REIMBURSEMENT AGREEMENT
BETWEEN
THE CITY OF COTTONWOOD,
LAMAIN 919, LLC
AND
JEROME PROPERTIES, L.L.C.

THIS REIMBURSEMENT AGREEMENT (this "Agreement") is entered into as of _____, 2016, between the City of Cottonwood, an Arizona municipal corporation (the "City"), LaMain 919, LLC, an Arizona limited liability company ("LaMain"), and Jerome Properties, L.L.C., an Arizona limited liability company ("Jerome") (Jerome and LaMain are referred to herein individually as an "Owner" and collectively as the "Owners"). The City and the Owners are referred to herein individually as a "Party" and collectively as the "Parties."

RECITALS

A. The City intends to design an alley between Main Street and Cactus Street and from Pinal Street to the south property line of Parcel No. 406-22-013, also known as the Tavern Grille, 914 North Main Street in Cottonwood, Arizona (the "Project"). Because of the shared benefits to the City and the Owners resulting from the Project, the Parties have agreed to share in the Project costs. Accordingly, the City shall be responsible for (i) procuring a contractor and administering the construction of the Project and (ii) paying for all costs associated with the Project design, engineering, procurement and construction administration (the "Design Costs"). The Owners shall be responsible for all costs associated with construction of the project (the "Construction Costs").

AGREEMENT

NOW, THEREFORE, in consideration of the foregoing introduction and recitals, which are incorporated herein by reference, the following mutual covenants and conditions, and other good and valuable consideration, the receipt and sufficiency of which are hereby acknowledged, the City and the Owner hereby agree as follows:

1. City Obligations.

1.1 Project Design. The City shall be solely responsible for ensuring completion of the Design Documents to a construction-ready state.

1.2 Contractor Procurement. Upon completion of the Design Documents, the City shall issue an invitation for bids in compliance with ARIZ. REV. STAT. § 34-201 *et seq*. and shall select the contractor submitting the lowest qualified bid to complete construction of the Project. Subject to the Owners' responsibilities for payment as set forth below, the City shall award the contract and enter into an agreement for construction of the Project.

1.3 Contract Administration; Construction Management. The City shall, throughout the duration of the Project, provide contract administration and construction

management oversight for the Project. The Owners agree and understand that the City shall have the sole authority for contract administration and construction management.

2. Owners' Responsibilities. After the City determines the lowest qualified bid, but prior to awarding the contract for the Project, the City shall notify the Owners of the bid amount. The Owners each shall have 10 days following notice from the City to examine the winning bid and to pay to the City 55% of the bid amount (the "Anticipated Construction Cost").

3. Change Orders. Change orders above 110% of the low bid and related to the Project must be approved by the City and the Owner. Such approvals shall not be unreasonably withheld; change orders that are not rejected or approved by the Owners within 10 days of notice from the City shall be deemed approved. If the Owners reject any such change order, such rejection shall be accompanied by a written statement specifying and explaining the Owners' reasons for rejecting such change order. If the Owners reject a change order that the City deems necessary to adequately complete the Project, the Owner's shall provide an alternate to the change order in a form deemed acceptable to the City. If Owners do not provide an acceptable alternative within 15 days following the change order notice from the City, the change order proposed by the City shall be deemed approved with no further action by the Parties.

4. Reconciliation. Upon completion of the Project, the City shall reconcile the Anticipated Construction Cost against the Project records, including all approved change orders, to determine the Final Construction Cost. If the Final Construction Cost exceeds the Anticipated Construction Cost (a "Cost Overrun"), the Owners shall, within 10 days after notice from the City, each pay the City 50% of the Cost Overrun to the City. If the Final Construction Cost is less than the Anticipated Construction Cost (a "Cost Savings"), the City shall reimburse 50% of the Cost Savings to each Owner.

