

(b) In connection with the establishment and ongoing administration of the Redevelopment Project Area, City has established a special tax allocation fund pursuant to the requirements of the TIF Act ("the STAF") into which City shall deposit all Incremental Taxes (defined below) generated in respect of the Subject Property each year during the term of this Agreement promptly upon receipt of the same from Ogle County. "Incremental Taxes" shall mean the amount of *ad valorem* taxes, if any, paid in respect of the Subject Property and its improvements which is attributable to the increase in the equalized assessed value of the Subject Property and its improvements over the initial equalized assessed value of the Subject Property, calculated as set forth in the TIF Act. The base equalized assessed value as established in 2018 with the approval of the Agreement is \$100,614.00.

(c) City shall further establish, upon execution of this Agreement, a segregated special subaccount of the STAF designated as "the Nextgen Ventures Rochelle LLC Subaccount" into which City shall deposit all Net Increment generated only in respect of the Subject Property each year during the term of this Agreement promptly upon receipt of Incremental Taxes from Ogle County, unless the City has access to other increment in the TIF District to meet Developer's needs. "Net Increment" shall mean Incremental Taxes in respect of the Subject Property each year less amounts retained by City constituting the City's Share, which shall be inclusive of (and not in addition to) any amount distributed for the TIF pursuant to any Intra-Governmental Agreements the City entered into prior to the adoption of this Agreement. The

“City’s Share” shall be no more than 15% of the Incremental Taxes in respect of the Subject Property each year with no other offset for any other taxing districts. In order to avoid any doubt, Developer shall not be reimbursed from the increment generated by any other parcel located in the TIF district and any increase in the EAV of those parcels, except to the extent the City “true up” the amount payable to Developer as follows: (1) to the extent funds are available in the TIF district, after the fifth year of this Agreement the Parties will compare the amount of Net Increment with the amount that would have been paid if Developer received the percentage of \$700,000.00 cumulatively due at the end of the fifth year as projected over the remaining life of the TIF as shown in Exhibit C and any shortfall will be paid by the City with the fifth year increment payment; (2) any shortfall from the amount that would be otherwise due with the fifth year increment payment shall be paid in years six and thereafter until the shortfall is covered; and (3) any shortfall in the payment of the \$700,000.00 total to be paid over the life of the TIF will be made up by the City in the last year of the TIF before it expires.

(d) Net Increment deposited from time to time in the NEXTGEN VENTURES ROCHELLE LLC Subaccount in respect of the Subject Property shall be used to pay or reimburse Developer for Redevelopment Project Costs as hereafter set forth. On December 15th of each year during the term of this Agreement (or, if later, the date which is thirty (30) days following the date which City receives the final installment of annual real estate taxes from Ogle County) (the “STAF Allocation Date”), Net Increment credited to the NEXTGEN VENTURES ROCHELLE LLC Subaccount during the period from the immediately preceding STAF Allocation Date (or the date of this Agreement in the case of the period from the date of this Agreement to the first STAF Allocation Date) to, but not including, the current STAF Allocation Date shall be used annually for the following purposes and in the following priority:

(i) To the extent there are monies available in the NEXTGEN VENTURES ROCHELLE LLC Subaccount, such monies shall be paid to Developer to reimburse it for Redevelopment Project Costs in accordance with Section 4(e) hereof until such time as Developer has been reimbursed a maximum of \$700,000.00; and

(ii) Following (i) above, to the extent there are any monies remaining in the NEXTGEN VENTURES ROCHELLE LLC Subaccount after NEXTGEN VENTURES ROCHELLE LLC has been reimbursed a maximum of \$700,000.00, such monies shall be transferred to the STAF and used in the discretion of City.

(e) To establish a right of reimbursement for a specific Redevelopment Project Cost under this Agreement, Developer shall submit to the City Manager or his designee a written statement in the form attached to this Agreement as Exhibit D (a “Request for Reimbursement”) setting forth the amount of reimbursement and the specific Redevelopment Project Costs for which reimbursement is sought. Each Request for Reimbursement shall be accompanied by such bills, paid receipts, contracts, invoices, lien waivers or other evidence as City shall reasonably require to evidence the right of Developer to payment or reimbursement under this Agreement. All receipts shall contain the date of service, type of service, location of service, amount paid, name/address/telephone number of the service provider and other information as necessary to establish the identity of the provider, type of service and amount invoiced/paid. The City Manager or his designee shall have thirty (30) days after receipt of any Request for Reimbursement from Developer to approve or disapprove of any of the expenditures for which reimbursement is sought. If said Request for Reimbursement is not approved, the City Manager or his designee shall provide to Developer a written explanation setting forth the reason or reasons for the denial. Provided, however, the only reasons for disapproval of any expenditure for which reimbursement is sought shall be that such expenditure was not incurred by Developer in accordance with the Legal Requirements or the provisions of this Agreement. Developer shall be allowed to resubmit the request if the denial can be cured by additional documentation.

