

**INFRASTRUCTURE COST SHARING AGREEMENT  
VIRGIN INDUSTRIAL PARK PHASE 1**

**WHEREAS**, VIP Industrial Holdings, LLC, a Delaware limited liability company (“VIP”) is the owner of property described on Exhibit A hereto (the “Property”); and

**WHEREAS**, VIP is proposing to construct an industrial warehouse development on the Property (“the Project”) which is located in Maricopa County (“County”) on the west side of Reems Road in the vicinity of the Hatcher Road intersection and has submitted to the County a development plan for the Project; and

**WHEREAS**, the Project, during its first phase, will have an access point on Reems Road, which is owned and operated by the City of Glendale (“City”); and

**WHEREAS**, VIP has submitted to the City a construction plan for the driveway and temporary deceleration lane in support of the access point which the City approved; and

**WHEREAS**, as a condition of such approval and permitting, the City is requiring that VIP provide a payment-in-lieu for improvements to be made to Reems Road. These improvements include the construction of the permanent deceleration lane in the location shown on Exhibit B hereto and the signalization of the intersection of Reems Road and Hatcher Road (collectively, the “Road Improvements”). The Road Improvements shall be constructed by or on behalf of the City.

**NOW THEREFORE** the **CITY OF GLENDALE** and VIP hereby, in consideration of the mutual agreements of the parties as set forth herein, enter into this agreement (“Agreement”) for the design and construction of the Road Improvements and payment thereof.

**I. VIP's Responsibility**

Subject to the terms and conditions set forth herein, prior to VIP receiving construction permits, VIP shall deposit, with the City, an amount of Two Hundred Forty One Thousand Nineteen and Fifty Hundredth Dollars (\$241,019.50) (the “Funds”), which represents the payment of the total contribution by VIP for the design and construction of the Road Improvements (One Hundred Fifty Thousand Dollars (\$150,000.00) for the signal improvements at Hatcher Road and Reems Road and Ninety One Thousand Nineteen and Fifty Hundredth Dollars (\$91,019.50) for the permanent deceleration lane improvements). Such deposit of the Funds may be made by VIP by certified check or by wiring the Funds to the City’s account. At such time when VIP has deposited the Funds with the City, VIP will be deemed to have met and satisfied the requirement to pay for the Road Improvements, it being agreed between the parties that VIP is depositing such Funds with the City in lieu of VIP constructing and paying for any portion of the Road Improvements.

**II. City's Responsibility**

City shall, at its sole cost and expense, contract for the design and construction of the Road Improvements. City shall apply the Funds towards the cost of the design and construction of the Road Improvements. City will complete the design and construction of the Road Improvements within ten (10) years of the Effective Date of this Agreement.

If City fails to complete the design and construction of all or a portion of the Road Improvements within ten (10) years of the Effective Date of this Agreement, then: (i) City shall refund and pay the applicable portion of the Funds to VIP within thirty (30) days of receipt of a written request from VIP to refund the Funds

to VIP; and (ii) VIP shall thereafter have no obligation to construct or pay for at any time the Road Improvements or any portion thereof.

### III. Miscellaneous Provisions

**A. Governing Law.** This Agreement shall be governed by the applicable law of the State of Arizona and due performance by each Party or any action arising under this Agreement shall lie in Maricopa County, Arizona. Jurisdiction and venue shall be in Maricopa County, Arizona, and each of the Parties submit to personal jurisdiction in the state district courts in such county.

**B. No Waiver.** Nothing in this Agreement shall be deemed to waive, modify or amend any legal defense available at law or in equity to any of the Parties nor to create any legal rights or claim on behalf of any third party. No Party waives, modifies, or alters to any extent whatsoever the availability of the defense of governmental immunity under the laws of the State of Arizona of the United States.

