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EXHIBIT "A" TO ORDINANCE No. 4356

FEB 23 2012

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NARRATIVE SUMMARY FOR ARIZONA STATE UNIVERSITY
CITY OF CHANDLER LEASE AGREEMENT

February 22, 2012

BASIC PROVISIONS

1. City ("Landlord") is the owner of real property and improvements located at 249 East Chicago Street, in Chandler, Arizona, which Landlord, pursuant to this lease agreement (the "Lease"), shall lease to Arizona State University ("Tenant") to use for the Permitted Use described herein (the "Premises"). The Lease shall also include a non-exclusive right to use those off-Premises municipal parking facilities designated and suitable for public vehicular parking that are near and about the Premises.

2. Chandler will lease the Premises to Arizona State University for a period of 5 years, upon and in consideration of the rental and the covenants and conditions set forth herein.

3. The Improvements existing on the Premises at the Effective Date of this Lease include, without limitation, the following: an office building that consists of approximately 33,000 square feet (the "Premises Building"); on-site parking and storage areas; walkways, driveways, and miscellaneous hardscape; landscaping and/or storm water retention areas. In addition, various public utility lines, pipes or other facilities needed to provide utility services to the Improvements are or may be situated upon the Premises.

4. Tenant acknowledges that the Premises, the title to the Premises, any parking, drive and walk areas adjoining the Premises, the environmental condition of the Premises and any subsurface conditions thereof, and the permitted and prohibited uses of the Premises, have been examined by Tenant and that Tenant accepts the same in the condition or state in which they or any of them may be on the Effective Date of this Lease, but subject to Landlord's obligations with respect to Tenant Improvements and Project Work, as more fully set forth herein, without representation or warranty, express or implied in fact or by law (except as set forth herein), by Landlord and without recourse to Landlord (other than for applicable warranty work), as to the nature, condition, or usability thereof or the use or uses to which the Premises or any part thereof may be put. Other than the Tenant Improvements and Project Work to be completed by Landlord, Tenant agrees to make any changes in the Premises reasonably needed to conform to any federal, state or local law applicable to the Tenant's use of the Premises.

5. Landlord covenants and agrees that, from and after the Effective Date of this Lease, Landlord, at Landlord's expense, shall undertake and complete a construction project (the "Project") that includes: the alteration and renovation of the Premises Building sufficient to bring the Premises in compliance with all applicable building, fire, and health and

safety codes ("local codes"); the improvement of the Premises necessary for occupancy and use as an academic facility by Tenant for the entire term of this Lease (the "Tenant Improvements"); the reconstruction and/or renovation of the remainder of the Premises sufficient to satisfy drainage, parking and other requirements imposed by applicable state statutes or local codes (the "Project Work"). The Project Work shall be done in accordance with plans and specifications to be developed and prepared by Landlord's architect and/or engineer based on input received from both Landlord and Tenant. The plans and specifications shall be approved by both Landlord and Tenant, acting in their reasonable discretion, at or before final submittal for approval by applicable federal, state, municipal and other governmental authorities, offices and departments having jurisdiction in the matter.

6. The Project Work shall be deemed completed when a certificate of occupancy is issued for the Premises by the municipal official designated within the Chandler City Code as the Chandler Building Official. Landlord shall substantially complete construction of the Premises within 120 days after issuance of any required building permits and any other necessary permits, licenses and approvals required to commence the Project Work, and Landlord shall proceed with due diligence to full completion of the Premises no later than 60 days after substantial completion (the "Premises Completion Date"). Landlord acknowledges that the Project Work must be completed such that the Tenant will have access to the Premises to before September 17, 2012 so that it may complete Tenant's Work, as defined below in time to allow full use and occupancy of the Premises by October 17, 2012.

7. Upon substantial completion of the Premises, Tenant shall undertake to provide any furnishings, furniture and equipment that it deems necessary for Tenant's use of the Premises pursuant to this Lease (the "Tenant's Work"). Landlord herein grants to Tenant a license to enter upon the Premises at this time and for this purpose.

8. LENGTH OF TERM. The term of this Lease shall commence on the "Commencement Date", which shall be the earlier of (i) the date Tenant opens for business or (ii) the date Landlord delivers possession of the Premises to Tenant, which shall be the Premises Completion Date, and shall end at 11:59 p.m., Arizona time, on the day before the five (5) year anniversary date of the Commencement Date, as such initial five (5) year term may be extended by the Tenant's exercise of any renewal option granted herein (the "Term").

9. DELAY IN COMMENCEMENT. If Landlord cannot deliver possession of the Premises to Tenant on or before time period set out in paragraph 6 above, Landlord shall not be subject to any liability therefore, nor shall such failure affect the validity of this Lease or the obligations of Tenant hereunder or extend the term hereof; provided, however, that if

Landlord is unable to deliver possession of the Premises to Tenant within 30 days thereafter and such delay is absent of force majeure or a delay caused by Tenant or Tenant's employees, agents, contractors or subcontractors ("Tenant Delay"), Tenant may, at Tenant's option, by notice in writing received by Landlord within ten (10) days thereafter but before delivery of possession of the Premises, cancel this Lease, in which event the parties shall be discharged from all obligations hereunder. If Landlord, by reason of force majeure or Tenant Delay, cannot deliver the Premises by the date set forth in this paragraph 9, Landlord or Tenant may, at their respective options, by notice in writing thereafter but before delivery of possession of the Premises, cancel this Lease, in which event the parties shall be discharged from all obligations hereunder.

