

RESOLUTION NO. 2023-2339

A RESOLUTION OF THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, APPROVING THE FOREIGN TRADE ZONE POLICY OF THE CITY OF GOODYEAR DATED AUGUST 28, 2023; PROVIDING AUTHORIZATION AND DIRECTION TO TAKE ACTIONS AND EXECUTE DOCUMENTS NECESSARY TO CARRY OUT INTENT OF THE RESOLUTION; LIMITING APPLICATION OF TAX POLICY TO FUTURE FTZ SITES; AND PROVIDING FOR AN EFFECTIVE DATE.

WHEREAS, pursuant to the provisions of 19 U.S.C. § 81a *et seq.* (the "FTZ Act") and ARIZ. REV. STAT. § 44-6501, Greater Maricopa Foreign Trade Zone, Inc. (the "Grantee") applied to the Foreign Trade Zone Board of the United States Department of Commerce to approve and activate (the "Application") the formation and operation of a general-purpose foreign trade zone to be created in western and northern Maricopa County and to be known as the Greater Maricopa Foreign Trade Zone; and

WHEREAS, the application was approved and FTZ No. 277 Western Maricopa County, commonly known as the Greater Maricopa Foreign Trade Zone was established; and

WHEREAS, pursuant to ARIZ. REV. STAT. § 42-12006, the State of Arizona allows real and personal property located within an approved and activated foreign trade zone ("FTZ") or subzone established under the Foreign Trade Zone Act and ARIZ. REV. STAT. § 44-6501 to be reclassified as Class 6 property and to be assessed for taxation purposes at 5% of its full cash value; and

WHEREAS, the City of Goodyear's support is required for properties to be included within the Greater Maricopa FTZ, and the City of Goodyear's support is conditioned upon compliance with tax policies adopted by the City of Goodyear; and

WHEREAS, pursuant to Resolution 09-1324, the City Council formally supported the formation of the Greater Maricopa FTZ and adopted a Foreign Trade Zone Tax Policy for the City of Goodyear dated July 13, 2009; and

WHEREAS, the Foreign Trade Zone Tax Policy dated July 13, 2009, was replaced and superseded by the Foreign Trade Zone Tax Policy of the City of Goodyear dated October 4, 2010 (the "2010 FTZ Tax Policy"); and

WHEREAS, On December 22, 2010, the Foreign Trade Zone Board approved the formation of FTZ No. 277 Western Maricopa County; and

WHEREAS, operators of activated users in a site included within the boundaries of FTZ No. 277 Western Maricopa County receive federal tax benefits and state tax benefits; and

WHEREAS, the requirement of City Council support for the inclusion of property within the boundaries of FTZ No. 277 Western Maricopa County and the City of Goodyear's FTZ Tax Policy have been used as tools to encourage the development of undeveloped sites within the city and the location of certain types of operations within the city; and

WHEREAS, approximately 221 acres within the 416-acre Airport Gateway at Goodyear Industrial Park, approximately 367 acres within the 1600-acre Palm Valley 303 Industrial Park, approximately 15 acres within the Citation Industrial Park, and approximately 68 acres of

Goodyear Crossing Industrial Park have been included within the boundaries of FTZ No. 277 Western Maricopa County; and

WHEREAS, the Goodyear FTZ program was established to spur economic development by attracting speculative infrastructure and building development creating shovel-ready sites to help attract quality employment; and

WHEREAS, the Goodyear FTZ program since the beginning of the program has resulted in thirteen companies that are currently operating or have announced operations within an FTZ. Total job creation within the zones is over 5,000 jobs and has attracted over \$1.3 billion in capital investments; and

WHEREAS, the growth of the Goodyear FTZ program has helped establish the city's industrial sector as a thriving market for new investments with millions of square feet of industrial development under construction now or planned in the near future; and

WHEREAS, the Grantee submitted an application to reorganize FTZ No. 277 Western Maricopa County under the Alternative Site Framework ("ASF"), and FTZ No. 227 Western Maricopa County was reorganized under the Alternative Site Framework on December 16, 2011; and

WHEREAS, under the ASF, user-driven sites, which are sites that are tied to a single operator whose operations qualify the site for FTZ status and that lose FTZ status when the operator leaves the site, are eligible to be included within the boundaries of FTZ No. 277 Western Maricopa County; and

WHEREAS, following the reorganization of FTZ No. 277 Western Maricopa County under the Alternative Site Framework, the Goodyear City Council, pursuant to Resolution 2014-1687, approved and adopted the Foreign Trade Zone Policy of the City of Goodyear Dated December 15, 2014; and