**C. Entire Agreement.** This Agreement and any Exhibits hereto embody the entire agreement and understanding of the Parties hereto and supersede any and all prior agreements, arrangements and understandings relating to the matters expressly provided for herein. No amendment, waiver of compliance with any provision or condition hereof or consent pursuant to this Agreement shall be effective unless evidenced by an instrument in writing signed by both Continental and the City and authorized by their respective governing bodies.

**D. Partial Invalidity.** In the event any provision of this Agreement shall be held invalid or unenforceable by any court of competent jurisdiction, such holding shall not invalidate or render unenforceable any other provision hereof, but rather this entire Agreement will be construed as if not containing the particular invalid or unenforceable provision or provisions, and the rights and obligations of the parties shall be construed and enforced in accordance therewith. The parties acknowledge that if any provision of this Agreement is determined to be invalid or unenforceable, it is their desire and intention that such provision be reformed and construed on such a manner that it will, to the maximum extent practicable, be deemed to be validated and enforceable.

**E. Survival and Binding Terms.** Any provision of this Agreement that by its terms expressly survives the termination of this Agreement shall bind the parties' successors and assigns as set forth herein. City and VIP mutually recognize and agree that the obligations under this Agreement are personal to VIP and shall not run with the plat or with the land comprising the Project and this Agreement shall not be recorded by either the City or Continental.

**F. Assignment.** This Agreement shall not be assignable by either party without the prior written consent of the other party nor in contravention of any other provisions contained herein.

**G. Benefits.** This Agreement shall not be construed as creating any rights in any third party or any duty to any third party.

**H. Notice.** Any notices, requests or demands to be given hereunder by either party to the other shall be deemed to have been duly given if in writing and if affected by personal delivery to the office of the individual designated below, or by certified mail, return receipt requested or via a recognized overnight national courier such as Federal Express to the addresses set forth below:

**CITY:**

City of Glendale  
Attention: City Manager  
5850 West Glendale Avenue  
Glendale, Arizona 85301

With copy to:

City of Glendale  
Attention: City Attorney  
5850 West Glendale Avenue  
Glendale, Arizona 85301

**VIP:**

IndiCap Inc.  
Attention: Mike Chernine, Principal  
10845 Griffith Peak Drive  
Las Vegas, NV 89135

- I. Article and Section Headings.** The Article and Section headings contained herein are for convenience and reference and are not intended to define or limit the scope of any provision of this contract.
- J. Gender and Number.** Words of any gender used in this Agreement shall be held and construed to include any other gender, and words in the singular number shall be held to include the plural, unless the context otherwise requires.
- K. Misspelled Words:** Misspelling of one or more words in this contract shall not void this contract. Such misspelled words shall be read so as to have the meaning apparently intended by the parties.
- L. Multiple Copies.** This Agreement may be simultaneously executed in two counterparts, each of which shall be an original and all of which shall be considered fully executed as of the date when all Parties have executed an identical counterpart, notwithstanding that all signatures may not appear on the same counterpart.
- M. Effective Date.** The Effective Date of this Agreement shall be \_\_\_\_\_, 2023.

*[Signatures on next page]*

IN WITNESS HEREOF, the Parties have caused this Agreement to be duly executed as follows:

**CITY OF GLENDALE, ARIZONA**  
**an Arizona municipal corporation,**

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Kevin R. Phelps  
City Manager

**ATTEST:**

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Julie Bower, City Clerk (SEAL)

**APPROVED AS TO FORM:**

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Michael Bailey, City Attorney

VIP INDUSTRIAL HOLDINGS, LLC,  
a Delaware limited liability company



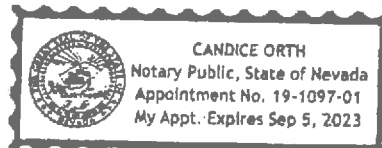
Mike Chernine, Principal

State of Nevada )  
County of Clark )

This instrument was acknowledged before me on this 18<sup>th</sup> day of March, 2023, by Michael Chernine. In witness whereof I hereunto set my hand and official seal.