10. OPTION TO RENEW. Landlord grants to Tenant the option to renew this Lease for one (1) additional five-year term (the "Renewal Term"). Tenant may exercise this option to renew by notifying Landlord in writing at least one hundred and eighty (180) days prior to the expiration of the initial Term of this Lease, provided that, at the time the renewal option is exercised, Tenant is not in default beyond any applicable cure period in the performance of any of the terms, covenants, or agreements set forth in this Lease. The Renewal Term shall be subject to all of the covenants and conditions set forth in this Lease. Notwithstanding the foregoing, if Tenant obtains the required approvals of its governing boards to extend the Term of this Lease, Landlord and Tenant shall execute an amendment to this Lease amending this provision to grant Tenant a total of nine (9) options to renew this Lease, each renewal option to be for a period for five (5) years, so that the total Term under this Lease, if Tenant exercises all such renewal options, will be fifty (50) years.

11. BASE RENT. During the first year of the Term, and continuing throughout the Term and all applicable Renewal Terms, Tenant shall pay to Landlord annual rental in the amount of One and 00/100 Dollar ($1.00). The annual rental shall be paid in advance on or before the Commencement Date and each one year anniversary of the Commencement Date thereafter during Term of this Lease, in lawful money of the United States of America, without deduction, offset, prior notice or demand to Landlord at the address set forth for Landlord, or at such other place or to such other person as Landlord may from time to time designate in writing.

12. PERMITTED USE. The Premises shall be used and occupied by Tenant and/or Tenant's Affiliates solely for the purpose of providing public educational and professional training leading to professional and/or advanced degrees or certifications, especially in, but not limited to, the fields of science, math and technology, and other ancillary uses in support of or in advancement of the preceding uses, including but not limited to general office uses (the "Permitted Use"), and for no other purpose whatsoever without the prior written consent of Landlord, which may be withheld in Landlord's sole discretion.

13. TENANT'S CONDUCT OF BUSINESS. During the entire Term of the Lease, Tenant shall operate and conduct within the Premises the business which is contemplated by the Permitted Use. Tenant shall at all times keep and maintain upon the Premises competent personnel to conduct the Permitted Use.

14. TENANT OBLIGATIONS. Tenant, at Tenant's own cost and expense, shall keep and maintain the Premises, including the Premises Building and all of the other Improvements, in reasonably good and neat order and repair and in substantial conformity with the plans and specifications therefor, ordinary wear and tear, damage from casualty and Landlord's repair and maintenance obligations with respect to the Project Work excepted. Tenant, at Tenant's own expense, shall provide for all janitorial and custodial services, and landscape services, and other maintenance services required for the Premises. Except for repair work required to be done under warranties provided to Landlord by contractors retained by Landlord for the Project Work, Tenant, at Tenant's own cost and expense, shall be responsible for all repairs required to be made to the Premises, or any portion thereof, including without limitation any building fixtures or equipment, in order to maintain the Premises in compliance with applicable local codes and/or to allow the Premises to be utilized for the Permitted Use.

15. UTILITIES, TAXES, FEES AND EXPENSES. Tenant shall pay all charges for water, gas, heat, electricity, power, and all other services or utilities used within or about the Premises during the term of this Lease. Tenant shall make timely payment of all taxes and assessments if any, levied against the Premises, or against Tenant's business operation at the Premises. Tenant shall be responsible for payment of all fees and expenses for all permits and licenses necessary for the conduct of Tenant's business upon the Premise during the Term.

16. ASSIGNMENT OR SUBLETTING. Except for the Permitted Transfers described below, Tenant shall not transfer, assign, mortgage, convey, or hypothecate this Lease, in whole or in part, or permit the use of the Leased Premises by any person or persons other than Tenant, or sublet the Leased Premises, or any part thereof, without the prior written consent of Landlord in each instance, which consent may be granted, withheld or conditioned in Landlord's sole and absolute discretion. Such prohibition against assigning or subletting shall include any assignment or subletting by operation of law. Any act by or of Tenant in violation of this Paragraph 16 shall be void, and not voidable. Notwithstanding the foregoing, Tenant shall be allowed, without Landlord's consent, to transfer or assign, in whole or in part, or sublet this Lease to Tenant Affiliates, so long as such Tenant Affiliates are complying with the Permitted Use (the "Permitted Transfer"). For purposes of this Lease, the phrase "Tenant Affiliates" is defined to mean any "Component Unit Affiliate" as defined from time to time by the Arizona Board of Regents under Government Accounting Standards Board Statement No. 39 (or any

successor GASB statement that deals with such issues), which may include alumni associations, development foundations and other organizations that raise and hold significant economic resources for the direct benefit of Arizona State University, and shall include affiliates that meet this definition other than for being deemed immaterial for purposes of the University's financial reporting, provided that any such Tenant Affiliates is using the Premises for a Permitted Use.