Reimbursement of Redevelopment Project Costs shall be made annually on each STAF Allocation Date only to the extent money is available in the NEXTGEN VENTURES ROCHELLE LLC Subaccount. To the extent money in the NEXTGEN VENTURES ROCHELLE LLC Subaccount is insufficient to reimburse Developer for Redevelopment Project Costs, such Redevelopment Project Costs shall be reimbursed on the next succeeding STAF Allocation Date on which there are available monies in the Subaccount. To the extent money in the NEXTGEN VENTURES ROCHELLE LLC Subaccount exceeds the amount necessary to reimburse Developer for Redevelopment Project Costs on any STAF Allocation Date, such monies shall be transferred to the STAF and used in the discretion of City pursuant to Section 4(d)(ii) of this Agreement.

(f) The parties acknowledge that the determination of Redevelopment Project Costs and qualification for reimbursement under this Agreement are subject to the TIF Act, all amendments to the TIF Act after the date of this Agreement, and administrative rules and judicial interpretations rendered during the term of this Agreement. City has no obligation to Developer to attempt to modify said rules or decisions.

(g) In exchange for the payments identified in Section 4(a), Developer agrees not to challenge or contest the property tax assessment during the remaining existence of the City of Rochelle District Northern Gateway TIF District unless Developer believes that such assessment is 10% or greater above the equalized value of comparable properties in the City. In such circumstances, Developer has the right to meet with the Assessor to show such comparable properties and seek an adjustment to the assessment. If the Developer and the Assessor cannot agree on a valuation, Developer has the right once in every five years to appeal an assessment that is 10% or greater than comparable assessed values. Otherwise, should Developer challenge or contest the property tax assessment during the existence of the City of Rochelle District Northern Gateway TIF, then all payments made to Developer shall be deemed to be in breach of this Agreement and all payments shall be returned to the City of Rochelle.

Section 5. Enterprise Zone. City hereby acknowledges that the Subject Property is situated in the Lee/Ogle Enterprise Zone as approved and certified by the State of Illinois. Developer shall be eligible to receive any generally available benefits that are made through the Enterprise Zone program so long as such enterprise zone is in existence, with the exception of real estate tax abatements.

Section 6. Verification of Tax Increment. Not less than thirty (30) days prior to each STAF Allocation Date, Developer shall provide the City Manager with a preliminary calculation of Incremental Taxes generated by the Subject Property for each year of this Agreement. Developer shall also provide City such supporting information, including paid real estate tax bills and documentation of the equalized assessed valuation of the Project, as is reasonably necessary to verify the calculation of Incremental Taxes by Developer. The City Manager shall have thirty (30) days from receipt of the calculation of Incremental Taxes and supporting information to recommend approval or disapproval of the calculation and, if disapproved, to provide Developer with a written explanation setting forth the reasons for the disapproval. The parties acknowledge that the determination of Incremental Taxes shall be subject to the TIF Act. The failure of Developer to provide the information required in this Section 6 shall not constitute a default of this Agreement; provided, City shall not be required to make the applicable annual payment to Developer under Section 4 of this Agreement for such year until the information has been provided.

Section 7. No Liability of City to Others for Developer's Expenses. City shall have no obligation to pay costs of the Project or to make any payments to any person other than Developer and

permitted assignees of Developer, nor shall City be obligated to pay any contractor, subcontractor, mechanic, or materialman providing services or materials for the development of the Project.

Section 8. Developer's Representations and Warranties. In addition to the other representations, warranties, covenants and agreements of Developer set forth in this Agreement, Developer represents and warrants as follows:

(a) Developer is a limited liability company duly organized and existing under the laws of the State of Delaware, and is authorized to enter into, and by proper action has been duly authorized to execute, deliver and perform, this Agreement. Developer is now and at all times hereafter shall be solvent, able to pay its debts as they mature and financially able to perform all of the terms of this Agreement. To Developer's knowledge, there are no actions, suits or similar proceedings pending or threatened before any court or governmental or administrative body or agency affecting Developer which would result in any material adverse change to Developer's financial condition or which would materially and adversely affect the ability of Developer to undertake and complete the Project.