Notary Public



My commission expires: Sep 5, 2023

**Exhibit A**  
**Legal Description of Property**

**REEMS AND OLIVE  
OVERALL PROPERTY  
LEGAL DESCRIPTION**

A portion of land being situated within the Special Warranty Deed as recorded in Document No. 2021-0706862, Records of Maricopa County, Arizona, lying within the East Half of Section 30, Township 3 North, Range 1 West of the Gila and Salt River Meridian, Maricopa County, Arizona, being more particularly described as follows:

**COMMENING** at a found 2 inch Maricopa County Aluminum cap flush accepted as the South Quarter Corner of said Section 30 from which a found 3 inch Maricopa County Highway Department Brass cap in hand hole, down 0.5 feet, accepted as the Southeast Corner thereof bears South 89°02'25 East, 2635.71 feet;

Thence North 00°03'14" West, 83.01 feet along the west line of said east half to the **POINT OF BEGINNING**;

Thence continuing along said west line, North 00°03'14" West, 2554.39 feet to the center of said Section 30;

Thence South 88°59'47" East, 309.11 feet along the East-West Mid-Section line of said Section 30 to the Southeast corner of the Final Plat of "Twelve Oaks Estates" as recorded in Book 723, Page 29, records of Maricopa County, Arizona;

Thence leaving said East-West Mid-Section line and along the east line of said final plat, North 00°03'14" West, 75.01 feet to a line that is parallel with and 75.00 feet north of said East-West Mid-Section line;

Thence leaving said east line and along said parallel line, South 88°59'47" East, 1170.27 feet;

Thence leaving said parallel line, South 22°50'03" West, 227.27 feet;

Thence South 16°27'10" West, 518.85 feet;

Thence South 09°26'42" West, 505.53 feet;

Thence South 02°17'17" West, 126.66 feet;

Thence South 88°54'22" East, 1217.07 feet to the west line of Document No. 2007-0429082, records of Maricopa County, Arizona;

Thence along said west line, South 00°00'10" East, 80.01 feet;

Thence leaving said west line, North 88°54'22" West, 1220.27 feet;

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Thence South 02°17'17" West, 293.46 feet;

Thence South 00°07'04" East, 500.09 feet;

Thence South 01°43'13" East, 417.41 feet to the north line of the south 83.00 feet of the East half of said Section 30;