17. INSURANCE. At all times during the term of this Lease, Tenant shall, at its sole expense, procure and maintain the following types of insurance coverage; provided, however, Landlord acknowledges and agrees Tenant may furnish any or all of the coverages required pursuant hereto in whole or in part through the self-insurance program provided by the State of Arizona Department of Administration pursuant to Chapter 3.1, Title 41 of the Arizona Revised Statutes, or any successor self-insurance program of the State of Arizona:

(A) Commercial General Liability: Commercial General Liability insurance, including Bodily Injury and Property Damage Liability, Products and Completed Operations, Personal and Advertising Injury Liability, and Fire Damage Liability against any and all damages and liability, including attorneys' fees and expenses, on account of or arising out of injuries to or the death of any person or damage to property, however occasioned, in, on or about the Premises in amounts not less than $1,000,000 per occurrence, $2,000,000 annual aggregate, and with not less than $3,000,000 per occurrence umbrella coverage, and $50,000 Fire Damage Liability;

(B) Personal Property: Insurance on an All Risks basis covering 100% of the cash value of property at the Premises including, without limitation, trade fixtures, merchandise, furnishings, equipment, goods and inventory, and Replacement Cost value of any leasehold improvements; and

(C) Employer's Liability/Workers' Compensation: Employer's Liability insurance with limits not less than $500,000, and Workers' Compensation insurance providing statutory state benefits for all persons employed by Tenant in connection with the Premises as required by applicable law.

(D) Builder's Risk Insurance. If Tenant makes any additions, alterations or modifications to the Premises or the improvements thereon as permitted by this Lease, Tenant agrees to require its contractor(s) to carry "Builder's All Risk" insurance in an amount reasonably approved by Landlord covering the construction of such additions, alterations or modifications.

Landlord shall be named as an Additional Insured with respect to the Commercial General Liability, including any Umbrella or Excess coverage, and Landlord shall be

named as a loss payee with respect to any applicable property coverage. The insurance provided for hereof shall be primary and not contributory. Tenant shall furnish Landlord at the inception of this Lease a Certificate of Insurance evidencing that all such insurance is in effect. If any of the insurance described in this Paragraph 17 is cancelled before the expiration date thereof, notice will be delivered in accordance with the policy provisions.

The insurance requirements of this section and the coverage afforded to Landlord as an Additional Insured herein shall not be limited in any way by the indemnification provisions of this Lease.

18. INDEMNIFICATION.

(A) To the extent permitted by law, each party (an "Indemnitor") agrees to indemnify, defend and hold harmless the other party (as "Indemnitee") and the Indemnitee's officers, officials, agents and employees for, from and against any and all claims, damages, judgments, suits, causes of action, losses, liabilities and expenses, including, without limitation, reasonable attorneys' fees and court costs (collectively, "Indemnified Claims"), arising or resulting from bodily injury of any person (including death) or property damage, but only to the extent that such Indemnified Claims are caused by the act, omission, negligence, misconduct, or other fault of the Indemnitor, its officers, officials, agents or employees. This indemnification shall also apply to Indemnified Claims arising in whole or in part out of workers' compensation claims or unemployment disability compensation claims of employees of Indemnitor or out of claims under similar such laws. Landlord shall give to Tenant prompt and timely notice of any claim made or suits instituted which in any way, directly or indirectly, contingently or otherwise, affects or might affect Tenant and Tenant shall have the right to compromise and defend the same to the extent of its own interest. The provisions of this Section 18(A) shall survive the expiration or sooner termination of this Lease with respect to any Indemnified Claims occurring prior to such expiration or termination.

(B) Tenant hereby assumes all risk of, and waives all claim against Landlord, its agents and employees, for any loss, injury, death or damage to Tenant or Tenant's property, sustained while in, on or about the Premises, except where such loss, injury, death or damage is solely the result of the negligence or intentional acts of Landlord, its agents and employees.

(C) Landlord shall not be responsible or liable at any time for any loss or damage to Tenant's personal property or to Tenant's business, unless caused by Landlord or Landlord's officers, officials, contractors, agents or employees. Tenant shall store its property in and shall use and enjoy the Premises at its own risk, and hereby releases Landlord, to the full extent permitted by law, from all claims of every kind resulting in loss

of life, personal or bodily injury, or property damage, unless caused by the negligent act or omission of Landlord, Landlord's officers, officials, contractors, agents or employees.

19. DEFAULT BY TENANT. Upon the occurrence of any one or more of the following events, Landlord shall have the remedies set forth below:

(A) Tenant fails to make any payment of rent or any other payment required to be made by Tenant hereunder within ten (10) days after Tenant receives written notice of the rent or other payment being due.

(B) Tenant fails to observe or perform any of the covenants or meet any of the conditions set forth in this Lease to be observed, performed or met by Tenant, other than described above, where such failure continues for a period of thirty (30) days after written notice thereof has been given by Landlord to Tenant or, if cure would reasonably require more than thirty (30) days to complete, if Tenant fails to commence performance within the ten (10) day period or fails diligently to pursue such cure to completion.

(C) Any of the following occurs: (i) the making by Tenant of any general assignment or general arrangement for the benefit of creditors; (ii) the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or (iv) the attachment, execution, or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days.

(D) Tenant or Tenant's Affiliates fail to use the Premises the Permitted Use for a period of nine (9) or more consecutive months.

20. STATE OF ARIZONA REQUIRED PROVISIONS. Notwithstanding anything to the contrary contained herein, the following provisions shall be applicable to the parties, this Lease and the Premises, and shall control over any conflicting provisions contained herein.