(b) Neither the execution, delivery, nor performance of this Agreement or any other agreement or instrument executed and delivered by or on behalf of Developer in connection herewith, nor the consummation of performance of the obligations herein or therein contemplated, nor compliance with the terms and provisions hereof or thereof, contravenes the organizational documents of Developer or any provision of law, statute, rule, regulation, or order of any court or governmental authority to which Developer is subject, or any judgment, decree, franchise, order, or permit applicable to Developer, or conflicts or is inconsistent with or will result in any breach of or constitute a default under any contract, commitment, agreement, understanding, arrangement, or instrument.

(c) Developer will do or cause to be done all things necessary to preserve and keep in full force and effect its existence and standing as a limited liability company under the laws of the State of Delaware, as long as Developer maintains an interest in the Subject Property or has any other remaining obligations pursuant to the terms of this Agreement.

(d) Developer covenants that no officer, director, member, employee or agent of Developer, or any other person connected with Developer, has made, offered or given, either directly or indirectly, to the Corporate Authorities or any other person connected with City, except for payments for which adequate and fair consideration was received in return, any money or anything of value as a gift or bribe or other means of influencing his or her action in his or her official capacity with City.

(e) But for the economic development incentives granted by City pursuant to this Agreement, the Project would not reasonably be anticipated to be completed.

Section 9. Insurance. At all times during the term of this Agreement, Developer shall procure and maintain policies of insurance as follows at its sole cost and expense:

(a) During any period of construction of the Project, Developer shall procure and maintain the following: (i) comprehensive general liability insurance from any liability incidental to the use of or resulting from any claim for injury or damage occurring in or about

the Project or the Subject Property; (ii) workers' compensation insurance in amounts no less than the minimum coverage required by the laws of the State of Illinois covering Developer's employees working on the Project, if any; and (iii) all contractors working on the Project shall be required to procure and maintain contractor's insurance policies covering matters (i) and (ii) above.

(b) After completion of construction of the Project, and for so long as Developer owns the Subject Property, Developer shall ensure that Developer or its tenant ("Tenant") procures and maintains the following: (i) fire insurance and extended coverage on a replacement basis for the full insurable value covering all of the Project; and (ii) comprehensive general liability insurance from any liability incidental to the use of or resulting from any claim for injury or damage occurring in or about the Project or the Subject Property.

(c) All such policies of insurance shall name City as an additional insured, be in such amounts, in such form and issued by such companies as are shown on Exhibit E, except that Developer does not need to obtain pollution or cybersecurity coverage. Prior to issuance of any construction permit for the Project and thereafter, not less than thirty (30) days prior to the expiration of any policy, Developer shall cause Owner or Tenant to deliver to City certificates evidencing coverage from each insurer.

Section 10. No Discrimination. Developer shall not discriminate against any employee or applicant for employment because of race, color, religion, sex or national origin. To the fullest extent permitted by law, Developer shall require that applicants are employed and that employees are treated during employment, without regard to their race, creed, color, religion, sex or national origin. Notwithstanding the foregoing, Developer may employ union labor hereunder pursuant to the rules, regulations and practices of applicable unions.

Section 11. Developer Indemnification. Developer shall indemnify and hold harmless City, its agents, officers, elected officials, and employees against all injuries, deaths, losses, damages, claims, suits, liabilities, judgments, costs and expenses (including any liabilities, judgments, costs and expenses and reasonable attorneys' fees) which may arise directly or indirectly from (i) the failure of Developer to timely pay any contractor, subcontractor, laborer or materialman or any claim or cause of action whatsoever brought by a third party arising out of the Project; (ii) the failure of Developer to comply with any Legal Requirements; (iii) any negligence or reckless or willful misconduct of Developer and contractors, subcontractors or agents or employees thereof; (iv) any material misrepresentations or omissions of Developer. With respect to any action for which Developer's foregoing indemnity applies, Developer shall, at its own cost and expense, appear, defend and pay all charges of attorneys, costs and other expenses arising therefrom or incurred in connection therewith. If any judgment shall be rendered against City, its agents, officers, elected officials or employees in any such action for which Developer's foregoing indemnity applies, Developer shall, at its own expense, satisfy and discharge the same. This Section 11 shall not apply, and Developer shall have no obligation whatsoever, with respect to any acts of negligence, gross negligence, or reckless or willful misconduct on the part of City or any of its, officers, officials, agents, employees or contractors or City's material default or breach of the terms of this Agreement. This indemnification obligation shall expire at such time as Developer is fully paid under the terms of this Agreement or upon the expiration of the term of this Agreement.

