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CONSTRUCTION AND REIMBURSEMENT AGREEMENT

This CONSTRUCTION AND REIMBURSEMENT AGREEMENT (the "Agreement"), effective this ____ day of _____, 2019, is made by and between Chick-fil-A, Inc., a Georgia corporation ("Chick-fil-A") and Red Shamrock 4, LLC, a New Mexico limited liability company ("Shamrock"), each collectively and singularly referred herein as "Owner" or "Owners."

WITNESSETH:

A. Chick-fil-A is the ground tenant of certain real property situated in the City of Albuquerque, Bernalillo County, New Mexico, hereinafter called the "Chick-fil-A Parcel", legally described as follows: Lot Numbered Six (6) of the Plat of Lots 1 thru 9, Coors Pavilion (being a Replat of Tract X-1-A2, University of Albuquerque Urban Center), within the Town of Albuquerque Grant in Projected Section 2, Township 10 North, 1 Range 2, East New Mexico Principal Meridian, City of Albuquerque, Bernalillo County, New Mexico, filed on April 11, 2017, as Document No. 2017033851, records of Bernalillo County, New Mexico.

B. Shamrock is the owner of that certain real property situated in the City of Albuquerque, County of Bernalillo, New Mexico, hereinafter called "Lot 5", legally described as follows: Lot Numbered Five (5) of the Plat of Lots 1 thru 9, Coors Pavilion (being a Replat of Tract X-1-A2, University of Albuquerque Urban Center), within the Town of Albuquerque Grant in Projected Section 2, Township 10 North, 1 Range 2, East New Mexico Principal Meridian, City of Albuquerque, Bernalillo County, New Mexico, filed on April 11, 2017, as Document No. 2017033851, records of Bernalillo County, New Mexico.

C. The Chick-fil-A Parcel and Lot 5 are encumbered by that certain Declaration of Easements, Covenants and Restrictions, recorded on December 13, 2016 in the official records of Bernalillo County, New Mexico as Instrument No. 2016116329, as amended (the "Declaration"). The Declaration requires each Lot Owner to maintain all portions of the Access Improvements (as defined in the Declaration) which are located on its Lot.

D. Shamrock and Chick-fil-A have agreed that Chick-fil-A will construct and thereafter maintain a portion of the Access Improvements located on Lot 5 subject to reimbursement of its expenses in connection with such construction and maintenance.

NOW, THEREFORE, Chick-fil-A and Shamrock agree as follows:

1. Construction and Maintenance. Chick-fil-A shall construct the Access Improvements which are located on a portion of Lot 5 described as the Access Improvements Easement Area as shown on Exhibit A attached hereto in a good and safe condition comparable to the standards of other high quality retail centers in the greater Albuquerque, New Mexico metropolitan area and in compliance with governmental laws, rules, regulations, orders and ordinances and Chick-fil-A's approved plans. Following construction of the Access Improvements, the owner of Lot 5 will maintain such Access Improvements in good condition and repair and at the same grade as the connection to the continuation of the access drive located on the Chick-fil-A Parcel.

2. Grant of Access Easement. Shamrock, as grantor, hereby grants to Chick-fil-A, as grantee, for the benefit of the Chick-fil-A Parcel, and for the use of Chick-fil-A and its employees, agents, contractors, customers, invites, and licensees a nonexclusive and perpetual easement over the Access Improvements Easement Area for purposes of ingress and egress along with a temporary construction easement over Lot 5 in order to perform the construction activities referenced in Section 1 above. In the event the owner of Lot 5 (or tenant of Lot 5) fails to reasonably maintain the Access Improvements, then Chick-fil-A (and its employees, agents or contractors) shall provide 15 days written notice of default to the owner of Lot 5 to commence the cure of the maintenance request. If such maintenance is not commenced by the owner of Lot 5 (or the tenant of Lot 5) within 15 days, then Chick-fil-A (and its employees, agents or contractors) shall have the right to enter upon the Access Improvements Easement Area for the purpose of undertaking the subject maintenance or repair at its own instance, and to make written demand upon the owner of Lot 5 for the entire expense incurred and such costs shall be secured by an equitable charge and lien on Lot 5.

3. Reimbursement. Shamrock, as the owner of Lot 5 and a beneficiary of Chick-fil-A's construction work on Lot 5, will reimburse Chick-fil-A fifty percent (50%) of all costs incurred by Chick-fil-A in connection with constructing and paving the Access Improvements located on Lot 5. Reimbursement of said costs to Chick-fil-A shall be paid by Shamrock within thirty (30) days after Chick-fil-A has provided Shamrock with an invoice along with reasonable evidence of the expenses incurred in connection with the construction and paving work. Further, Chick-fil-A shall provide two bids of the Access Improvements to Shamrock for review. Shamrock shall have the right, prior to the commencement of construction of the Access Improvements, to review and approve one of the two bids by providing written notice to Chick-fil-A within ten (10) days after receipt of the bids. If Shamrock does not provide consent to one particular bid on or before the 10th day, Chick-fil-A shall award the bid to one of the two contractors and such contractor and bid shall be deemed approved by Shamrock.

4. Easement to Run with the Land. All obligations contained herein shall be binding upon and inure to the benefit of each of the Owners, their successors, assigns, heirs and personal representatives. It is intended that each of the easements and obligations set forth herein shall run with and bind the land and create equitable servitudes in favor of the real property benefitted thereby, shall bind every person having any fee, leasehold or other interest therein and shall inure to the respective parties and their successors, assigns, heirs and personal representatives. It is intended that all agreements set forth herein shall be construed as covenants and not conditions and that, to the fullest extent legally possible, all agreements shall run with the land.

5. Termination. Chick-fil-A may terminate this Agreement at any time by providing no less than thirty (30) days advance written notice to Shamrock.

6. Miscellaneous.

6.1 This Agreement may be amended only by the unanimous written consent of both parties.

6.2 If any provision or provisions of the Agreement, or the application thereof shall be held to be invalid, void or illegal, the remaining provisions hereof, and the application thereof, shall nevertheless remain in full force and effect and not be affected thereby.

6.3 Chick-fil-A agrees that during the use of the easement granted herein, it shall not unreasonably interfere with the business operations conducted on Lot 5.

6.4 No part of this Agreement shall be construed as creating any rights in the general public, nor shall any part be deemed to be a gift or dedication for public use, of any portion of either parcel.

6.5 The waiver by one party of the performance of any covenant or condition hereunder shall not invalidate this Agreement, nor shall it be considered to be a waiver by such party of any other covenant or condition hereunder. The waiver by any party of the time for performing any act shall not constitute a waiver of the time for performing any other covenant or condition hereunder. The waiver by any party of the time for performing any act shall not constitute a waiver of the time for performing any other act or an identical act required to be performed at a later time. The exercise of any remedy provided by law and the provisions of this Agreement for any remedy shall not exclude other remedies unless they are expressly excluded.

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EXHIBIT A

ACCESS IMPROVEMENTS EASEMENT AREA (22' Wide as Measured North to South)