(A) Nondiscrimination. The parties agree to comply with all applicable state and federal laws, rules, regulations and executive orders governing equal employment opportunity, immigration, nondiscrimination, including the Americans with Disabilities Act, and affirmative action.

(B) Conflict of Interest. Tenant's participation in this Lease is subject to Arizona Revised Statutes § 38-511, which provides that this Lease may be cancelled if any person significantly involved in initiating, negotiating, securing, drafting or creating this Lease on behalf of the Tenant is, at any time while this Lease or any extension thereof is in effect, an employee or agent of the other party to this Lease in any capacity or a consultant to any other party with respect to the subject matter of this Lease.

(C) Notice of Arbitration Statutes. Pursuant to Arizona Revised Statutes § 12-1518, the parties acknowledge and agree, subject to the Arizona Board of Regents' Policy 3-809, that they will be required to make use of mandatory arbitration of any legal action that is filed in the Arizona superior court concerning a controversy arising out of this Lease if required by § 12-133 of the Arizona Revised Statutes.

(D) Landlord's Records Relating to this Lease. To the extent required by Arizona Revised § 35-214, Landlord agrees to retain all records relating to this Lease. Landlord agrees to make those records available at all reasonable times for inspection and audit by Tenant or the Auditor General of the State of Arizona during the term of this Lease and for a period of five (5) years after the completion of this Lease. The records shall be provided at to Tenant at Arizona State University, Tempe, Arizona, or another location designated by Tenant on reasonable notice to Landlord.

(E) Failure of Legislature to Appropriate. If Tenant's performance under this Lease depends on the appropriation of funds by the Arizona Legislature, and if the Legislature fails to appropriate the funds necessary for performance, then Tenant may provide written notice of this to Landlord and cancel this Agreement without further obligation of Tenant. Appropriation is a legislative act and is beyond the control of Tenant.

(F) Indemnification. Any other provision of this Agreement to the contrary notwithstanding, the parties acknowledge that Tenant is a public institution and any indemnification, liability limitation or hold harmless provision shall be limited as required by the laws of the State of Arizona, including without limitation Article 9, Sections 5 and 7, of the Arizona Constitution and Arizona Revised Statutes Sections 35-154 and 41-621. Consequently, Tenant's liability under any claim for indemnification is limited to claims for property damage, personal injury, or death to the extent caused by acts or omissions of Tenant.

#8

FEB 23 2012

Chandler • Arizona
Where Values Make The Difference

MEMORANDUM **Economic Development – Council Memo ED12-018**

DATE: FEBRUARY 14, 2012

TO: MAYOR AND COUNCIL

THRU: RICH DLUGAS, CITY MANAGER
PATRICK MCDERMOTT, ASSISTANT CITY MANAGER

FROM: CHRISTINE MACKAY, ECONOMIC DEVELOPMENT DIRECTOR

SUBJECT: ARIZONA STATE UNIVERSITY LEASE FOR THE CHICAGO YARD AND AUTHORIZATION FOR IMPROVEMENTS.

RECOMMENDATION: Staff recommends approval of Ordinance No. 4356 authorizing and approving a lease agreement between the City of Chandler and Arizona State University for the former Public Works yard site at 249 E. Chicago Street for a term of up to 25 years and containing those significant deal terms included in the Ordinance, and authorizing the Mayor to sign the lease and related documents upon their approval as to form by the City Attorney. Staff also recommends approval of a General Fund Contingency appropriation transfer of $2.9 million to the General Government Capital Projects Fund to spend excess Vehicle Replacement Fund balance for this project.

BACKGROUND/DISCUSSION: To encourage expansion of higher education in Chandler, particularly in Downtown, Chandler City Council has worked with several state universities over the past few years. Due to the types of companies located in Chandler, Council strongly recognized the need to ensure that the educational goals were, in part, technology related, as they looked at opportunities presented by our university partners. While working with ASU Polytechnic and touring their facilities, dialogue began about the possibility of locating educational programs in a City owned building in which several Polytechnic programs could expand into Chandler.

Over the past year, the City had opened a Request for Proposal for the Chicago Street Yard building located at 249 East Chicago Street in Downtown Chandler. This former Public Works yard is a+/-33,000 square foot industrial building, that had formerly housed several City departments. Due to construction of the City Hall complex and relocation of other divisions, only two small work units still operate out of this facility. As part of the

RFP, this facility was thought to be a good location for an Artyard type project that could house industrial artists. Due in most part to the economy, only one proposal was received for this RFP and staff chose to wait for the economy to improve before going out for an RFP again on this City building.

While working with ASU Polytechnic, staff requested that ASU staff tour the Chicago Yard building to see if this might be something that could work for their uses. After the tour, it quickly became evident that the building was ideal for their uses for the ASU College of Technology and Innovation.

ASU has proposed for three programs to operate in the facility, expanding from the Polytechnic campus. These spaces includes multi-purpose engineering and technology learning studios, "Proof of Concept" labs to support open innovation and technology development and access to ASU online courses and degrees with assisted learning, with the potential of other programs growing in the space. Initially this building will be home to approximately 100 students and faculty, expanding over the next three years to house approximately 1,000 ASU students and faculty. According to a third party independent economic impact study, this project is expected to have a $23.8 million economic impact on Chandler over the next five years, and even greater for each subsequent five year period. This project will be a tremendous win for Downtown Chandler adding even more vibrancy to the area with up to 1,000 students coming into Downtown for their classes each week.