Section 12. No Liens. In connection with the Project, Developer shall neither cause, nor permit any mechanic's or other liens to attach to or encumber the Project or the Subject

Property except for the lien of Developer's lenders. In the event a mechanic's or other lien is filed which attaches to or encumbers the Project or Subject Property, Developer shall, within sixty (60) days after Developer's receipt of notice of such lien, institute such proceedings necessary to have the lien claim adjudicated and removed. Developer shall pay within ten (10) days any final judgment awarded to a lien claimant so as to prevent a foreclosure sale. Notwithstanding the foregoing, Developer shall have the right to bond over any lien or obtain a title insurance endorsement in form and substance reasonably acceptable to City in order to satisfy its obligations pursuant to this Section 12.

Section 13. Default – Remedies.

(a) If Developer defaults in the performance of any material covenant, warranty, representation or obligation set forth in this Agreement, City shall provide Developer with a written statement setting forth the default of Developer. Except as required to protect against further damages, City may not exercise any remedies against Developer in connection with such failure until thirty (30) days after giving such notice. If such default cannot be cured within such thirty (30) day period, said thirty (30) day period shall be extended for such time as is reasonably necessary for the curing of the same, as long as Developer is diligently proceeding to cure such default. A default not cured as provided above shall constitute a breach of this Agreement. Any failure or delay by City in asserting any of its rights or remedies as to any default or alleged default or breach shall not operate as a waiver of any such default or breach or of any rights or remedies it may have as a result of such default or breach.

(b) If Developer fails to cure any default after the expiration of the cure period described in subparagraph (a), City may elect to terminate this Agreement or exercise any other right or remedy it may have at law or in equity, including the right to specifically enforce the terms and conditions of this Agreement. If any voluntary or involuntary petition or similar pleading under any section or sections of any bankruptcy or insolvency act shall be filed by or against Developer, or any voluntary or involuntary proceeding in any court or tribunal shall be instituted to declare Developer insolvent or unable to pay its debts, or Developer makes an assignment for the benefit of creditors, or a trustee or receiver is appointed for Developer for the major part of its property, City may elect, to the extent such election is permitted by law, but is not required, with or without notice of such election, to terminate this Agreement. In the case of an involuntary petition, action or proceeding for the adjudication as a bankrupt or for the appointment of a trustee or receiver as set forth above, Developer shall have sixty (60) days after the service of such petition or pleading or the commencement of such action or proceeding within which to obtain a dismissal of such petition, pleading, action or proceeding.

(c) If City defaults in the performance of any material covenant, warranty, representation or obligation set forth in this Agreement, Developer shall provide City with a written statement setting forth the default. Developer may not exercise any remedies against City in connection with such failure until thirty (30) days after giving such notice. If such default cannot be cured within such thirty (30) day period, such thirty (30) day period shall be extended for such time as is reasonably necessary for the curing of the same, as long as City is diligently proceeding to cure such default. A default not cured as provided above shall constitute a breach of this Agreement. Any failure or delay by Developer in asserting any of its rights or remedies as to any default or any alleged default or breach shall not operate as a waiver of any such default or breach or of any rights or remedies it may have as a result of such default or breach. Notwithstanding the foregoing, the sole remedy of Developer in the event of a breach of this Agreement shall be to institute legal action for specific performance or injunctive relief against City. Under no circumstances shall City have any liability for monetary damages, whether compensatory or punitive, under this Agreement in excess of the amount to which Developer is entitled to reimbursement as provided in (e) below.

(d) Upon any dispute between the parties under this Agreement, the prevailing party shall be entitled to recover from the non-prevailing party reasonable attorneys' fees, costs and expenses incurred in contesting such dispute.