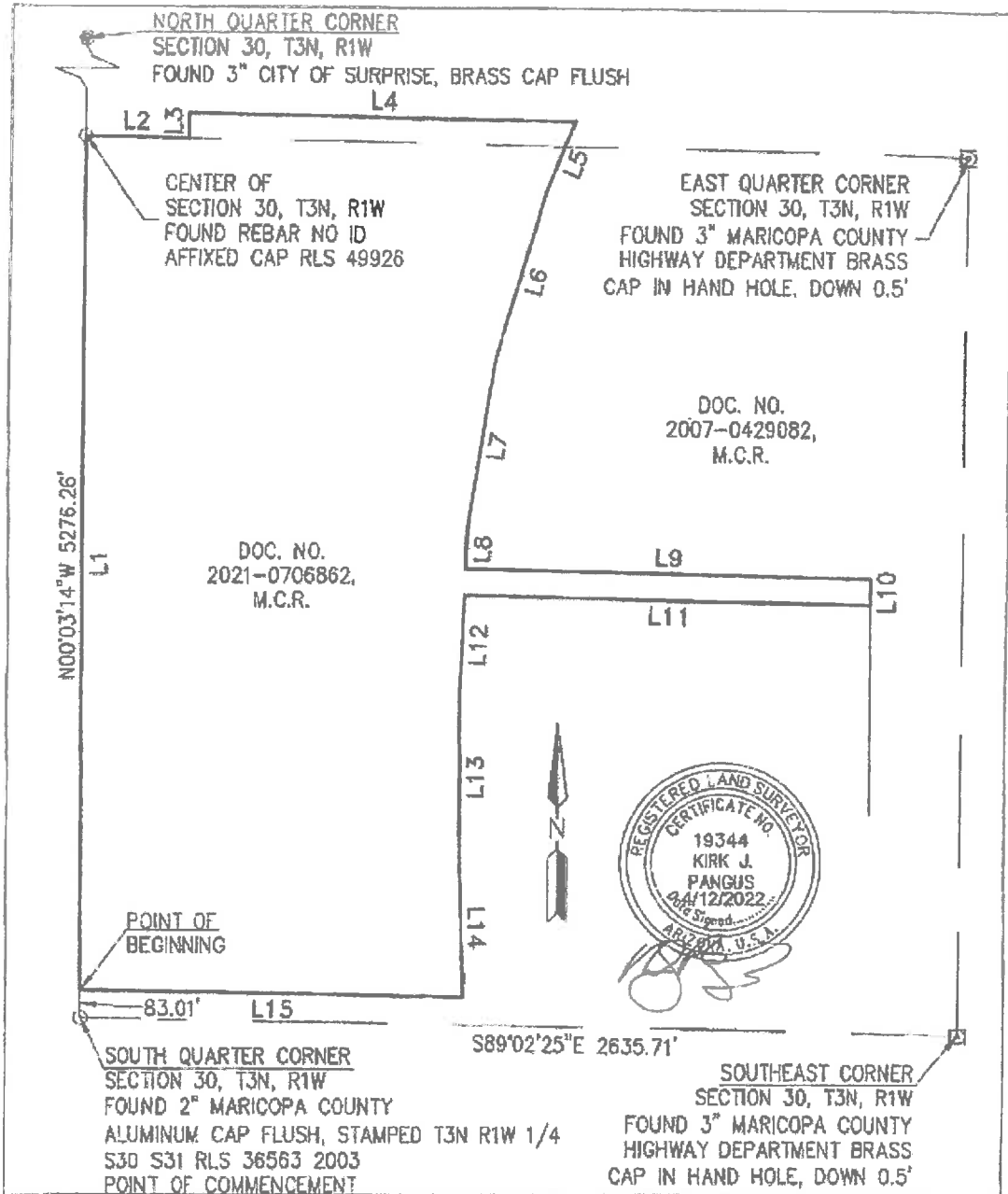
Thence along said north line, North 89°02'25" West, 1152.33 feet to the **POINT OF BEGINNING**.

The above described parcel contains a computed area of 3,260,147 sq. ft. (74.8427 acres) more or less and being subject to any easements, restrictions, rights-of-way of record or otherwise.

The description shown hereon is not to be used to violate any subdivision regulation of the state, county and/or municipality or any land division restrictions.

Prepared by: HILGARTWILSON, LLC  
2141 E. Highland Avenue, Suite 250  
Phoenix, AZ 85016  
Project No. 2374  
Date: April 2022