To house classroom, faculty and engineering labs, the Chicago Yard will need a complete interior demolition and rebuild of tenant improvements to create classrooms, labs, offices and collaborative space. This site will require re-engineering to replace a crumbing parking lot as well as to modify the drainage on the site that now ponds at the rear of the building. Further, the HVAC system is extremely old and inefficient on the building as is the electrical system. Both will need to be completely replaced. It is important to note that most of these items would have been required to rehabilitate a very old building regardless of the type of use the City would have chosen to inhabit the building.

Through architectural and engineering estimates, as well as discipline specific contractor walk-through and line-item estimates, it is estimated that this project will require approximately $2.9 million in capital costs to renovate for occupancy by ASU. Final cost will not be available until the architect and engineers complete the construction drawings, which are underway now. Once the construction drawings are complete, this project will be put out to bid to ensure that the City gets the greatest value for its investment. City Council will review the selected bid to finalize the contract with the General Contractor and approve the exact expenditure at a future public meeting.

While the City of Chandler is doing the physical improvements to our building, ASU will be responsible for all furniture, fixtures and equipment. Although ASU has not finalized that cost yet, it is estimated by them that their costs will be between $1 million and $1.5 million in addition to the City's investment to prepare the space for labs and classrooms.

The initial term of this lease is for a five (5) year period due to statutory signature authority for universities. At the April, 2012 Arizona Board of Regents (ABOR) meeting, ASU will take an item forward for consideration to ABOR, authorizing a 25 year lease for the Chicago Yard. Upon approval by ABOR at their public meeting, the City Attorney will amend the five-year lease to a term of 25 years without coming back to Council for further consideration. The lease agreement with ASU is specific to educational programs and authorizes a lease rate of $1.00 per year. Further, once the tenant improvements are completed, ASU will be financially responsible for all on-going operations of the space, as well as maintenance and upkeep of the structure and equipment. Staff anticipates no additional costs for this facility after the initial construction and one-year warranty work is completed.

The significant deal terms to be included in the lease agreement are included as part of the Ordinance.

FINANCIAL IMPLICATIONS: The projected cost of the ASU Downtown project is $2.9 million, which will be funded from excess fund balance in the Vehicle Replacement Fund (VRF) available as a result of excess balance accumulated from three years of minimal vehicle replacements and fleet reductions City-wide. This will require a transfer out of VRF (404.0000.8401) and a transfer into the General Government Capital Projects Fund (401.0000.4089).

A General Fund Contingency appropriation transfer (101.1290.5911) will then be required to appropriate spending authority of the VRF balance for the ASU Downtown project from the General Government Capital Projects Fund (401.1291.6212.0.6GG630).

PROPOSED MOTIONS: Move to adopt Ordinance No. 4356 authorizing and approving a lease agreement between the City of Chandler and Arizona State University for City property at 249 E. Chicago St., containing those substantial deal terms identified therein, and authorizing the Mayor to sign the lease agreement and related documents upon their approval as to form by the City Attorney.

In addition, move to approve a General Fund Contingency appropriation transfer of $2.9 million to the General Government Capital Projects Fund to spend excess Vehicle Replacement Fund balance for this project.

Attachments: **Ordinance No. 4356**
Exhibit A to Ordinance (Significant Deal Terms)
Vicinity Map

ORDINANCE NO. 4356

AN ORDINANCE OF THE CITY COUNCIL OF THE CITY OF CHANDLER, ARIZONA, AUTHORIZING AND APPROVING A LEASE AGREEMENT BETWEEN THE CITY OF CHANDLER AND ARIZONA STATE UNIVERSITY FOR THE FORMER PUBLIC WORKS YARD AT 249 EAST CHICAGO STREET FOR PUBLIC EDUCATION PURPOSES.

WHEREAS, the City of Chandler owns improved real property located at 249 East Chicago Street, which is the City's former Public Works' yard; and

WHEREAS, said property is currently unoccupied and in need of renovation to allow for its continued use as a public facility; and

WHEREAS, Arizona State University desires to lease the real property and improvements located thereon (the "Leased Premises") for the operation of certain public education programs that complement the manufacturing and technology businesses located within Chandler, Arizona; and

WHEREAS, the City of Chandler desires to enter into such a lease with Arizona State University and finds that such lease arrangement will be of general benefit to the citizens of the municipality and of specific benefit to the further development of Downtown Chandler.

NOW, THEREFORE, BE IT ORDAINED by the City Council of the City of Chandler, Arizona, as follows:

Section 1. The City Council of the City of Chandler, Arizona does hereby authorize and approve the lease to Arizona State University of the Leased Premises for public education purposes substantially in accordance with the significant deal terms and conditions set out in Exhibit A, attached hereto and incorporated herein by reference.

Section 2. Notwithstanding the terms set out in Exhibit A, the City Council does hereby authorize the extension or amendment of the lease to allow for a total lease term of up to twenty-five (25) years provided that authority for Arizona State University to enter into a lease of such duration is formally granted by its governing body, the Arizona Board of Regents.

Section 3. The Mayor of the City of Chandler, Arizona is hereby authorized to execute the lease referred to in Section 1 above, the amendment or extension of the lease referred to in Section 2 above and any related documents upon their approval as to form by the Chandler City Attorney.

INTRODUCED AND TENTATIVELY APPROVED by the City of Chandler, Arizona, this _____ day of _____, 2012.