(e) It is hereby agreed by Developer that no recourse for any claim under or upon any obligation contained in the Agreement shall be had against City, its officers, agents, attorneys, representatives, or employees, in any amount in excess of any specific sum agreed to be paid by City pursuant to this Agreement (being a maximum of \$700,000); and no liability, right, or claim at law or in equity shall be attached to or incurred by City, its officers, agents, attorneys, representatives or employees in any amount in excess of any specific sums agreed by City to be paid hereunder, and any such claim is hereby expressly waived and released as a condition of and in consideration for the execution of this Agreement by City.

Section 14. Cancellation. In the event that (i) City or Developer shall be prohibited, in any material respect, from performing the covenants and agreements or enjoying rights and privileges herein contained by the final, non-appealable order of any court of competent jurisdiction or by any changes to the TIF Act, or (ii) all or any part of the TIF Act or any ordinance adopted by City in connection with its Redevelopment Plan shall be declared invalid or unconstitutional by the final, non-appealable order of any court of competent jurisdiction and such declaration shall materially impair the ability of either party to perform its obligations under the Redevelopment Plan or the covenants and agreement or rights and privileges of either City or Developer, then the party so materially impaired may, at its election, cancel or terminate this Agreement by giving written notice thereof to the other party within sixty (60) days after such court order has been issued. However, the termination of this Agreement hereunder shall have no effect on any of the authorizations granted to Developer for activities permitted or approved and under redevelopment to the extent allowed by such order.

Section 15. Notices. All notices, demands, requests, consents, approvals or other communications required or permitted by this Agreement shall be given in writing at the addresses set forth below and shall be deemed to have been given (i) on the day of actual delivery if delivered personally, (ii) on the day immediately following deposit with overnight courier, or (iii) as of the third (3rd) day from and including the date of posting if mailed by registered or certified first class mail, postage prepaid, return receipt requested. The parties, by notice hereunder, may designate any further or different addresses to which subsequent notices, demands, requests, consents, approvals or other communications shall be sent.

If to City: City of Rochelle
Attn: City Manager
420 North 6th St.
Rochelle, Illinois 61068

With copy to: Dominick L. Lanzito
Peterson, Johnson & Murray LLC
200 W. Adams – Suite 2125
Chicago, Illinois 60606

If to Developer: Nextgen Ventures Rochelle LLC

Attn: Chad Stone, Manager
680 N. Lake Shore Drive – Suite 1900
Chicago, IL 60611

And to: Nextgen Ventures Rochelle LLC
Attn: Art Wirtz, Manager
680 N. Lake Shore Drive – Suite 1900
Chicago, IL 60611

With copy to: Gozdecki Del Giudice Americus Farkas & Brocato LLP
Attn: Dave Theyssen
One East Wacker, Ste 1700
Chicago, IL 60601

Section 16. Time is of the Essence; Force Majeure. Time is of the essence of this Agreement; provided, however, a party shall not be deemed in material breach of this Agreement with respect to any obligations of this Agreement on such party's part to be performed if such party fails to timely perform the same and such failure is due in whole or in part to any strike, lock-out, labor trouble (whether legal or illegal), civil disorder, inability to procure materials, weather conditions, wet soil conditions, failure or interruptions of power, restrictive governmental laws and regulations, condemnations, riots, insurrections, war, fuel shortages, accidents, casualties, floods, earthquakes, fires, acts of God, epidemics, quarantine restrictions, freight embargoes, acts caused directly or indirectly by the other party (or the other party's agents, employees or invitees) or similar causes beyond the reasonable control of such party ("*Force Majeure*"). If one of the foregoing events shall occur or either party shall claim that such an event shall have occurred, the party to whom such claim is made shall investigate the same and consult with the party making such claim regarding the same and the party to whom such claim is made shall grant any extension for the performance of the unsatisfied obligation equal to the period of the delay, which period shall commence to run from the time of the commencement of the Force Majeure; provided that the failure of performance was reasonably caused by such Force Majeure.

Section 17. Counterparts. This Agreement may be executed in several counterparts, each of which shall be deemed an original and all of which together shall constitute but one and the same instrument.

Section 18. Recordation of Memorandum of Agreement. City, at its sole cost and expense, may cause a memorandum of this Agreement (in a form and substance to be reasonably agreed upon by the parties) to be recorded with the Ogle County Recorder of Deeds. Upon expiration of this Agreement, the City will provide a release to be recorded.