WHEREAS, the Foreign Trade Zone Policy of the City of Goodyear Dated December 15, 2014 set forth policies for the city's support of requests for the inclusion with the boundaries of FTZ No. 277 Western Maricopa County and modified the 2010 FTZ Tax Policy; and

WHEREAS, the City of Goodyear has a continued interest in using its ability to support a request for inclusion within the FTZ No. 277 Greater Maricopa County as an economic incentive to encourage the development of certain types of FTZ qualified operations, specifically high-wage manufacturing employers and internet fulfillment centers with substantial end user sales within Goodyear; and

WHEREAS, on April 26, 2021 the Goodyear City Council adopted the Goodyear Foreign Trade Zone Policy pursuant to Resolution 2021-2154 (the "2021 FTZ Policy"), which modified the city's Foreign Trade Zone modified the city's foreign trade zone tax policies; and

WHEREAS, under the 2021 FTZ Policy, unless an activated user meets the requirements of a qualified high-wage manufacturer employer or qualified internet fulfillment center, the user is required to pay a PILOT Fee so that the city and other taxing jurisdictions will receive property taxes that would have been collected had the property not been reclassified and taxed as property within an activated foreign trade zone; and

WHEREAS, since the adoption of the 2021 FTZ Policy, staff has determined that certain minor modifications to the 2021 FTZ Policy are needed to clarify the city's position regarding the requirements for a Qualified Internet Fulfillment Center, to modify how PILOT Fees are collected, and to correct minor scrivener's errors, including adding a definition for a term used throughout the 2021 FTZ Policy that should have been defined but was not; and

WHEREAS, it is in the best interests of the City and its residents to modify the Foreign Trade Zone Policy of the City of Goodyear Dated April 26, 2021, to modify the city's policies regarding the city's support for FTZ Zone Sites and the city's tax policy for FTZ Zone Sites.

NOW, THEREFORE, BE IT RESOLVED BY THE MAYOR AND COUNCIL OF THE CITY OF GOODYEAR, MARICOPA COUNTY, ARIZONA, AS FOLLOWS:

SECTION 1. The Mayor and Council of the City of Goodyear hereby approve and adopt the Foreign Trade Zone Policy of the City of Goodyear Dated August 28, 2023, (the "2023 FTZ Policy") attached hereto as Exhibit 1 modifying Foreign Trade Zone Tax Policy for the City of Goodyear dated April 26, 2021.

SECTION 2. The City Manager or his designee is hereby authorized and directed to take any and all actions and to execute all documents necessary to carry out the intent of this Resolution and the 2023 FTZ Policy attached hereto as Exhibit 1.

SECTION 3. Zone sites that have been included within the boundaries of the FTZ No. 277 Western Maricopa County before August 28, 2023 are subject to the Foreign Trade Zone Policy of the City of Goodyear in effect when the sites were included within the boundaries of the FTZ No. 277 Western Maricopa County.

SECTION 4. This Resolution shall become effective upon its adoption.

PASSED AND ADOPTED by the Mayor and Council of the City of Goodyear, Maricopa County, Arizona, by a _____ vote, this _____ day of _____, 2023.

Joe Pizzillo, Mayor

Date: _____

ATTEST:

APPROVED AS TO FORM:

Darcie McCracken, City Clerk

Roric Massey, City Attorney

EXHIBIT 1

FOREIGN TRADE ZONE POLICY OF THE CITY OF GOODYEAR DATED AUGUST 28, 2023

WHEREAS, the City of Goodyear is located within the boundaries of FTZ No. 277 Western Maricopa County.

WHEREAS, the City of Goodyear hereby establishes this Foreign Trade Zone Policy (“Policy”).

WHEREAS, the City reserves the right to amend, modify, supplement, and/or terminate this Policy at any time.

POLICY TERMS

A. The City will only support requests for property to be included as Zone Site within the boundaries of FTZ No. 277 Western Maricopa County that meet the requirements set forth herein and upon the condition that the Grantee of FTZ No. 277 Western Maricopa County require as a condition of Activation of a Zone Site the execution of and compliance with Foreign Trade Zone Agreements, as discussed below, which effectuate the tax policies adopted by the City of Goodyear. This provision shall not be interpreted as conveying any right of support from the City for any request to include property as a Zone Site within the boundaries of FTZ No. 277 Western Maricopa County.

B. Definitions. The following definitions apply to the terms set forth in this Policy:

1. Activate(d) or Activation: shall mean the approval of a Grantee and U.S. Bureau of Customs and Border Protection (“CBP”) pursuant to the provisions of 19 CFR Part 146, *et. seq.*, authorizing foreign trade zone operations at a Zone Site (or portion thereof).