ATTEST:

_____ _____
CITY CLERK MAYOR

PASSED AND ADOPTED by the Mayor and City Council of the City of Chandler, Arizona, this _____ day of _____, 2012.

ATTEST:

_____ _____
CITY CLERK MAYOR

CERTIFICATION

I HEREBY CERTIFY that the above and foregoing Ordinance No. 4356 was duly passed and adopted by the City Council of the City of Chandler, Arizona, at a regular meeting held on _____ day of _____, 2012, and that a quorum was present thereat.

_____
CITY CLERK

PUBLISHED:

APPROVED AS TO FORM:

_____
CITY ATTORNEY GAB

EXHIBIT "A" TO ORDINANCE No. 4356

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NARRATIVE SUMMARY FOR ARIZONA STATE UNIVERSITY CITY OF CHANDLER LEASE AGREEMENT

February 15, 2012

BASIC PROVISIONS

1. City is the owner of real property and improvements, including a building consisting of approximately 33,000 square feet, located at 249 East Chicago Street (the "Premises"). The Property is located within the corporate limits of Chandler.

2. Chandler will lease the Premises to Arizona State University for a period of 5 years, upon and in consideration of the rental and the covenants and conditions set forth herein. 3. The Improvements existing on the Premises at the Effective Date of this Lease include, without limitation, the following: an office building that consists of approximately 33,000 square feet (the "Premises Building"); parking and storage areas; walkways, driveways, and miscellaneous hardscape; landscaping and/or storm water retention areas. In addition, various public utility lines, pipes or other facilities needed to provide utility services to the Improvements are or may be situated upon the Premises.

4. Tenant acknowledges that the Premises, the title to the Premises, any parking, drive and walk areas adjoining the Premises, the environmental condition of the Premises and any subsurface conditions thereof, and the permitted and prohibited uses of the Premise, have been examined by Tenant and that Tenant accepts the same in the condition or state in which they or any of them may be on the Effective Date of this Lease, without representation or warranty, express or implied in fact or by law, by Landlord and without recourse to Landlord, as to the nature, condition, or usability thereof or the use or uses to which the Premises or any part thereof may be put. Tenant agrees to make any changes in the Premises reasonably needed to conform to any federal, state or local law applicable to the Tenant's use of the Premises.

5. Landlord covenants and agrees that, from and after the Effective Date of this Lease, Landlord, at Landlord's expense, shall undertake and complete a construction project (the "Project") that includes: the alteration and renovation of the Premises Building sufficient to bring the Premises in compliance with all applicable building, fire, and health and safety codes ("local codes"); the improvement of the Premises Building necessary for occupancy and use by Tenant under this Lease (the "Tenant Improvements"); the reconstruction and/or renovation of the remainder of the Premises and remaining Improvements sufficient to satisfy drainage, parking and other requirements imposed by applicable state statutes or local codes (the "Project Work"). The Project Work shall be done in accordance with plans and specifications to be developed and prepared by

Landlord's architect and/or engineer based on input received from both Landlord and Tenant. The plans and specifications shall be approved by both Landlord and Tenant, acting in their reasonable discretion, at or before final submittal for approval by applicable federal, state, municipal and other governmental authorities, offices and departments having jurisdiction in the matter.

6. The Project Work shall be deemed completed when a certificate of occupancy is issued for the Premises by the municipal official designated within the Chandler City Code as the Chandler Building Official. Landlord shall substantially complete construction of the Building and other Improvements within 120 days after issuance of any required building permits and any other necessary permits, licenses and approvals required to commence the Project Work, and Landlord shall proceed with due diligence to full completion of all of the Improvements no later than 60 days after substantial completion (the "Premises Completion Date").

7. Upon substantial completion of the Premises Building and other Improvements, Tenant shall undertake to provide any furnishings, furniture and equipment that it deems necessary for Tenant's use of the Premises pursuant to this Lease (the "Tenant's Work"). Landlord herein grants to Tenant a license to enter upon the Premises at this time and for this purpose.

8. LENGTH OF TERM. The term of this Lease shall commence on the "Commencement Date", which shall be the earlier of (i) the date Tenant opens for business or (ii) the date Landlord delivers possession of the Premises to Tenant, which shall be the Premises Completion Date. The term shall end at 11:59 p.m., Arizona time, on the day before the five (5) year anniversary date of the Commencement Date.

9. DELAY IN COMMENCEMENT. If Landlord cannot deliver possession of the Premises to Tenant on or before time period set out in paragraph 6 above, Landlord shall not be subject to any liability therefore, nor shall such failure affect the validity of this Lease or the obligations of Tenant hereunder or extend the term hereof; provided, however, that if Landlord is unable to deliver possession of the Premises to Tenant within 30 days thereafter and such delay is absent of force majeure or a delay caused by Tenant or Tenant's employees, agents, contractors or subcontractors ("Tenant Delay"), Tenant may, at Tenant's option, by notice in writing received by Landlord within ten (10) days thereafter but before delivery of possession of the Premises, cancel this Lease, in which event the parties shall be discharged from all obligations hereunder. If Landlord, by reason of force majeure or Tenant Delay, cannot deliver the Premises by the date set forth in this paragraph 9, Landlord or Tenant may, at their respective options, by notice in writing thereafter but before delivery of possession of the Premises, cancel this Lease, in which event the parties shall be discharged from all obligations hereunder.