Section 19. Severability. If any provision of this Agreement, or any Section, sentence, clause, phrase or word, or the application thereof, in any circumstance, is held to be invalid, the remainder of this Agreement shall be construed as if such invalid part were never included herein, and this Agreement shall be and remain valid and enforceable to the fullest extent permitted by law.

Section 20. Choice of Law. This Agreement shall be governed by and construed in accordance with the laws of the State of Illinois with venue lying in the Circuit Court for Ogle County, Illinois.

Section 21. Amendments. This Agreement (together with the Exhibits attached hereto) constitutes the entire agreement between City and Developer and supersedes all prior agreements, negotiations and discussions between them relating to the subject matter hereof. This Agreement may not be modified or amended except by a written instrument executed by all the parties or their permitted successors or assigns.

Section 22. Third Parties. Except as specifically set forth in this Agreement, nothing in this Agreement is intended to confer any rights or remedies under or by reason of this Agreement on any other persons other than the parties and their permitted assigns, nor is anything in this Agreement intended to relieve or discharge the obligation or liability of any third persons to any party, nor shall any provision give any third parties any rights of subrogation or action over or against any party.

Section 23. Waiver. Any party may elect to waive any right or remedy it may enjoy hereunder, provided that no such waiver shall be deemed to exist unless such waiver is in writing. No such waiver shall obligate the waiver of any other right or remedy hereunder or shall be deemed to constitute a waiver of other rights and remedies provided pursuant to this Agreement.

Section 24. Successors In Interest. The terms, conditions and covenants set forth in this Agreement or otherwise attaching by operation of law shall extend to, be binding upon, and inure to the benefit of the respective successors and permitted assigns of City and Developer and shall run with the land. Any person or entity now or hereafter owning legal title to all or any portion of the Subject Property, including Developer, shall be bound to this Agreement only during the period such person or entity is the legal titleholder thereof; provided, however, that all such legal title holders shall remain liable after their ownership interest in the Subject Property ceases as to those liabilities and obligations which accrued during their period of ownership but remain unsatisfied or unperformed. The rights of City to enforce this Agreement shall be applicable against any person or entity who is the legal title holder of the Subject Property.

Section 25. Assignment. Until the Project is substantially completed or a certificate of occupancy is issued, Developer may assign its rights and obligations under this Agreement to an Affiliated Entity, with the prior written consent of the City, which consent shall not be unreasonably withheld provided Affiliated Entity demonstrates, to the reasonable satisfaction of City, sufficient creditworthiness and experience to undertake the Project. An "Affiliated Entity" is any successor, parent, subsidiary or related limited liability company series of Developer or any partnership, corporation or limited liability company in which Developer or the members of Developer own at least a forty percent (40%) interest. In no event shall an assignment of this Agreement relieve the assignor of any liabilities or obligations which accrued prior to the date of assignment, but which remain unsatisfied or unperformed. After completion of the Project or the City's issuance of a certificate of occupancy, Developer may assign its rights and obligations under this Agreement to any affiliated or third party entity without the City's consent.

Section 26. No Joint Venture, Agency or Partnership Created. Nothing in this Agreement, nor any actions of the parties, shall be construed by the parties or any third person to create the relationship of a partnership, agency or joint venture between or among such parties.

Section 27. No Personal Liability. No covenant or agreement contained in this Agreement shall be deemed to be the covenant or agreement of any member of the Corporate Authorities or any official, officer, agent, employee or attorney of City, in his or her individual capacity. No official, officer, agent, employee or attorney of City shall be liable personally under

this Agreement or be subject to any personal liability or accountability by reason of or in connection with or arising out of the execution, delivery and performance of this Agreement.

Section 28. Signs. City, at City's sole cost and expense, may erect a sign of reasonable size and style in a location on the Subject Property reasonably acceptable to Developer during the redevelopment of the Project indicating that City provided economic development incentives to assist the Project.

Section 29. Designated Representatives. Unless applicable documents or procedures require action by Developer in a different manner, Developer hereby designates Donald Vitek or any other designated representative of Wirtz Realty Corporation as its authorized representative, who shall individually have the authority to make or grant supplemental agreements, certifications, requests, demands, approvals, consents, notices and other actions, and do all things required or described in this Agreement, for and on behalf of Developer and with the effect of binding Developer in connection therewith.

Section 30. Electronic Signatures. Signatures delivered by electronic mail or facsimile shall be deemed original signatures for all purposes.