5. Payment Not a Debt. The City's obligations pursuant to the provisions of this Agreement that require the expenditure of funds do not constitute a general obligation or indebtedness of the City within the meaning of any constitutional or statutory debt limitation or restriction, and do not obligate the City to make any expenditure from proceeds of ad valorem taxes or obligations to which any general taxing authority is pledged unless the expenditure has been duly budgeted, if and to the extent required by law, and is within all budget and expenditure limitations of, and is not in conflict with, the Constitution or laws of the State of Arizona. The City's failure to annually appropriate any amounts necessary to meet its obligations under this Agreement shall not diminish the Owner's rights to assert claims for such payments.

6. Default. If either Party fails to perform any obligation pursuant to this Agreement, and such Party fails to cure its nonperformance within 30 days after notice of nonperformance is given by the non-defaulting Party, such Party will be in default of this Agreement. In the event of such default, the non-defaulting Party may terminate this Agreement and shall have all remedies that are available to it at law or in equity including, without limitation, the remedy of specific performance. If the nature of the defaulting Party's nonperformance is such that it cannot reasonably be cured within 30 days, then the defaulting Party will have such additional periods of time as may be reasonably necessary under the circumstances, provided the defaulting Party immediately commences to cure its

nonperformance and thereafter diligently continues to completion the cure of its nonperformance. In no event shall any such cure period exceed 60 days.

7. Notices and Requests. Any notice or other communication required or permitted to be given under this Agreement shall be in writing and shall be deemed to have been duly given if (i) delivered to the Party at the address set forth below, (ii) deposited in the U.S. Mail, registered or certified, return receipt requested, to the address set forth below or (iii) given to a recognized and reputable overnight delivery service, to the address set forth below:

If to the City:	City of Cottonwood 824 North Main Street Cottonwood, Arizona 86326 Attn: Doug Bartosh, City Manager
With a copy to:	City of Cottonwood 824 N. Main Street Cottonwood, Arizona 86326 Attn: Steven B. Horton, City Attorney
If to the Owner:	LaMain 919, LLC 10008 East South Bend Drive Scottsdale, Arizona 85255-2540 Attn: John C. Haupt
	Jerome Properties, L.L.C. P.O. Box 896 Jerome, Arizona 86331 Attn: Eric Jurisin and Michelle Jurisin

or at such other address, and to the attention of such other person or officer as any Party may designate in writing by notice duly given pursuant to this Section. Notices shall be deemed received (i) when delivered to the Party, (ii) three business days after being placed in the U.S. Mail, properly addressed, with sufficient postage or (iii) the following business day after being given to a recognized overnight delivery service, with the person giving the notice paying all required charges and instructing the delivery service to deliver on the following business day. If a copy of a notice is also given to a Party's counsel or other recipient, the provisions above governing the date on which a notice is deemed to have been received by a Party shall mean and refer to the date on which the Party, and not its counsel or other recipient to which a copy of the notice may be sent, is deemed to have received the notice.

8. Waiver. No delay in exercising any right or remedy shall constitute a waiver thereof, and no waiver by the City or the Owner of the breach of any covenant of this Agreement shall be construed as a waiver of any preceding or succeeding breach of the same or any other covenant or condition of this Agreement.

9. Attorneys' Fees. In the event either Party finds it necessary to bring any action at law or other proceeding against the other Party to enforce any of the terms, covenants or

conditions hereof, or by reason of any breach or default hereunder, the Party prevailing in such action or other proceeding shall be paid all reasonable costs and reasonable attorneys' fees by the other Party and, in the event any judgment is secured by said prevailing Party, all such costs and attorneys' fees shall be included therein, such fees to be set by the court and not by jury.

10. Counterparts. This Agreement may be executed in two or more counterparts, each of which shall be deemed an original, but all of which together shall constitute one and the same instrument. The signature pages from one or more counterparts may be removed from such counterparts and such signature pages all attached to a single instrument so that the signatures of all Parties may be physically attached to a single document.

11. Headings. The descriptive headings of the sections of this Agreement are inserted for convenience only and shall not control or affect the meaning or construction of any of the provisions hereof.

12. Further Acts. Each of the Parties hereto shall execute and deliver all such documents and perform all such acts as reasonably necessary, from time to time, to carry out the matters contemplated by this Agreement.