10. OPTION TO RENEW. Landlord grants to Tenant the option to renew this Lease for one (1) additional five-year term (the "Renewal Term"). Tenant may exercise this option to renew by notifying Landlord in writing at least one hundred and eighty (180) days prior to the expiration of the initial Term of this Lease, provided that, at the time the renewal option is exercised, Tenant is not in default in the performance of any of the terms, covenants, or agreements set forth in this Lease. The Renewal Term shall be subject to all of the covenants and conditions set forth in this Lease.

11. BASE RENT. During the first year of the Term, and continuing throughout the Term, Tenant shall pay to Landlord annual rental in the amount of One and 00/100 Dollar ($1.00). The annual rental shall be paid in advance on or before the Commencement Date and each one year anniversary of the Commencement Date thereafter during Term of this Lease, in lawful money of the United States of America, without deduction, offset, prior notice or demand to Landlord at the address set forth for Landlord, or at such other place or to such other person as Landlord may from time to time designate in writing.

12. PERMITTED USE. The Premises shall be used and occupied by Tenant solely for the purpose of providing public educational and professional training leading to professional and/or advanced degrees or certifications, especially in, but not limited to, the fields of science, math and technology (the "Permitted Use"), and for no other purpose whatsoever without the prior written consent of Landlord, which may be withheld in Landlord's sole discretion. Private use of the Premises, even for education or professional training purposes, is not a permitted use.

13. TENANT'S CONDUCT OF BUSINESS. Tenant shall continuously and without interruption during the normal business hours operate and conduct within the Premises the business which is contemplated by the Permitted Use, and Tenant shall fully utilize the Premises for the Permitted Use. Tenant shall at all times keep and maintain upon the Premises competent personnel and an adequate stock of merchandise to service and supply the usual and ordinary demands and requirements of its customers. Tenant shall keep the Premise open for business each business day and during the normal business hours from and after the date Tenant opens for business.

14. TENANT OBLIGATIONS. Tenant, at Tenant's own cost and expense, shall keep and maintain the Premises, including the Premises Building and all of the other Improvements, in reasonably good and neat order and repair and in substantial conformity with the plans and specifications therefor. Tenant, at Tenant's own expense, shall provide for all janitorial and custodial services, and landscape services, and other maintenance services required for the Premises. Except for repair work required to be done under warranties provided to Landlord by contractors retained by Landlord for the Project Work, Tenant, at Tenant's own cost and expense, shall be responsible for all repairs required to be made to the Premises, or any portion thereof, including without

limitation any building fixtures or equipment, in order to maintain the Premise in compliance with applicable local codes and/or to allow the Premises to be utilized for the Permitted Use.

15. UTILITIES, TAXES, FEES AND EXPENSES. Tenant shall pay all charges for water, gas, heat, electricity, power, and all other services or utilities used within or about the Premises during the term of this Lease. Tenant shall make timely payment of all taxes and assessments if any, levied against the Premises, or against Tenant's business operation at the Premises. Tenant shall be responsible for payment of all fees and expenses for all permits and licenses necessary for the conduct of Tenant's business upon the Premise during the Term.

16. ASSIGNMENT OR SUBLETTING. Tenant shall not transfer, assign, mortgage, convey, or hypothecate this Lease, in whole or in part, or permit the use of the Leased Premises by any person or persons other than Tenant, or sublet the Leased Premises, or any part thereof, without the prior written consent of Landlord in each instance, which consent may be granted, withheld or conditioned in Landlord's sole and absolute discretion. Such prohibition against assigning or subletting shall include any assignment or subletting by operation of law. Any act by or of Tenant in violation of this Section 10 shall be void, and not voidable.

17. INSURANCE. Tenant shall, at its sole cost and expense, procure and maintain from insurance companies, and in a form satisfactory to Landlord, the type and minimum amounts of insurance coverage Landlord deems applicable to Tenant's use of the Premises. Each insurance policy shall name Landlord as an additional insured and shall provide for thirty (30) days prior written notice by the insurance company to Landlord in the event of cancellation of the policy or policies. Evidence of such insurance shall be provided to Landlord promptly after a request therefor.

18. Tenant does hereby covenant and agree to indemnify and save harmless Landlord, its agents and employees, from any and all fines, suits, claims, demands, actions and/or causes of actions of any kind and nature for personal injury or death or property damage arising out of or resulting from any activity or operation of Tenant on the Premises or in connection with its use of the Premises; provided, however, that Tenant shall not be liable for any injury, damage or loss occasioned by the sole negligence or willful misconduct of Landlord, its agents or employees. Landlord shall give to Tenant prompt and timely notice of any claim made or suits instituted which in any way, directly or indirectly, contingently or otherwise, affects or might affect Tenant and Tenant shall have the right to compromise and defend the same to the extent of its own interest. This indemnity shall survive the termination of this Lease.