Section 31. Effective Date. This Agreement shall be effective on the later of (i) the day on which this Agreement is authorized for execution pursuant to duly enacted City proceedings authorizing the execution of and adoption of this Agreement and (ii) the execution and delivery of this Agreement by each party hereto.

Section 32. Estoppel. Each of the Parties hereto agrees to provide the other upon not less than fifteen (15) business days prior request, a certificate certifying that this Agreement is in full force and effect (unless such is not the case, in which such Party shall specify the basis for such claim), that the requesting Party is not in default of any term, provision or condition of this Agreement beyond any applicable notice and cure provision (or specifying each such claimed default) and certifying such other matters reasonably requested by the requesting Party.

(The remainder of this page is intentionally left blank).

IN WITNESS WHEREOF, the parties hereto have caused this Agreement to be executed by their duly authorized officers on the above date at Fulton, Illinois.

CITY OF ROCHELLE,
an Illinois municipal corporation

By: _____
City Manger

Attest: _____
City Clerk

NEXTGEN VENTURES ROCHELLE LLC , a Delaware
limited liability company

By: _____
Its: Manager

LIST OF EXHIBITS

- A. Aerial of the Property.
- B. Letter to City
- C. TIF Revenue Spreadsheet Example
- D. Request for Reimbursement
- E. Insurance coverages

Exhibit A

Map of Subject Property



Exhibit B

Letter to City

NEXGEN VENTURES ROCHELLE LLC

680 N. Lake Shore Drive
Suite 1900
Chicago, IL 60611

April 6, 2023

City of Rochelle
Attn: Michelle Pease
Via Email: mpease@rochelleil.us

Re: NexGen Ventures Rochelle LLC

Dear Michelle:

Thank you for your assistance in completing the TIF application. You and your team have been easy to work with throughout this process.

In order to develop our business plan to convert this obsolete auto dealership building into a warehouse as approved by the recent zoning change, we analyzed all the costs of converting the Property, both outside the building and within the buildings (the "Project"). Our cost analysis and financial objectives simply could not be achieved to complete the Project to meet the needs of our tenant without financial assistance in the form of the TIF. But for the TIF district and subject to the agreed upon financial incentives, this Project could not move forward to satisfy our objectives and the needs of the Tenant.

If you have any questions, please feel free to give me a call.

Sincerely,

Exhibit C

TIF Revenue Spreadsheet Example For Illustration Purposes Only

ROCHELLE TIF REDEVELOPMENT AGREE				07-Apr-23
TRUE UP EXAMPLE				APR 06 2023

CAPITALIZATION			
INITIAL EQUITY			3,000,000
LOAN - YEAR 1			2,100,000
REMAINING EQUITY			900,000
TOTAL CAPITALIZATION			3,000,000

TIF PAYMENTS			
TIF INCREMENT	100%		
DEVELOPER SHARE		85.0%	
PROJ TIF PYMTS (FROM DEVEL SHARE)		553,322	553,322
PROJ TIF TRUE UP PYMT (YR 5)		146,678	146,678
TOTAL REQUIRED TIF PAYMENTS			700,000

TIF INCREMENT CASH FLOWS		DEVELOPER CASH FLOWS	
YR	TOTAL INCR'MT @ 100%	DEVEL CASH FLOW b/f TIF	DEVEL INCR'MT @ 85% PROJECTED TRUE UP PYMT (YR 5) DEVEL CASH FLOW TOTAL
0		(3,000,000)	(3,000,000)
1	24,660	2,241,867	2,263,620
2	25,715	63,637	86,286
3	26,801	70,212	93,785
4	27,920	76,985	101,508
5	29,072	83,961	256,142
6	30,259	91,146	117,658
7	31,481	98,547	126,098
8	32,740	106,170	134,791
9	34,037	114,021	143,745
10	35,373	122,108	152,967
11	36,749	47,739	79,767
12	38,166	166,535	199,768
13	39,626	175,372	209,846
14	41,129	184,474	220,226
15	42,678	193,849	230,917
16	44,273	203,506	241,929
17	45,916	213,452	253,272
18	47,608	223,696	264,955
19		234,248	234,248
20		2,285,057	2,285,057
TOTAL CF	634,203	6,996,583	7,696,583

TOTAL TIF PAID TO DEVEL	700,000
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DEVELOPER RETURNS	
INVESTMENT MULTIPLE OF EQUITY	2.6
INVESTMENT IRR	13.8%