2. ASF: means Alternative Site Framework which is the optional approach to designation and management of zone sites adopted by the U.S. Foreign Trade Zones Board, as it may be modified.

3. Capital Expenditure: means the expenditures incurred in the development of a site, which shall include expenditures for: the building, the value of capital equipment, whether leased or purchased, and all on-site and infrastructure needed to serve the site.

4. Foreign Trade Zone Agreement: means the agreement all operators seeking Activation of a Zone Site are required to execute prior to the Activation of any Zone Site that requires the payment of a PILOT Fee for each calendar year property taxes are assessed as Class 6 property pursuant to A.R.S. § 42-12006 (2) applicable to real and personal property located within an Activated Zone Site unless the operator meets the requirements for either a Qualified

High Wage Manufacturer Employer or Qualified Internet Fulfillment Center during each calendar year.

5. Full-Time Employee: means a permanent employee whose normal work week would result in the employee working a minimum of 1,750 hours per year.

6. Grantee: shall mean the corporate recipient of a grant of authority to operate FTZ No. 277 Western Maricopa County as provided in 15 CFR Part 400 *et seq*, which currently is Greater Maricopa Foreign Trade Zone, Inc.

7. Magnet Sites: (also known as General Purpose Sites or General Purpose Zones) are Zone Sites that are included within the boundaries of FTZ No. 277 Western Maricopa County consisting of larger tracts of land that are organized and function as an integrated unit, such as all or part of an industrial park or airport facility, that are intended to be used by multiple users for multiple activities and that are intended to draw future users to that location.

8. Manufacturing Facility shall mean a facility in which raw materials and/or components are processed into finished goods through the use of tools, human labor, machinery, and chemical processing.

9. PILOT Fee: means an annual fee to be paid by the Operator of an Activated Zone Site, other than an operator of Qualified High Wage Manufacturer Employer or an operator of a Qualified Internet Fulfillment Center, and the property at the site has been reclassified and is being taxed as property within a foreign trade zone. Unless a taxing jurisdiction has entered into a separate agreement with any other taxing jurisdiction(s) regarding the payment of property taxes, the amount of the PILOT fee shall be the difference between the property taxes that would have been paid had a Zone Site not been Activated less the amount of the property taxes owed under the reclassification resulting from the Activation. If a taxing jurisdiction has entered into a separate agreement regarding the payment of property taxes, the amount of the PILOT Fee shall be the difference between the property taxes that would have been paid had the property not been an Activated Zone Site, excluding the amount of taxes attributable to the taxing jurisdiction with the separate agreement, and the amount of the property taxes owed under the reclassification resulting from the Activation of the Zone Site, excluding the amount of taxes attributable to the taxing jurisdiction with the separate agreement.

10. Qualified High Wage Manufacturing Employer: shall mean an operator of a Manufacturing Facility that meets all of the following criteria: (i) the Manufacturing Facility is located within an I-1 zoning district or it is located within a zoning district other than I-1, but the actual use of the User Drive Site is a permitted use under the I-1 zoning district; (ii) operator provides documentation demonstrating a Capital Expenditure of at least \$25,000,000 in the developing and/or equipping of the Manufacturing Facility (iii) continuously employs at least 100 Full-Time Employees; (iv) at least 51% of the operator's Full-Time Employees are paid at least 125% of the median annual wage computed annually by the Arizona Department of Commerce; and (v) all Full-Time Employees are offered health insurance for which the employer pays at least 65% of the premium or membership costs of such insurance. Operators who are self-insured for health care shall establish annual up-front fixed costs that is to be paid by employees as described

in the Arizona Commerce Authority Qualified Facility Tax Credit Program's requirements for employers who self-insure for employee health care.

11. Qualified Internet Fulfillment Center shall mean an operator of an internet fulfillment center that meets all of the following criteria: (i) operator provides documentation demonstrating a Capital Expenditure of at least \$25,000,000 in the developing and/or equipping of the internet fulfillment center; and (ii) the internet fulfillment center generates a minimum of \$25,000,000 of end user sales in Arizona on an annual basis that are sourced from a facility in Goodyear and that result in a transaction privilege tax of 2.5% being paid to the City of Goodyear on a minimum of \$25,000,000 end user sales on an annual basis.

12. User Driven Site is a Zone Site that is tied to a single operator or user under the ASF whose operations qualify the site for FTZ status and that is included within the boundaries of FTZ No. 277 Western Maricopa County but that loses its status as a Zone Site when that operator or user leaves the site.