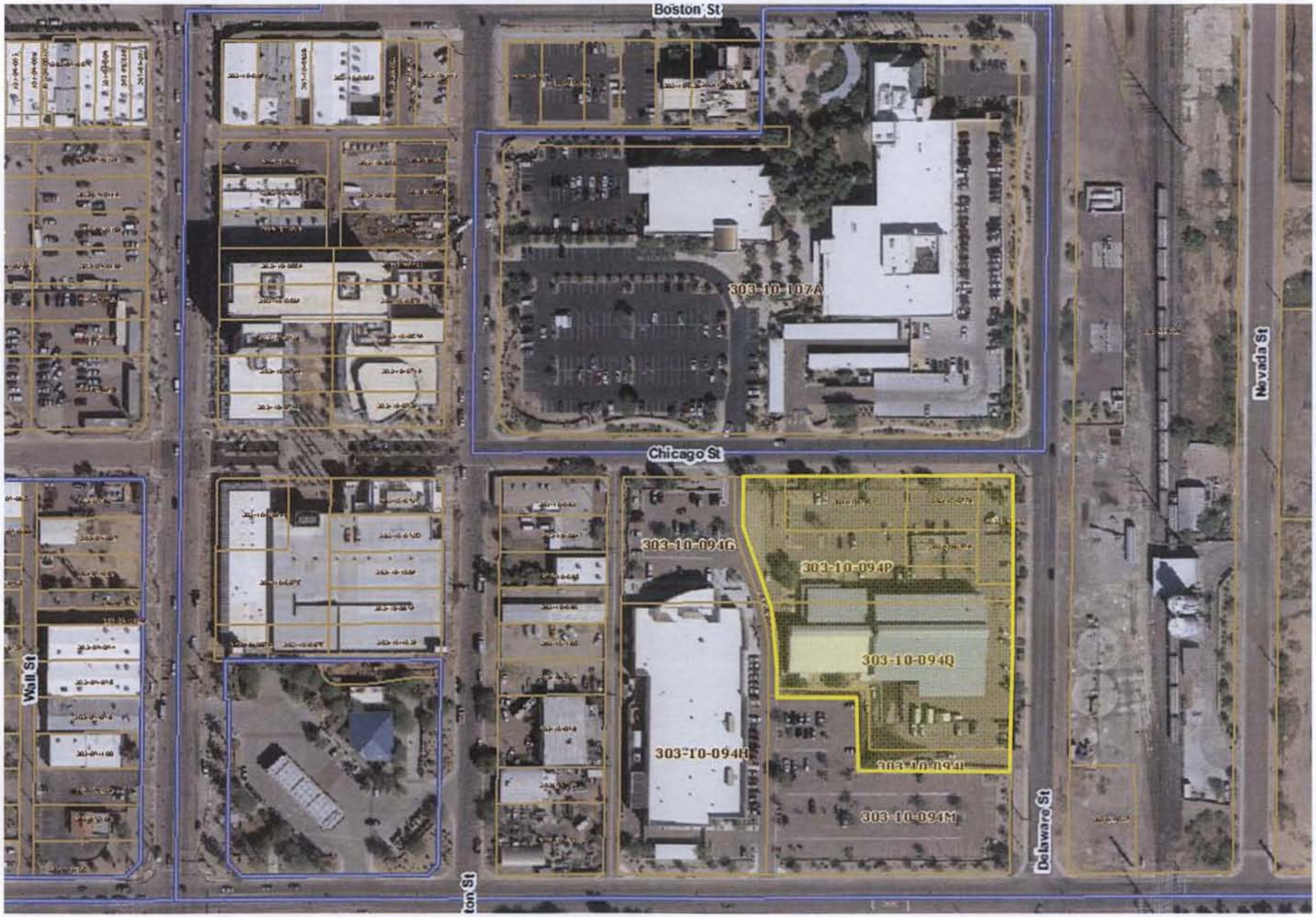
Tenant hereby assumes all risk of, and waives all claim against Landlord, its agents and employees, for any loss, injury, death or damage to Tenant or Tenant's property, or to other persons or property sustained while in, on or about the Premises, except where such loss, injury, death or damage is solely the result of the negligence or intentional acts of Landlord, its agents and employees.

19. DEFAULT BY TENANT. Upon the occurrence of any one or more of the following events, Landlord shall have the remedies set forth below:

(A) Tenant fails to make any payment of rent or any other payment required to be made by Tenant hereunder within ten (10) days after Tenant receives written notice of the rent or other payment being due.

(B) Tenant fails to observe or perform any of the covenants or meet any of the conditions set forth in this Lease to be observed, performed or met by Tenant, other than described above, where such failure continues for a period of thirty (30) days after written notice thereof has been given by Landlord to Tenant or, if cure would reasonably require more than thirty (30) days to complete, if Tenant fails to commence performance within the ten (10) day period or fails diligently to pursue such cure to completion.

(C) Any of the following occurs: (i) the making by Tenant of any general assignment or general arrangement for the benefit of creditors; (ii) the filing by or against Tenant of a petition to have Tenant adjudged a bankrupt or a petition for reorganization or arrangement under any law relating to bankruptcy (unless, in the case of a petition filed against Tenant, the same is dismissed within sixty (60) days); (iii) the appointment of a trustee or receiver to take possession of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where possession is not restored to Tenant within thirty (30) days; or (iv) the attachment, execution, or other judicial seizure of substantially all of Tenant's assets located at the Premises or of Tenant's interest in this Lease, where such seizure is not discharged within thirty (30) days.

(D) Tenant fails to use the Premises for educational classes or to otherwise conduct educational and professional training for a period of nine (9) or more consecutive months.

ARIZONA STATE UNIVERSITY – PROPOSED LEASE PREMISE
249 East Chicago, Chandler