Exhibit D

Form of Request for Reimbursement Request for Reimbursement

[Date]

City of Rochelle
Attn: City Manager
420 North 6th St.
Rochelle, Illinois 61068

Re: Redevelopment Agreement, dated _____, by and between the City of
 Rochelle and NEXTGEN VENTURES ROCHELLE LLC ("Developer")

Dear City Manager:

You are requested to disburse funds from the NEXTGEN VENTURES ROCHELLE LLC Subaccount pursuant to Section 4 of the Redevelopment Agreement described above in the amount(s), to the person(s) and for the purpose(s) set forth in this Request for Reimbursement. The terms used in this Request for Reimbursement shall have the meanings given to those terms in the Redevelopment Agreement.

1. Request for Reimbursement No.: _____
2. Payment due to: _____
3. Amount to be disbursed: _____
4. The amount requested to be disbursed pursuant to this Request for Reimbursement will be used to reimburse the Developer for those Redevelopment Project Costs detailed in Schedule 1 attached to this Request for Reimbursement.
5. The undersigned certifies that:
 - (i) the amounts included in 3 above were necessary and made or incurred in accordance with the terms and conditions of the Redevelopment Agreement;
 - (ii) the amounts paid or to be paid, as set forth in this Request for Reimbursement represents a part of the funds due and payable for Redevelopment Project Costs;
 - (iii) the expenditures for which amounts are requisitioned represent proper Redevelopment Project Costs, have not been included in any previous Request for Reimbursement, have been properly recorded on Developer's books and are set forth on the attached Schedule 1 with paid invoices attached for all sums for which reimbursement is requested;
 - (iv) the moneys requisitioned are not greater than those necessary to meet obligations due and payable or to make reimbursement for funds actually advanced for Redevelopment Project Costs; and
 - (v) Developer is not in default under the Redevelopment Agreement and nothing has

occurred to the knowledge of Developer that would prevent the performance of its obligations under the Redevelopment Agreement.

6. Attached to this Request for Reimbursement is Schedule 1, together with copies of invoices or bills of sale and Mechanic's Lien Waivers covering all items for which reimbursement is being requested.

Date: _____

Developer:

NEXTGEN VENTURES ROCHELLE LLC , a Delaware
limited liability company

By: _____

Its: _____

Approved: _____

CITY OF ROCHELLE, an Illinois municipal
corporation

City Manager

Exhibit E

Insurance Coverages

Commercial General Liability:

\$1,000,000 Occurrence / \$3,000,000 General Aggregate.

The City of Rochelle must be named as an Additional Insured on a primary and non-contributory basis. A copy of the endorsements attached to the policy must be provided.

Workers Compensation and Employers Liability Insurance:

Workers Compensation Statutory Limits with Employers Liability of \$1,000,000.00.

Automobile Liability Insurance

Minimum Limits Required: \$1 million combined single limit or split liability limits of \$1 million per occurrence and \$3 million aggregate.

Coverage must apply to all owned, non-owned and hired vehicles.

Umbrella:

Developer agrees to maintain a \$5 million umbrella policy during the term of this Agreement.

Developers shall provide the City of Rochelle an acceptable Certificate of Liability Insurance, for all insurance required under this Agreement prior to commencement. The Certificate shall contain a provision that provides for thirty (30) days written notice prior to cancellation or non-renewal of said policies for any reason other than for non-payment of premium.

All insurance coverage required under this Agreement shall be maintained without interruption or suspension during the entire performance of this Agreement. Developers shall provide the City of Rochelle with additional Certificates of Liability Insurance indicating continuation of coverage during the entire performance of this Agreement.

STATE OF ILLINOIS)
)
COUNTY OF OGLE) SS.

CERTIFICATE

I, Rose Hueramo, City Clerk of the City of Rochelle, County of Ogle and State of Illinois,
DO HEREBY CERTIFY that the foregoing is a true and correct copy of Ordinance No. _____,
“AN ORDINANCE APPROVING A TIF REDEVELOPMENT AGREEMENT WITH
NEXTGEN VENTURES ROCHELLE, LLC, AN DELAWARE LIMITED LIABILITY
COMPANY” which was adopted by the Mayor and City Council of the City of Rochelle on April
____, 2023.

IN WITNESS WHEREOF, I have hereunto set my hand and affixed the corporate seal of
the City of Rochelle _____ day of April, 2023.

CITY CLERK