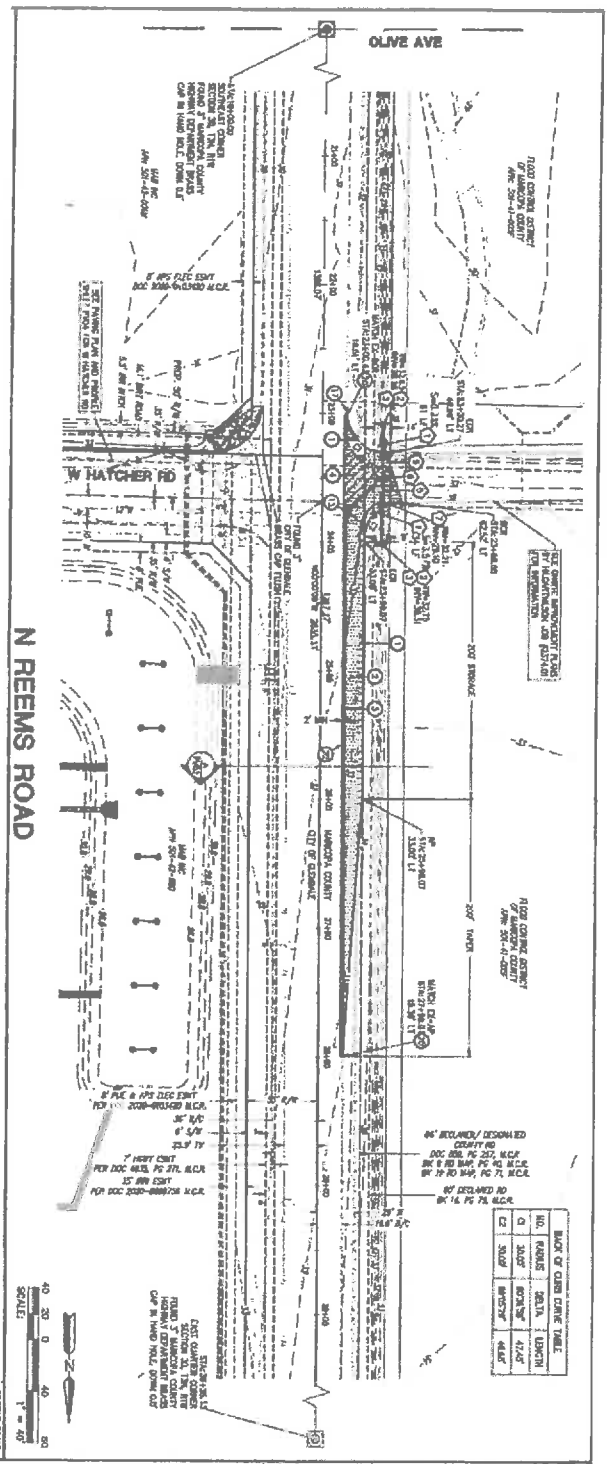




PROJ. NO.: 2374	<b>REEMS AND OLIVE</b> OVERALL PROPERTY MARICOPA COUNTY, ARIZONA	<b>HILGARTWILSON</b> 2141 E. HIGHLAND AVE., STE. 250 PHOENIX, AZ 85016 P: 602.490.0535 / F: 602.368.2436
DATE: APR 2022		
SCALE: N.T.S.	<b>EXHIBIT</b>	
DRAWN BY: JK		
CHECKED BY: KJP		

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**Exhibit B  
Deceleration Lane Improvements and Budget**



- Improvements to begin approximately 1300 feet north of the intersection of Reems Road and Olive Avenue
- The permanent improvements are not being constructed now due to the one-way crown that exists on Reems Road

**Exhibit B (continued)**  
**Deceleration Lane Improvements and Budget**

**Project:** Virgin Industrial Park Offsite Paving - Phase 1  
**Date:** 1/20/2023

**Project #:** 2374.01

**Description:** Offsite paving quantities including the future removal and replacement of the existing asphalt to Centerline.



Item #	Pay Item	Quantity	Unit	Unit Price	Cost
<b>Phase 1</b>					
1	Sawcut and remove existing asphalt	301	SY	\$5.00	\$1,505.00
2	Asphalt Paving	1,193	SY	\$55.00	\$65,615.00
3	Curb & gutter	625	LF	\$25.00	\$15,625.00
<b>SUBTOTAL</b>					<b>\$82,745.00</b>
Incidentals and Contingency (10%)					\$8,274.50
<b>TOTAL</b>					<b>\$91,019.50</b>

**NOTE:**

The above is only an engineer's opinion of probable construction cost for the proposed site improvements. HilgartWilson has no control over the cost or availability of labor, equipment, materials, contractor's method of pricing, or over market conditions. HilgartWilson makes no warranty, express or implied, that the cost of the work will not vary from our opinion of probable cost.