13. Time is of the Essence. Time is of the essence in this Agreement.

14. Assignment. This Agreement may be assigned, in whole or in part, by the Owner only upon the prior written approval of the City, as evidenced by the City Manager's signature thereon, which approval shall not be unreasonably withheld by the City.

15. Entire Agreement. This Agreement constitutes the entire Agreement between the Parties hereto pertaining to the subject matter hereof. All prior and contemporaneous agreements, representations and understandings of the Parties, oral or written, are hereby superseded and merged herein.

16. Amendment. No amendment or waiver of any provision in this Agreement will be binding (i) on the City unless and until it has been approved by the City Council and has become effective or (ii) on the Owner unless and until it has been executed by an authorized representative.

17. Governing Law. This Agreement is entered into in Arizona and shall be construed and interpreted under the laws of the State of Arizona.

18. Severability. Each provision of this Agreement is deemed to be valid and will be enforced to the extent permitted by law. However, if any provision in this Agreement (or the application of the same) is, to any extent, found to be invalid or unenforceable by a court of competent jurisdiction, the remainder of this Agreement (or the application of that provision to circumstances other than those to which it is found to be invalid or unenforceable) will not be affected by that judicial determination of invalidity or unenforceability, if the remaining provisions permit the Parties to achieve the practical and proportional benefits and obligations contemplated by this Agreement. If that is not the case, the Parties agree to negotiate in good

faith for such amendments to this Agreement as may be necessary to achieve the full intent of those mutual benefits and obligations herein contemplated.

19. Covenant of Good Faith. In exercising their rights and in performing their obligations pursuant to this Agreement, the Parties will cooperate with one another in good faith to ensure the intent of this Agreement can be attained.

20. Conflict of Interest. This Agreement may be cancelled by the City pursuant to ARIZ. REV. STAT. § 38-511.

[SIGNATURES ON FOLLOWING PAGES]

IN WITNESS WHEREOF, the Parties hereto have executed this Agreement as of the date and year first set forth above.

"**City**"

CITY OF COTTONWOOD,
an Arizona municipal corporation

_____
Doug Bartosh, City Manager

ATTEST:

_____
Marianne Jiménez, City Clerk

APPROVED AS TO FORM:

_____
Steven B. Horton, City Attorney

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF YAVAPAI)

On _____, 2016, before me personally appeared Doug Bartosh, the City Manager of the CITY OF COTTONWOOD, an Arizona municipal corporation, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document, on behalf of the City of Cottonwood.

_____
Notary Public

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGES]

"**Owner**"

LAMAIN 919, LLC,
an Arizona limited liability company

By: _____
John C. Haupt, Manager

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF MARICOPA)

On _____, 2016, before me personally appeared John C. Haupt, the Manager of LAMAIN 919, LLC, an Arizona limited liability company, whose identity was proven to me on the basis of satisfactory evidence to be the person who he/she claims to be, and acknowledged that he/she signed the above document on behalf of the limited liability company.

_____
Notary Public

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGES]

"**Owner**"

JEROME PROPERTIES, L.L.C.,
an Arizona limited liability company

By: _____
Eric Jurisin, Member

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF YAVAPAI)

On _____, 2016, before me personally appeared Eric Jurisin, the Member of JEROME PROPERTIES, L.L.C., an Arizona limited liability company, whose identity was proven to me on the basis of satisfactory evidence to be the person who he claims to be, and acknowledged that he signed the above document on behalf of the limited liability company.

_____
Notary Public

(Affix notary seal here)

[SIGNATURES CONTINUE ON FOLLOWING PAGE]

"**Owner**"

JEROME PROPERTIES, L.L.C.,
an Arizona limited liability company

By: _____
Michelle Jurisin, Member

(ACKNOWLEDGMENT)

STATE OF ARIZONA)
) ss.
COUNTY OF YAVAPAI)

On _____, 2016, before me personally appeared Michelle Jurisin, the Member of JEROME PROPERTIES, L.L.C., an Arizona limited liability company, whose identity was proven to me on the basis of satisfactory evidence to be the person who she claims to be, and acknowledged that she signed the above document on behalf of the limited liability company.

_____
Notary Public

(Affix notary seal here)