13. Zone Site: property located within the City of Goodyear that has been approved by the Foreign Trade Zone Board to be included within the boundaries of FTZ No. 277 Western Maricopa County and consists of User Driven Sites and Magnet Sites.

E. Inclusion within a Foreign Trade Zone. The City shall not support an Application to include property in Goodyear within a foreign trade zone as a Zone Site unless the following conditions are met:

1. Public Benefit. The Applicant must demonstrate to the satisfaction of the City that a significant public benefit will result from the inclusion of the property within FTZ No. 277 Western Maricopa County.

2. Zoning. The property to be included within FTZ No. 277 Western Maricopa County is zoned I-1 or, for User Driven Sites, the property is located in zoning district other than I-1, but the actual use of the User Driven Site is a permitted use under the I-1 zoning district.

3. Federal Eligibility. The Applicant meets Federal eligibility guidelines found in 15 CFR Part 400 *et. seq.*

4. Grantee Commitment. Grantee of FTZ No. 277 Western Maricopa County requires as a condition of Activation of Zone Site the execution of and compliance with Foreign Trade Zone Agreements, as discussed herein, which effectuate the tax policies adopted by the City of Goodyear

F. Activation Requirements. The policy of the City is to require the execution of a Foreign Trade Zone Agreement prior to the Activation of any Zone Site requiring the payment of a PILOT Fee as provided herein. The operator of a Zone Site that wants to Activate such Zone Site shall execute a Foreign Trade Zone Agreement provided by the City of Goodyear; and a copy of the fully executed Foreign Trade Zone Agreement shall be submitted to the Grantee with the letter

from the operator requesting Activation concurrence from the Grantee as required under 19 CFR Part 146.

G. Foreign Trade Zone Agreement. The Foreign Trade Zone Agreement shall require all operators seeking Activation of a Zone Site to pay a PILOT fee unless the operator is a Qualified High Wage Manufacturer Employer or a Qualified Internet Fulfillment Center.

1. Qualified High Wage Manufacturer Employers. For operators claiming status as a Qualified High Wage Manufacturer Employer the Foreign Trade Zone Agreement shall exempt the operator from paying any PILOT Fee except as provided herein. The Foreign Trade Zone Agreement shall require operators claiming status as a Qualified High Wage Manufacturer Employer to provide the City whatever documentation and records the City requests to verify compliance with the requirements for a Qualified High Wage Employer, and in the event the operator fails to meet those requirements, the operator shall pay a PILOT Fee in the amount that would be owed in absence of its exempt status during the period of non-compliance.

2. Qualified Internet Fulfillment Centers. For operators claiming status as a Qualified Internet Fulfillment Center, the Foreign Trade Zone Agreement shall exempt the operator from paying any PILOT Fee except as provided herein. The Foreign Trade Zone Agreement shall require operators claiming status as a Qualified Internet Fulfillment Center to provide the City whatever documentation and records the City requests to verify compliance with the requirements for a Qualified Internet Fulfillment Center, and in the event the operator fails to meet those requirements, the operator shall pay a PILOT Fee in the amount that would be owed in absence of its exempt status during the period of non-compliance.

3. The PILOT Fee shall be paid only during the years the Zone Site is being taxed under the classification applicable to property within an Activated foreign trade Zone Site (or portion thereof).

4. Unless the operator is claiming that it is or will qualify as a Qualified Internet Fulfillment Center for the taxing year, the PILOT Fee shall be paid to the City in two equal payments with half of the PILOT Fee being due on October 1st of each year the PILOT Fee is Owed and the second half of the PILOT Fee being due on March 1st of the following year. If the operator is claiming that it is or will qualify as a Qualified Internet Fulfillment Center during the taxing year, the PILOT Fee shall be paid to the City on an annual basis on March 1st of the year following the year the PILOT Fee is owed.

5. The City shall distribute, within thirty days of receipt of the PILOT Fee, the portion of the PILOT Fee applicable to each of the taxing jurisdictions

H. Property Tax Assessments. The Maricopa County Assessor's Office will continue to be responsible for assessing the value of Activated Zone Sites (or portions thereof).

I. Zoning. This Policy does not create any right to have any property within the City rezoned to make it eligible for FTZ status.

J. Other Taxing Jurisdictions. The applicant who is seeking to include property as a Zone Site within the boundaries of FTZ No. 277 Western Maricopa County shall be responsible for obtaining all letters of support from other taxing jurisdictions whose support is required.

K. Interpretations. The City Attorney is responsible for interpreting the provision of this Policy.